

Report III  
(Part 1)

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# Summary of Reports on Ratified Conventions

(Articles 22 and 35 of the Constitution)

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International Labour Office Geneva

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International Labour Conference  
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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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International Labour Office Geneva

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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 group<sup>1</sup> 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 1974 to 30 June 1976, 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.

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<sup>1</sup> Conventions Nos. 1, 3, 5, 7, 8, 9, 11, 13, 14, 15, 20, 21, 26, 27, 28, 30, 32, 33, 35, 36, 37, 38, 39, 40, 43, 45, 47, 49, 50, 58, 59, 60, 62, 64, 67, 68, 84, 86, 87, 91, 97, 98, 99, 100, 102, 103, 106, 107, 108, 110, 111, 112, 119, 120, 122, 123, 128, 131, 134, 136.

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 1976. 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).

Note: The following abbreviation is used throughout the summary:  
LS = Legislative Series of the International Labour Office.

## APPLICATION OF CONVENTIONS

(Articles 22 and 35 of the Constitution)

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

#### FRANCE

##### New Caledonia

Act No. 52-1322 of 15 December 1952 to establish a Labour Code in the Territories and Associated Territories under the Ministry for Overseas France (LS 1952 - Fr. 5)

Employment of Women and Children Order No. 59-057/CG of 26 January 1959.

Article 1 of the Convention. Section 118 of the Labour Code contains a general prohibition of the employment of children under the age of 14 years in any undertaking.

Article 2. It is specified that no child under 14 years of age may be employed except by his family and provided such work is done outside the hours fixed for schooling.

Article 3. This exemption is not used since there is no technical school.

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

#### UNITED KINGDOM

##### Antigua

Antigua Labour Code of 19 September 1975.

According to Article C26(1) "Except where otherwise provided by collective agreement, every employer shall permit each of his employees to enjoy in every period of seven consecutive days a period of rest comprising at least 24 consecutive hours".

The Ministry of Labour is entrusted with the application of the administrative regulations on the Labour Code. Inspection visits are made by the Inspectorate to workplaces to ensure the effective application of the provisions of the Convention.



British Solomon Islands

Labour Ordinance (Cap. 75).

Labour (Fair Wages Clauses in Public Contracts) Rules, 1968.

Section 11 of the Labour Ordinance which gives effect to the Convention has been under examination for amendment; it lacks precision in respect of working hours and overtime and does not require the application of Article 7 of the Convention.

Falkland Islands (Malvinas)

There is no legislation which applies the provisions of the Convention. The principle of weekly rest is recognised by agreements concerning conditions of employment. The average working week is 40 hours, i.e. 5 days of 8 hours each, and on the farms 46 3/4 hours, i.e. 5 1/2 days of 8 1/2 hours each.

Hong Kong

Factories and Industrial Undertakings Ordinance (Cap. 59).

Employment Ordinance (Cap. 57).

This Convention has been applied to Hong Kong with modifications in respect of Articles 2 and 5.

Article 2 of the Convention. Under Regulation 14 of the Factories and Industrial Undertakings Regulations, women and young persons (aged 14-17) employed in industrial undertakings must be given one rest day a week.

Under section 17(1) of the Employment Ordinance, every employee who has been employed under a continuous contract is entitled to not less than four rest days in a month.

Modifications in respect of the application of Article 2 are as follows: (a) non-manual workers in respect of a salary exceeding HK\$2,000 per month have no statutory entitlements to rest days; (b) there is no statutory requirement that the rest day must be granted at seven-day intervals.

Article 5. If an employee is required to work on his rest day by reason of a breakdown of machinery or plant or other unforeseen emergency, the employer is required to give a substitute rest day within the period of 30 days. However, if by virtue of section 20 of the Employment Ordinance, an employee works voluntarily on a rest day, there is no statutory requirement that a compensatory rest period should be granted.

The Commissioner for Labour is responsible for the enforcement of the legislation.

Montserrat

There is no legislation specifically dealing with the question of weekly rest. However, the industrial relations system of the country provides for a 44-hour week.

The Labour Department has over-all authority in specifying the relationship between local standards and practices and the obligatory number of hours making up the working week.

St. Helena

Lord's Day Observance Ordinance 1849.

Sunday Opening Regulations, 1955.

The terms and principles of the Convention are operating by custom or by law.

Article 1 of the Convention. Ninety-five per cent of the work classed as "industrial undertaking" is carried out by government employees and the normal hours for industrial workers are 42 1/2 per week of five days, with Saturday and Sunday as rest days. Where shift working is necessary, equivalent time off is allowed.

Article 2. Sunday is the normal day of rest for the majority of the working population.

St. Lucia

It is customary for all employees in industrial undertakings to enjoy in every period of seven days a period of rest comprising at least 24 consecutive hours. Except for the essential services and shops the whole of the staff of each undertaking is granted this period of rest simultaneously. Specific provisions are made in legislation and collective agreements.

The Labour Department is entrusted with the enforcement of this legislation.

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

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## AUSTRIA

Collective Labour Relations Act of 14 December 1973 (Bundesgesetzblatt (BGBl), 22/1974) (LS 1973 - Aus. 2).

Vocational Training Act of 26 March 1969 (BGBl, 142/1969) (LS 1969 - Aus. 1).

Home Work Act (BGBl, 105/1961), promulgated in Section III (BGBl, 317/1971 and BGBl, 303/1975).

Labour Inspection Act of 5 February 1974 (BGBl, 143/1974) (LS 1974 - Aus. 1).

Article 1 of the Convention. The minimum wage-fixing machinery as provided for in the Convention is governed by the Collective Labour Relations Act (BGBl, 22/1974) and the Home Work Act of 1960 (BGBl, 105/1961).

Article 2. The employers' and workers' organisations were consulted in the course of the procedure for the approval of the relevant legislation - namely the Collective Labour Relations Act, section 22(3) of which provides for the fixing of minimum wage rates for classes of workers in respect of whom no collective agreement can be concluded, the Home Work Act, section 34(1) of which provides that the Home Work Commission may fix minimum rates of remuneration for home workers not covered by the General Agreement on Home Work, and the Vocational Training Act (BGBl, 142/1969), section 17 of which provides for the fixing by the Government of the rate of apprentice pay in branches of activity where no provision has been made for this by collective agreement.

Article 3. Under the terms of section 22(1) of the Collective Labour Relations Act (BGBl, 22/1974), if the conditions specified in section 22(3) are fulfilled, the conciliation offices and the Central Conciliation Office are required, on application by a workers' organisation having capacity to conclude collective agreements, to fix minimum rates of remuneration and minimum amounts for the reimbursement of expenses. The employers and workers may be represented in these proceedings, at the request of the chairman of the organisation representing the categories of workers concerned, or of half of the members of the category pertaining to the branch of activity concerned, in equal numbers and on the same terms. Under section 34(1) of the Home Work Act, it is for the Home Work Commission to initiate negotiations with a view to the fixing of minimum rates of remuneration for home work.

Section 24(3) of the Collective Labour Relations Act provides that a collective agreement or determination shall supersede any existing minimum wage award falling within its sphere of operation. However, the provisions of a minimum wage award may not be superseded nor restricted by a works agreement or a contract of employment.

Article 4. The decisions of the conciliation offices with respect to minimum pay rates are published in the "Amtsblatt zur Wiener Zeitung", and the minimum pay rates are reproduced in extenso in the "Amtliche Nachrichten des Bundesministeriums für soziale Verwaltung". These minimum rates, once promulgated in this way, are communicated to the organisation which made the application, the Federal Ministry of Social Administration, the Central Conciliation Office, the competent "Landeshaupmann", the Austrian Central Statistical Office and the Austrian Chamber of the Labour Congress.

The minimum rates of remuneration for home work have to be published in the "Amtsblatt zur Wiener Zeitung".

The Labour Inspectorate is responsible for ensuring observance of the minimum pay rates fixed in pursuance of the Collective Labour Relations Act and the conditions of work prescribed in the Home Work Act. It issued orders for the payment of sums owing to underpaid workers to 192 employers in 1974 (for a total of sch. 813,891) and to 159 employers in 1975 (for a total of sch. 930,990), in sectors other than the home work sector. In cases of repeated underpayment or the withholding of a substantial sum, the competent local administrative authority must initiate the procedure for the imposing of penalties within two weeks of the matter being reported to it by the labour inspectorate, in accordance with section 51(1) and (3) of the Home Work Act.

Complaints with respect to the minimum wage rates and claims in connection with the minimum pay rates for home work are referred to the civil courts, becoming statute-barred if not brought within three years.

Article 5. Since the vast majority of occupations are covered by collective agreements, minimum pay rates are fixed by the authorities only in the case of a few categories of workers such as home helps and caretakers. The 1971 census gave figures of 24,066 caretakers and 18,333 home helps working in Austria, while there were 11,635 home workers in 1975.

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

GHANA

Labour Regulations 1969 (LS 1969 - Ghana 1C).

The Articles of the Convention are covered by Labour Regulations 48 to 54.

The Chief Labour Officer is entrusted with the application of the Labour Regulations.

## MOROCCO

Decree of 28 Rebia I 1355 (18 June 1936) regulating working hours.

Order of 2 Moharrem 1356 (15 March 1937) establishing general conditions for the application of the Decree of 28 Rebia I 1355 (18 June 1936) regulating working hours.

Article 1 of the Convention. As the dividing line between establishments covered by the Convention and industrial and agricultural establishments depends on the national legislation and practice in force, no new decision in this connection was considered necessary following ratification of the Convention.

Article 5. The labour inspector may authorise the making up of hours of work lost as a result of an accident or force majeure. Moreover, hours lost on account of off-seasons or normal falling-off in the amount of work during certain periods of the year may, subject to the approval of the head of the Labour and Social Affairs Service, be made up during the subsequent 12 months.

Article 6. Section 3 of the Order of 15 March 1937 authorises the spreading of working hours within a trade, industry or specific commerce over a period other than a week.

Article 7. Temporary or permanent exceptions are provided for under sections 10, 11 and 13 of the Order.

Article 11. The measures taken for effective enforcement of inspection are dealt with in sections 4 and 13 of the Order.

Article 12. Sanctions are provided for in sections 10 and 11 of the Decree of 18 June 1936.

The legislation and regulations mentioned in the report are enforced by the Labour Inspectorate.

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

## DENMARK

Faeroe Islands

This Convention is not applicable.

The scope of the Convention is considered to be largely covered by Faroese Act No. 58 on Occupational Safety, Health and Welfare.

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

## BOLIVIA

Labour Code (LS 1939 - Bol. 1; LS 1942 - Bol. 1).

Presidential Decree of 4 August 1940.

Presidential Decree of 24 April 1944.

Section 59 of the General Labour Act prohibits the employment of women and young persons in dangerous, unhealthy or heavy work. Section 4 of the Presidential Decree of 24 April 1944 defines underground work as harmful and dangerous.

The General Inspectorate of Labour is responsible for ensuring the application of the legislative provisions and regulations.

## FIJI

Employment Ordinance, 1964.

Article 1 of the Convention. The term "mine" is defined in section 2 of the Employment Ordinance as including any undertaking, whether public or private, for the winning, treatment or extraction of minerals from the earth, sea, rivers or inland waters.

Article 2. Under section 72 of the Employment Ordinance, no female shall be employed on underground work in any mine except a woman holding a position of management who does not perform manual work; a woman engaged in health or welfare services; a woman who in the course of her studies spends a period of training in the underground parts of a mine; or a woman who may for any other reason occasionally have to enter the underground parts of a mine for the purposes of non-manual occupation.

Any person who employs a female in contravention of these provisions shall commit an offence against the Ordinance.

Article 3. The requirements of the Article are met by section 72 of the Employment Ordinance, 1964, as above.

## FRANCE

New Caledonia

Act No. 52-1322 of 15 December 1952 to establish a Labour Code in the Overseas Territories (LS 1952 - Fr. 5).

Employment of Women and Children Order No. 59-057/CG of  
26 January 1959.

Article 1 of the Convention. In application of section 115 of the Code, Order No. 59-057/CG specifies the types of work on which women shall not be employed; these include work in underground and open-cast mines, and quarries.

Article 2. Sections 13 and 23 of the Order prohibit the employment of women in underground mines.

Article 3. The national legislation does not provide for any exemptions from the prohibition of the employment of women in underground mines.

#### UNITED KINGDOM

##### Gibraltar

The Employment of Women, Young Persons and Children Ordinance  
(Cap. 50), 1964.

Article 1 of the Convention. The term "industrial undertaking" is defined in section 2 of the Employment of Women, Young Persons and Children Ordinance and for purposes of this Convention includes "mines, quarries and other works for the extraction of minerals from the earth".

Article 2. Section 4(4) prohibits the employment of women or female young persons on underground work in any mine, quarry or other work for the extraction of minerals from under the surface of the earth.

Article 3. There is no authority for exemptions to be made. The Director of Labour and Social Security is responsible for the administration of the Employment of Women, Young Persons and Children Ordinance.

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

##### Fiji

The Employment Ordinance (Chapter 75).

Concerning Article 3 of the Convention, there are no school ships or training ships to which this Article might apply other than the Cadet Training Ship of the Marine Department, which accepts trainees of 18 years and over.

The requirements foreseen in Article 4 of the Convention have not yet been introduced, but the necessary action will be initiated.

The Employment Ordinance is administered by the Permanent Secretary of Labour and inspection staff, Permanent Secretary of Education, Youth and Sport, and the Director of Marine.

UNITED KINGDOM

Antigua

Employment of Children Prohibition Act, Cap. 308, No. 5, as amended.

Employment of Women, Young Persons and Children Act, Cap. 309, No. 5 of 1938.

These provisions are currently incorporated in the Antigua Labour Code and will be repealed when the Code is shortly enacted.

The Ministry of Labour is responsible for the legislation and administrative regulations, etc. governing the provisions of the Convention.

Belize

The Labour Ordinance, 1959 (No. 15).

Articles 1, 2, 3 and 4 of the Convention. These Articles are applied by sections 158 and 159 of the Labour Ordinance.

The authorities responsible are the Labour Department and the Harbour Master who is the Registrar of Shipping and Superintendent of Mercantile Marine for the purpose of the Merchant Shipping Act, 1894 - see section 58 of the Harbours and Merchant Shipping Ordinance (Chapter 149 of the Laws of Belize, 1958).

Bermuda

The Employment of Children and Young Persons Act, 1963.

Article 2 of the Convention. Sections 5 and 6 of the Act provide stringent restrictions on the employment of children and young persons.

Article 3. There are no school ships or training ships in Bermuda, and none is contemplated at present.



Article 4. Under section 19(1) of the Act, the master of any vessel on board of which a young person is employed shall cause to be kept on the vessel a register containing such particulars of young persons as are prescribed in Government Notice No. 185 of 1965.

The authority entrusted with the application and supervision of the legislation and regulations is the Ministry of Labour and Immigration, assisted by the authorised officers listed in section 1 of the above-mentioned Act.

#### British Virgin Islands

Employment of Women, Young Persons and Children Act, 1939  
(Chapter 214 of the Laws of the Virgin Islands).

The provisions of Articles 1 to 4 of the Convention are applied by sections 2, 5 and 8 of the Act.

The above would normally come under the administration of Customs and the Police. As far as can be ascertained, no one under the age of 14 years is employed on any ship in the British Virgin Islands, and there have been no reports from employers or workers.

#### Brunei

Labour Enactment (No. 11 of 1954) as amended by Enactments Nos. 6 and 18 of 1957 and 15 of 1961.

The Labour Enactment is administered by the Commissioner of Labour, assisted by a staff of Labour Inspectors.

No decisions have been given by courts of law and other courts, and no observations have been received from any organisations of employers or workers concerned.

#### Falkland Islands (Malvinas)

Education Ordinance, 1967 (as amended in 1970).

Schools Regulations, 1967 (as subsequently amended).

Employment of Children Ordinance, 1966 (as amended in 1968).

Employment of Women, Young Persons and Children Ordinance, 1967  
(as amended in 1968).

The Chief Secretary's Office and the Customs and Harbour Department are the authorities responsible for supervising and enforcing the application of the above legislation.

The Convention has been declared applicable to the Falkland Islands subject to the modification that Article 2 shall apply only to age 14. In practice, however, the Convention is applied to age 15.

In a small and closely knit community such as that of the territory, it is impossible for any case contravening the Convention to go undetected, particularly as a relatively small number of ships is involved, and no sophisticated organisation or machinery for supervision is considered necessary. Any infringement of the law would be dealt with promptly by the administration.

#### Hong Kong

Employment of Young Persons and Children at Sea Ordinance,  
Chapter 58.

The provisions of the Convention as modified are applied by the above-mentioned Ordinance.

The application and administration of the legislation are entrusted to the Mercantile Marine Office of the Maritime Department.

#### Montserrat

Employment of Women, Young Persons and Children Ordinance (Cap. 270)  
of the revised Laws of Montserrat (1962, Vol. V).

Article 1 of the Convention. The definition given in the Ordinance has taken care of the scope of the definition given under this Article.

Article 2. In practice, seamen passports are not given to youths below the age of 16.

Article 3. There is flexibility in the administrative arrangements which would take care of this provision.

Article 4. This provision is taken care of by the office of the Harbour Master under whose control the operation of sea-going vessels directly falls.

St. Helena

Education Ordinance, 1941 (as amended).

Education (Exemption from School Attendance) Rules, 1960.

UK Employment of Women, Young Persons and Children Act, 1920.

UK Merchant Shipping Acts, 1894 to 1950, applied by Ordinance No. 18 of 1951.

Articles 1, 2, 3 and 4 of the Convention. The terms of the Convention are accepted by St. Helena without modification, but no occasion has arisen, or is likely to arise, for the application of such terms to any situation in St. Helena, as the only vessels concerned are dinghy-type fishing vessels operated on a profit-sharing basis between the vessel owner and the fishermen. Employment, as such, in regard to fishermen is unknown.

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

Fiji

Employment Ordinance, 1964 (as amended in 1968, 1970 and 1975).

Employment (Application) Order, 1975.

Employment (Amendment) Regulations Nos. 13 and 97, 1976.

Article 1 of the Convention. The legislation defines industrial undertakings in the same terms as the Convention and agricultural and commercial undertakings are separately defined.

Article 2. The legislation prohibits the employment of children in industry with the exception of an undertaking in which only members of the same family are employed.

Article 3. Work done by children in schools must have been approved by the Secretary of Education.

Article 4. The legislation provides that every employer must keep a register including, inter alia, particulars of the age of the young persons employed.

Article 5. The legislation prohibits the employment of young persons under 18 years of age on work considered to be dangerous.

UNITED KINGDOMAntigua

Women, Young Persons and Children (Employment) (Division E of the Antigua Labour Code, No. 14 of 1975).

Article 1 of the Convention. The brief definition of "industrial undertaking" contained in E2 of Division E of the Labour Code appears to include the main points of this Article's provisions. Children are also prevented from work in public or private agricultural undertakings.

Article 2. E2 of Division E defines "child" as any person under the age of 14 years as permitted according to the application, with modification, of this Convention. E3(1) of Division E permits employment of children in such undertakings where only members of the same family are employed.

Article 3. E3(2) of Division E permits employment of children in technical schools or in reformatories provided that such work is supervised by public authority.

Article 4. E6(1) of Division E requires an employer to maintain a register of all persons under the age of 18 years employed by him.

The Ministry of Labour is responsible for the legislation and administrative regulations governing the provisions of the Convention.

Bermuda

The Employment of Children and Young Persons Act, No. 213 of 1963.

Article 1 of the Convention. Section 1 of the Act.

Article 2. Sections 5, 6 and 7 of the Act provide stringent restrictions on the employment of children and young persons.

Article 3. The work done by technical schools is approved and supervised by the Ministry of Education.

Article 4. Under section 19(1)(2), the employer of any young person shall cause to be kept in or on the premises of the industrial undertaking a register containing such particulars of young persons as are prescribed in Government Notice 189 of 1965. Any register shall be open to inspection at all times by any authorised officer to any registered medical practitioner.

Article 5. Section 10 of the Act. The Ministry of Labour and Immigration, assisted by the authorised officers listed in section 1 of the above-mentioned Act, are entrusted with the application and supervision of the legislation and regulations.

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British Virgin Islands

Labour Code Ordinance, 1975 (Division E - Women, Young Persons and Children).

Article 1 of the Convention. The interpretation of "industrial undertaking" is the same as that in the Convention but there is no reference to a line of division between industry, commerce and agriculture.

Article 2. A child may be employed only by members of his family or by his guardian.

Article 3. Children may perform labour in a reformatory or in any school, on the approval and under the supervision of a public authority.

Article 4. Legislation provides for a register of all persons under the age of 16 but in practice this is not enforced.

Article 5. Young persons (under the age of 18) are not permitted to work at night, except in family undertakings. In certain industries, and in case of emergency, young persons over the age of 16 may be employed.

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Falkland Islands (Malvinas)

Education Ordinance, 1967 (as amended in 1970).

Schools Regulations (as subsequently amended).

Employment of Children Ordinance, 1966 (as amended in 1968).

Employment of Women, Young Persons and Children Ordinance, 1967 (as amended in 1968).

Article 1 of the Convention. The definition of "industrial undertaking" is contained in the Employment of Women, Young Persons and Children Ordinance. No line of division has been drawn which separates industry from commerce and agriculture.

Article 2. Section 3(1) of the Employment of Women, Young Persons and Children Ordinance. It has not been necessary to take advantage of the exception provided for in paragraph 2.

Article 4. Section 3(4) of the Employment of Women, Young Persons and Children Ordinance. No employment is carried on in the territory which by its nature is dangerous to the life, health or morals of the persons employed therein.

The Chief Secretary's Office and the Public Works Department are responsible for the application of the above-mentioned legislation.

Gilbert Island

The Employment Ordinance, 1965.

Article 1 of the Convention. The Employment Ordinance, 1965 defines the term "industrial undertaking" as in the Convention.

Article 2. Section 85 of the Ordinance prohibits children under 15 from being employed in industrial undertakings except in employment approved by the Governor.

Article 3. There are no technical schools attended by children.

Article 4. Such registers are required under section 88 of the Ordinance.

Hong Kong

Factories and Industrial Undertakings Ordinance (Cap. 59).

Factories and Industrial Undertakings Ordinance (Amendment) Regulations, 1975 (Hong Kong Government Gazette, LN 7 of 1975).

Mining Ordinance (Cap. 285) and subsidiary legislation made thereunder (Cap. 285 of the Revised Edition, 1964).

Education Regulations made under the Education Ordinance (Cap. 279) (1971 Ed.).

Education Ordinance (Cap. 279) (1971 Ed.).

Education (Amendment) Regulations, 1974 (LN 122/74, Legal Supplement No. 2).

Registration of Persons (Amendment) Ordinance, 1973 (Cap. 177) and the Registration of Persons (Amendment) Regulations, 1973 (LN 158/73).

Article 1 of the Convention. The term "industrial undertaking" is defined essentially as in the Convention. No action has been taken to define the line of division separating industry from agriculture as the definition of "industrial undertaking" is judged to be sufficiently clear.

Article 2. Regulation 4 of the Factories and Industrial Undertakings Regulations prohibits the employment of a child in any industrial undertaking or dangerous trade, "child" being defined as a person under the age of 14 years.

Article 3. Section 2(3)(a) of the Factories and Industrial Undertakings Ordinance exempts from compliance with this Ordinance undertakings which are not carried on by way of trade or for purpose of gain. These include technical schools as envisaged in this Article.

Article 4. Regulation 15 of the Factories and Industrial Undertakings Regulations requires the proprietor of every industrial undertaking in which young persons are employed to maintain a register of all such young persons employed therein, "young person" being defined as "any person of or over the age of 14 years and under the age of 18 years".

Article 5. Regulation 5 of the Factories and Industrial Undertakings Regulations prohibits the employment of any young person on underground work in any mine or quarry, or in any industrial undertaking involving a tunnelling operation. Regulation 6 further prohibits the employment of any female of whatever age or any male young person under 16 years of age in any dangerous trade except with the written permission of the Commissioner for Labour. Regulation 9 of the Factories and Industrial Undertakings (Woodworking Machinery) Regulations prohibits the employment of any person under 16 years of age on any woodworking machine except with the written permission of the Commissioner for Labour.

#### Montserrat

The Employment of Women, Young Persons and Children Ordinance (Cap. 270) of the Revised Laws of Montserrat.

The Education Ordinance (Cap. 132) of the Revised Laws of Montserrat.

Article 1 of the Convention. The definition given in the Employment of Women, Young Persons and Children Ordinance embraces the requirements under the Article.

Article 2. Administrative arrangements in the Education Department supplementing the Education Ordinance give the protection required under (1) of this Article.

Article 3. The educational system is geared in such a way that children exposed to such undertakings are not eligible for promotion to technical schools under the age of 15.

Article 4. The Revised Labour Code makes provision for this.

Article 5. Not applicable.

The Labour Department and the Education Office are responsible for the application of the above-mentioned legislation. Application is supervised and enforced through inspection. The Labour Commissioner does periodic inspection.

#### St. Kitts-Nevis-Anguilla

The Employment of Women, Young Persons and Children Act (Cap. 290) (Revised 1961).

The Act amended by No. 14/1966 to make provision for the definition of "labour inspector".

Article 1 of the Convention. The Act uses the same wording as the Convention.

Article 2. The Act, section 2, defines "child" as a person under the age of 14 years. Section 4(1) permits employment in family undertakings.

Article 3. Section 4(2) of the Act.

Article 4. Section 8 prescribes the particulars that shall be kept in the register.

Article 5. Section 2 "young person" means a person who has ceased to be a child and who is under the age of 18 years. There are no other national laws which empower a higher age or ages than 18 years for the admission thereto of young persons or adolescents.

The Labour Inspector is responsible for the application of the Act. Such inspection takes place in factories and other related workplaces.

### St. Lucia

Factories Regulations, SR and O, No. 8 of 1948.

Employment of Women, Young Persons and Children Ordinance (Cap. 100), Revised Laws, 1957.

Employment of Children (Restriction) Ordinance (Cap. 98).

Article 1 of the Convention. Section 6 of the Employment of Women, Young Persons and Children Ordinance provides for the Minister of Labour to make regulations defining the line of division which separates industry from commerce and agriculture.

Article 2. By virtue of the Employment of Women, Young Persons and Children Ordinance, an exception is made for children under 14 years to work in undertakings in which only members of the same family are employed.

Article 3. There are no specified conditions.

Article 4. Few persons under the age of 16 years are employed in industrial undertakings.

Article 5. Article 2 of the schedule to the Employment of Women, Young Persons and Children Ordinance, Chapter 100, Revised Laws, 1957, sets out that young persons over the age of 16 may be employed during the night in industrial undertakings in which work, by reason of the nature of the process, is required to be carried on continuously day and night, viz. manufacture of iron and steel: process in which reverberatory or regenerative furnaces are used, and galvanising of sheet metal or wire (except the pickling process); glass works; manufacture of paper; manufacture of raw sugar; gold mining reduction work.

The Labour Department is entrusted with the enforcement of the above legislation.



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

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## DENMARK

Faeroe Islands

This Convention is not applicable.

The scope of this Convention is considered to be largely covered by Faroese Act No. 58 on Occupational Safety, Health and Welfare.

Greenland

This Convention is not applicable.

The Danish provisions in this field are applied as a guide in Greenland. Reference is also made to the Occupational Safety, Health and Welfare (Greenland) Act.

## GUATEMALA

Constitution of the Republic.

Labour Code (LS 1961 - Gua. 1).

General Occupational Hygiene and Safety Regulations, Administrative Agreement of 28 December 1957 (LS 1957 - Gua. 2).

Constitutional Law of the Guatemalan Social Security Institute, Decree No. 295 of the Congress of the Republic.

Management Agreements Nos. 1414 and 1432 relating to the employers' obligation to provide a first-aid kit in all work centres.

Article 1 of the Convention. According to section 114 of the General Occupational Hygiene and Safety Regulations, the provisions of those regulations are to be supplemented by special regulations to be issued for specific types of work. The Guatemalan Social Security Institute and the Ministry of Labour and Social Welfare are responsible for issuing regulations of this type.

Article 2. Section 113 of the General Regulations provides that temporary exemptions may be made from certain provisions, provided that the protection can be ensured by equivalent means.

Article 3. The inspectors and technical officers of the Institute and Ministry are responsible for enforcement of the occupational safety and health regulations.

Article 4. The Department of Preventive Medicine and its Safety and Health Section are responsible, through their inspectors, for ensuring the effective enforcement of safety and health regulations. There is one inspector in the capital and there are six in the territory of the Republic.

Article 5. This provision is not applied in Guatemala.

Article 6. In all, 10,872 minor accidents and 2,622 accidents requiring hospitalisation, i.e. a total of 13,494 accidents, were recorded in 1974.

Article 7. Contractors are responsible for the provision of scaffolding whereas inspectors of the Institute's Safety and Health Section are responsible for periodical inspections.

Article 8. No height limit is established in application of this Article; it is left to the discretion of the inspectors to assess the degree of hazard associated with the equipment used. The preventive measures required are determined when work is commencing.

Article 9. As there are no height limits, these standards are of general application.

Article 10, paragraph 4. It is the responsibility of the builder and the firm supplying the electrical power to comply with these provisions by providing appropriate safety devices.

Articles 11 and 12. There are no provisions governing the quality, strength or other features of hoisting equipment. The manufacturer's rules are applied. Supervision of these is a responsibility of the aforementioned inspectors.

Article 13. No minimum age is prescribed for crane drivers. It is merely stipulated that the persons concerned shall be adult, of sound mind and in good health.

Articles 14 and 15. The maximum permissible load is established by the manufacturers and legislation in the country of origin, as are crane-braking devices.

Article 16. The General Regulations already referred to (Chapter III) provide that workers shall use protective equipment. Section 272 of the Labour Code establishes sanctions for workers who do not comply with these provisions. Section 109 of the General Regulations also relates to sanctions.

The Safety and Health and Accident Prevention Section launches a safety campaign each year in the building industry; it prepares educational material and distributes safety standards and recommendations relating to the various aspects of building.

In the course of this programme, an average of 300 inspections of buildings of various types are carried out. In addition, training courses are organised for building workers and safety posters are published.

The safety recommendations and standards cover such matters as demolition and excavation work.

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

## BOLIVIA

Labour Code (Presidential Decree of 26 May 1939) (LS 1939 - Bol. 1).

Section 94 of the Labour Code makes it obligatory to undergo medical examination before employment.

According to section 8 of the Code the parents or guardians of minors, or in default of parents or guardians the labour inspector or the Minors' Trusteeship Board, must be associated with any contract of employment of minors.

The General Inspectorate of Labour is responsible for ensuring compliance with labour laws and imposing penalties in the event of their infringement.

Convention No. 81: Labour Inspection, 1947

## BOLIVIA

Articles 1 and 2 of the Convention. The system of labour inspection applies to all forms of work, without exception.

Article 3. The functions of labour inspectors are to exercise supervision in respect of the payment of wages, overtime, Sunday pay, allowances, leave and all the benefits recognised by law.

Article 4. Labour inspection is the direct responsibility of the General Directorate of Labour.

Article 5. Labour inspectors co-operate closely with the various social security institutions and with all the other decentralised governmental institutions.

Article 6. The inspection staff is composed of public officials whose status does not assure them of stability and does not make them independent of changes of government.

Article 7. As a general rule, labour inspectors are recruited on the basis of political considerations or through the influence of friends, and they do not usually undergo a preliminary examination to test their general knowledge and aptitudes.

Unfortunately, due to lack of funds, it is impossible to organise training courses for labour inspectors, or to bring them together in the interior of the country with a view to standardising the criteria they observe in the enforcement of the legal provisions.

For the time being, the only acceptable step that could be taken for the training and guidance of labour inspectors would be to authorise the Inspector-General of Labour to tour the whole country in order to assess the capacities of these officials.

Articles 8 and 9. The labour inspection staff consists entirely of male officials, and it is not recommended that women be recruited, since they are not equipped to perform inspection duties and part of this work must be done in very remote places and in mines. Under the internal rules of the Ministry of Labour it is possible to enlist the co-operation of experts to resolve labour problems, but it is not permissible to use the services of a technical expert whose functions do not exist within the Ministry of Labour.

Article 10. At present the staff of the general labour inspectorate consists of an inspector-general, 10 mobile inspectors for the city of La Paz, 8 departmental directorates of labour, 6 regional directorates and 17 regional inspection delegations.

Article 11. The equipment of the labour inspection offices in the interior of the country is the direct responsibility of the administrative department of the Ministry of Labour. In most areas these offices are not in suitable premises. The travelling expenses of inspectors are paid by the Ministry of Labour in accordance with a scale applicable to all government officials.

Article 12. Upon showing his identity card, which attests to his status as an inspector, an inspector is able to perform satisfactorily all the functions mentioned in this Article.

Articles 13 and 14. All the functions mentioned in these Articles fall directly within the competence of the National Directorate for Occupational Safety and Health, now renamed the Occupational Safety Directorate.

Article 15. The provisions of Article 15 are properly observed by labour inspectors in the capital and elsewhere in the country.

Article 16. Establishments are inspected periodically throughout the country to ensure the application of the Bolivian Social Labour Act.

Article 17. Where employers appear willing to co-operate, the inspectors make such recommendations as are called for with a view to correcting errors in the application of the law. Inspectors who meet with resistance in the discharge of their duties report the matter directly to the labour courts.

Article 18. This Article is closely linked with Article 17.

Article 19. Labour inspectors are required to submit reports after each inspection, so that the central authority may determine whether penalties should be imposed.

Article 20. As a general rule the Inspector-General of Labour submits half-yearly and yearly reports to the General Directorate of Labour, as well as interim reports when requested.

Articles 22, 23 and 24. In Bolivia the labour inspectors are qualified to carry out inspections in commercial establishments as well as in industrial establishments of all kinds.

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

AUSTRALIA

Conciliation and Arbitration Act, 1904-1975 (LS 1956 - Aust. 1  
(consolidation), LS 1972 - Aust. 1).

Australian Capital Territory

Trade Union Act, 1881 - NSW legislation adopted under the  
Australian Seat of Government Acceptance Act 1909-1955.

Northern Territory

Trade Union Act, 1876 - South Australian legislation adopted under  
the Australian Northern Territory Acceptance Act 1910-1952.

Trade Union Ordinance, 1922.

States

New South Wales

Industrial Arbitration Act, 1940 as amended.

Trade Union Act, 1881 (as amended).

Victoria

Trade Unions Act, 1958.

Labour and Industry Act, 1958 (as amended).

Queensland

Industrial Conciliation and Arbitration Act, 1961-1974.

South Australia

Industrial Conciliation and Arbitration Act, 1972-1975.

Western Australia

Industrial Arbitration Act, 1912-1973.

Trade Unions Act, 1902-1924.

Tasmania

Trades Unions Act, 1889.

Wages Boards Act, 1920 (LS 1924 - Aust. 1; Aust. 3).

Article 1 of the Convention. There is no restriction on the citizen's right to associate with others for any lawful object. Legislation in all jurisdictions modelled on the United Kingdom Trade Union Acts of 1871 and (except in the case of South Australia) of 1876 establishes that the usual objects of trade unions are lawful. In Queensland and South Australia the relevant legislation is now incorporated in the Industrial Conciliation and Arbitration Acts while in all other jurisdictions it takes the form of Trade Union Acts.

In South Australia, section 143 of the Industrial Conciliation and Arbitration Act provides that the purposes of any association of employers or employees, whether registered or not, shall not by reason merely that they are in restraint of trade, be deemed to be unlawful or to render void any agreement or to render such association unlawful or void. In addition, section 119 provides that any registered association may change its name in accordance with its rules or by special resolution and section 136 makes provision with respect to amalgamation of registered associations.

The South Australian Trade Union Act, as amended by the Trade Union Ordinance 1922, is also applicable in the Northern Territory. The Trade Union Ordinance incorporates the definition of trade union contained in the United Kingdom Act of 1876 and contains provisions relating to amalgamation and change of name but not to dissolution.

The over-all position, therefore, is that there are no substantive or formal conditions which must be fulfilled by workers' and employers' organisations when they are being established although for the purposes of the matters dealt with in Convention No. 87, there are conditions of a purely formal nature which must be satisfied if an organisation decides to register under the trade union legislation.

In addition, organisations of workers or employers may, if they wish, seek registration under the industrial conciliation and arbitration legislation of Australia and all states, except Victoria and Tasmania. Registration under this legislation, as under the trade union legislation is undertaken voluntarily and it is for the organisation of workers or employers concerned to decide whether the benefits obtained justify the acceptance of the obligations which arise on registration. Registration is not a prerequisite to the lawful establishment and operation of worker or employer organisations. In New South Wales, registration of trade unions of employees under the Industrial Arbitration Act is possible only if the trade union is already registered under the Trade Union Act.

There are no restrictions, apart from those imposed by the rules of the organisation concerned or applying under union security arrangements, on the entitlement of employers or employees to join organisations of their own choice. The industrial conciliation and arbitration legislation in some jurisdictions, e.g. Australia, New South Wales and Queensland, gives an employee the right to join a

registered organisation of employees in his industry, unless he is of general bad character.

Article 2. There are no substantive or formal conditions which must be fulfilled by workers' and employers' organisations when they are being established, although there are conditions which must be satisfied if an organisation decides to apply for registration (see the relevant sections listed under Article 3).

There are no special legal provisions regarding the establishment of organisations by certain categories of workers, whether public officials, employees of publicly owned undertakings, agricultural workers or otherwise.

Article 3. In no Australian jurisdiction are there conditions generally governing the right of workers' and employers' organisations to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes.

Organisations registering under the Trade Union Acts must comply with certain conditions in relation to their rules (such as the appointment of auditors) which protect the interests of their members but in no way limit the full, effective freedom of the organisations themselves. In this connection, the Government refers to statements made in the report of the Committee on Freedom of Employers' and Workers' Organisations (McNair Committee) in 1956.

Organisations which voluntarily decide to register under the industrial conciliation and arbitration legislation of Australia, New South Wales, Queensland, South Australia and Western Australia are required to comply with certain specific legislative requirements.

In summary, the only conditions governing the constitution of workers' and employers' organisations or the objects they may pursue are those which are accepted voluntarily when registering under a particular Act. The sole intention of these conditions is to safeguard the members of the organisation, not to circumscribe or to control the operations or effectiveness of the organisation itself.

Article 4. Employers' and workers' organisations are not liable to dissolution or suspension by administrative authority either at law or in practice. The Trade Union Acts in New South Wales, Western Australia, Victoria, Tasmania and the Australian Capital Territory require the rules of registered trade unions to provide for the manner in which they may be dissolved.

In those jurisdictions with industrial conciliation and arbitration legislation, registration can be cancelled in circumstances prescribed under the legislation. This does not affect the existence of the organisation concerned and the provisions are, therefore, not relevant to Article 4. Cancellation of registration is in no case a matter for administrative authorities to determine.

Article 5. In Australia there are no restrictions of any sort on the right of workers' and employers' organisations to establish and join federations and confederations or to affiliate with international organisations of workers and employers.

Article 6. The comments made in respect of Articles 2, 3 and 4 (except those relating to conditions and obligations imposed on registration under the relevant Acts) apply also to federations and confederations of workers' and employers' organisations. Such federations and confederations cannot be registered under the Trade Union Acts or the industrial conciliation and arbitration legislation.

Article 7. In all jurisdictions the acquisition of legal personality by workers' and employers' organisations is entirely optional. Legal personality can be acquired by registering under the industrial conciliation and arbitration legislation of Australia, Queensland, South Australia and Western Australia and the requirements pertaining to registration under these Acts are contained in the sections already listed under Article 3.

It is also open to organisations to register under the Trade Union Acts of New South Wales, Victoria, Western Australia and Tasmania. It would seem that, at least for the purposes of this Article of the Convention, a trade union so registered can be regarded as having legal personality. (Williams v. Hursey (1959) 103 Commonwealth Law Reports, p. 53.)

Article 8. In common with other persons and organisations, employers and workers and their organisations are bound by the law of the land, but none of the measures of a general nature which may apply to these organisations impairs, or has been applied to impair, the guarantees provided for in the Convention.

There are provisions (Part IIA of the Australian Crimes Act, 1914-1973) aimed at the protection of the Constitution and of public and other services which have general application. Other provisions may bear specifically on workers' and employers' organisations, e.g. sections 30J and 30K of the Crimes Act.

Provisions exist in all states to deal with unlawful assemblies, riots etc. However, they too apply generally and again are not such as to impair the guarantees provided for in the Convention.

In some states special provisions apply to essential services, for example section 261 of the South Australian Criminal Law Consolidation Act, 1935-1973. There have been no prosecutions under this section of the Act since it came into force.

The Victorian Essential Services Act, 1958 lays down penalties in certain circumstances where a strike or lockout occurs in an essential service. This Act, however has never been proclaimed to come into operation, notwithstanding the occurrence of a series of strikes in essential services in recent years.

Article 9. The guarantees prescribed by the Convention apply to members of the police forces. The vast majority of members of each police force belong to their own police union or association.

The concepts on which the Convention is based have not been considered applicable to the armed forces. However, procedures have been developed to look after the interests and welfare of all serving members of the armed forces.



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Convention No. 88: Employment Service, 1948

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## MALAYSIA

Employment Service Manual.

Malaysian Migration Fund Board Rules of 4 August 1966 (Government Gazette, 1 September 1966).

Article 1 of the Convention. The Government of Malaysia runs a free public employment service.

Article 2. There is a national system of employment offices under the direction of the Ministry of Labour and Manpower.

Article 3. The national employment service now has a network of 45 full-time employment offices all over the country plus 34 part-time offices in Peninsular Malaysia. The location, number and size of these offices are reviewed from time to time and revised to suit the current labour market situation.

Article 4. Steps are being taken to establish national advisory committees. There are local advisory committees which consist of employers' and workers' representatives as well as independent persons.

Article 5. See under Article 4.

Article 6. Various measures are taken to ensure effective recruitment and placement, appropriate labour mobility, effective labour market information and participation in social and economic planning. Particular mention is made of the Malaysian Migration Fund Board which was established in September 1966 in order to promote and finance the migrant workers from Peninsular Malaysia to Sabah.

Article 7. There are specialised arrangements for various groups of occupations and applicants.

Article 8. Steps will be taken to give effect to the provisions of this Article.

Article 9. The staff of the employment service are public officials appointed by the Public Services Commission and they are independent of changes of Government. The selection by Public Services Commission is done according to qualifications. The entry qualifications are determined by the Director-General of Public Services. The necessary arrangements are made for initial training of employment service staff as well as for their subsequent training.

Article 10. At the national level the Minister of Labour and Manpower discuss from time to time, with the Malaysian Council of Employers' Organisations and the Malaysian Trade Union Congress, problems relating to employment services. Managers of the employment offices are encouraged to have connections with local trade

unions and employers' associations. They also make promotional visits to employers.

Article 11. There are no private employment agencies in the country not conducted with a view to profit, although there are fee-charging private agencies.

The application of the Employment Service Manual, which is an administrative regulation is the responsibility of the Employment Service Division Manpower Department, Ministry of Labour and Manpower. Within the above division there is an enforcement officer to ensure the application of the above Manual as well as other administrative regulations. The application of the Migration Fund Board Rules, 1966 (see under Article 6) is the responsibility of the Board's Executive Secretary.

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

BOLIVIA

Labour Code (LS 1939 - Bol. 1; LS 1942 - Bol. 1), and the regulations issued thereunder.

Compendium of Labour Laws.

Article 1 of the Convention. Under clauses (b) and (c) of the General Labour Act and the relevant clauses of the regulations issued thereunder, the term "undertakings" covers undertakings run by the State or private persons.

Article 2. Night work is deemed to be work performed between 8 p.m. and 6 a.m., namely ten working hours which are paid for at 25 to 50 per cent more than the regular rate.

Article 3. The term "women" covers "all persons of the female sex".

Article 4. The employment of women is authorised in the case of force majeure.

Article 5. The employment of women during the night is prohibited in bakeries, mines and other sectors.

Article 6. There is no legislation on this subject.

Article 7. There are no regions where the climate renders work by day particularly trying or any legislation on the subject.

Article 8. There is no discrimination in regard to the categories referred to in this Article of the Convention.

Article 9. Night work has been declared to signify work between 8 p.m. and 6 a.m.

## FRANCE

French Polynesia

Act No. 52-1322 to establish a Labour Code in the Overseas Territories (LS 1952 - Fr. 5).

Employment of Women and Children Order No. 177/IT of 2 February 1956.

Article 1 of the Convention. The undertakings listed in section 3 of the Order comply with the definition given in the Convention.

Article 2. Sections 3 and 4 of the Order specify that the rest period between two working days shall be 11 consecutive hours including the interval falling between 10 p.m. and 5 a.m.

Article 3. See above.

Article 4. Section 5 of the Order provides for the prohibition of night work to be suspended in industries in which the work has to do with raw materials subject to rapid deterioration.

Articles 5, 6 and 7. These optional clauses are not used.

New Caledonia

Act No. 52-1322 of 15 December 1952 to establish a Labour Code in the Overseas Territories (LS 1952 - Fr. 5).

Employment of Women and Children Order No. 59-057/CG of 26 January 1959.

Article 1 of the Convention. Section 6 of the Order prohibits the employment of women during the night in industrial establishments.

Article 2. Under section 114 of the Labour Code and sections 6 and 7 of the Order, the term "night" signifies a period of at least 11 consecutive hours including the interval falling between the hours of 8 p.m. and 5 a.m.

Article 3. Under the same provisions the employment of women at night is prohibited in all establishments, whatever their nature.

Article 4. Section 8(1) of the Order provides for the possibility of temporary suspension of the prohibition of night work for women if they are employed in industries where the work has to do with materials subject to rapid deterioration.

Articles 5, 6 and 7. These optional clauses are not used.

Article 8. The national legislation does not authorise the exceptions provided for in this Article of the Convention.

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

BOLIVIA

Labour Code (LS 1939 - Bol. 1; LS 1942 - Bol. 1).

General Labour Act and the regulations issued thereunder.

Compendium of Labour Laws.

Article 1 of the Convention. The labour administration authorities, i.e. the labour inspectors, specify the types of work in which young persons may be employed. The employment of young persons in places which are harmful to their health or detrimental to their morals is prohibited under sections 58, 59 and 60 of the Labour Code, as is the employment of children of either sex under the age of 14 years. Young persons under the age of 18 years may be employed during the day only, except in the case of nursing, domestic service and such other occupations as shall be specified by law.

The law prohibits the employment of minors undergoing compulsory primary schooling. Young persons under the age of 18 years may not work in underground mines, ore mills, mineral calcining furnaces or in drying barilla (saltwort) and placing it in sacks. Young persons under the age of 18 years may not work in drinking saloons and entertainment establishments.

Article 2. Night work is deemed to be work performed between 8 p.m. and 6 a.m. Under Bolivian law a working night consists of seven hours. Young persons under 18 years of age may not work during the night.

Article 3. Section 20 complies with paragraph 1 of Article 3 of the Convention. As regards paragraphs 2 and 3, the labour authorities do not authorise the employment of young persons under 18 years of age on night work. The employment of apprentices under 18 years of age on night work is authorised only in the manufacturing, hotel, building and transport industries, commerce, etc. The hours of work of young persons under 18 years of age may not exceed 40 hours of day work per week. Night work in bakeries is gradually being abolished (section 64 of the Labour Code). Section 60 of the Decree to issue regulations under the Labour Code prohibits work in bakeries between 10 p.m. and 4 a.m.

Article 4. The hours of work for all young persons under 18 years of age may not exceed 40 a week. Employers may arrange the working day to suit the geographical location and climatic conditions of a particular region.

Article 5. The laws and regulations of Bolivia prohibit night work by minors in the various occupational activities performed in the country.

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

## FRANCE

French Territory of the Afars and Issas

By the application of section 178 of the Overseas Labour Code, and following the institution of the Manpower Office by Order No. 436 of 6 April 1954, all fee-charging employment agencies in the Territory are prohibited.

## GHANA

Labour Regulation of 15 September 1969 (LS 1969 - Ghana 1).

Article 1 of the Convention. Section 60 of the Labour Regulations defines the expression fee-charging agencies.

Article 2 and Part II. Section 61 of the Labour Regulations provides for the abolition of fee-charging agencies. Section 62 provides a penalty for the violation of the Regulations and section 63 requires the Chief Labour Offices to decide whether or not an employment agency is operated for profit.

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

## AUSTRALIA

Conciliation and Arbitration Act, 1904-1975 (LS 1956 - Aust. 1);  
consolidation (LS 1972 - Aust. 1).

StatesNew South Wales

Industrial Arbitration Act, 1940 (as amended).

Victoria

Labour and Industry Act, 1958 (as amended).

Queensland

Industrial Conciliation and Arbitration Act, 1961-1974.

South Australia

Industrial Conciliation and Arbitration Act, 1972-1975.

Western Australia

Industrial Arbitration Act, 1912-1973.

Tasmania

Wages Board Act, 1920 (LS 1924 - Aust. 1; 1933 - Aust. 3).

Article 1 of the Convention. The industrial conciliation and arbitration legislation in force in most jurisdictions encourages the development of trade unions and contains provisions which ensure workers' protection against acts of anti-union discrimination. The judicial machinery for the enforcement of these provisions is referred to in Article 3.

Similar provisions concerning anti-union discrimination and onus of proof are contained in the legislation of New South Wales (section 95), Queensland (section 101), South Australia (sections 156 and 157) and Western Australia (section 135).

Union security is also protected in some jurisdictions by permitting arbitration tribunals to make awards and to register agreements which give preference in employment to members of unions.

In addition, workers are protected against acts of anti-union discrimination by the industrial strength of the organised trade union movement (more than half of the workforce belongs to trade unions) and by the general acceptance in the community of the legitimacy of the traditional role of trade unions. This consideration is particularly relevant to the protection of workers who are not covered by appropriate legislation of the sort outlined above as, for example, those workers in Victoria and Tasmania whose terms and conditions of employment are determined by wages boards. Neither state has adopted legislation along the lines of that in force in the Australian jurisdiction and in the other four states regarding trade union security. On the other hand, many workers in Victoria and Tasmania are members of federal unions registered under the Conciliation and Arbitration Act and thus are protected by the provisions of that Act.

Moreover wages boards have inserted provisions into determinations which afford some protection against acts of anti-union discrimination. Some protection is also offered to union representatives sitting as members of wages boards (e.g. section 204 of the Victorian Labour and Industry Act).

Article 2. Protection against acts of interference by workers' and employers' organisations in each other's affairs is ensured partly by legislation but mainly by the industrial strength of such organisations in Australia and by community acceptance of the roles they have traditionally played.

Workers' and employers' organisations which decide to register under the industrial conciliation and arbitration legislation of Australia and the states thereby enjoy a measure of protection against acts of interference.

Article 3. Machinery has been established under the industrial conciliation and arbitration legislation of Australia and the states for the purpose of ensuring protection against acts of anti-union discrimination and acts of interference.

Article 4. The extent to which it is necessary to take measures to promote collective bargaining depends on the existing system of industrial relations procedures and practices. While workers and employers may bargain collectively in Australia, the terms and conditions of most workers are regulated by awards of industrial tribunals and legislation rather than by collective agreements. A considerable amount of voluntary negotiation between workers and employers over terms and conditions of employment does take place, however both outside and inside the ambit of the Australian and state systems of industrial regulation. All the industrial conciliation and arbitration statutes are concerned with conciliation as well as arbitration and indeed the philosophy behind these statutes is that compulsory arbitration is a last resort which should only be turned to after every effort has failed to settle differences and reach agreement by way of negotiation and conciliation subject, of course, to the public interest. Many such agreements are made and certified and provisions regarding industrial agreements are contained in the industrial conciliation and arbitration legislation of Australia (section 28 of the Act), New South Wales (sections 11 and 13), Queensland (Part VI), South Australia (Part VIII) and Western Australia (Parts III and IVB). By their very nature, the wages boards which exist in Victoria and Tasmania and the conciliation committees established under industrial conciliation and arbitration legislation in New South Wales and South Australia promote the settlement of industrial disputes by negotiation and conciliation. Both the boards and the committees are constituted by an independent chairman and an equal number of employer and employee representatives and, if the latter agree, the chairman cannot overrule their decisions.

Except to an extent outlined in the preceding paragraph, industrial legislation is not directed towards promoting the development of machinery for voluntary negotiation with a view to collective agreements. There is already full freedom to bargain collectively and other methods, acceptable to the organisations of employers and workers involved as well as to the community as a whole, have been established for the regulation of terms and conditions of employment. The system operating in Australia is considered the most appropriate to national conditions. The system does not preclude employers and unions entering into direct negotiations and private agreements are made relating to terms and conditions of employment, particularly agreements relating to employment at a particular establishment or employment with a particular employer.

Article 5. The guarantees prescribed by the Convention apply to members of the police forces. The vast majority of members of each police force belong to their own police union or association.

The concepts on which the Convention is based have not been considered applicable to the armed forces. However, procedures have

been developed to look after the interests and welfare of all serving members of the armed forces.

Article 6. All categories of public servants and employees of the State enjoy the guarantees provided in the Convention.

PAPUA NEW GUINEA

Industrial Organisations Act.

Industrial Relations Act.

Article 1 of the Convention. The Industrial Organisations Act provides that an employer shall not dismiss an employee or injure him in his employment, or alter his position to his prejudice, by reason of the circumstances that the employee is an officer, delegate or member of an industrial organisation or has absented himself from work without leave for the purpose of carrying out his duties or exercising his rights as an officer or delegate of an industrial organisation, providing he applied for leave before absenting himself, and leave was unreasonably refused or withheld.

The Industrial Organisations Act also provides that an employer shall not threaten to dismiss an employee or to injure him in his employment, or to alter his position to his prejudice by reason of the circumstances that the employee is or proposes to become an officer, delegate or member of an industrial organisation or with intent to dissuade or prevent the employee from becoming such an officer, delegate or member.

The Industrial Organisations Act was amended outside the reporting period to make it illegal to refuse to hire a person because of his activities or affiliations previously detailed.

Article 2. The Industrial Registrar appointed under the Industrial Organisations Act is empowered to cancel the registration of an industrial organisation where he is satisfied inter alia that any of the objects of the organisation are unlawful, or where the organisation is wholly or partially formed, organised, supported, maintained or conducted, directly or indirectly, for the purpose of opposing, injuring or prejudicing the interest of employers or employees, as the case may be, whose interests it purports to represent, further or protect.

Article 3. The Industrial Organisations Act provides the machinery ensuring and protecting the right to organise.

Article 4. The Industrial Relations Act provides the necessary machinery to facilitate voluntary negotiations between employers or employer organisations and worker organisations with a view to the regulation of terms and conditions of employment by means of collective agreements.

The Act encourages negotiation and conciliation and provides also for arbitration (through arbitration tribunals or minimum wages boards) as a means of resolving disputes remaining in existence. Boards of inquiry and industrial councils are also provided for in



the Act as a means through which to settle industrial disputes or differences as to terms and conditions of employment as well as encouraging and promoting free negotiation and peaceful settlement of differences.

Article 5. The Industrial Organisations Act excludes from the definition of "employee" members of the Papua New Guinea Defence Force.

Article 6. No public servant is excluded from the guarantees provided for in this Convention.

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

ZAMBIA

The Minimum Wages, Wages Councils and Conditions of Employment Act of 16 July 1948 (Cap. 506).

Article 1 of the Convention. The provisions of the Convention apply to all employees engaged in the "agriculture industry". The definition of "agriculture industry" was determined by a wages board set up under the Act and whose membership includes representatives of the workers and employers concerned.

Article 2. Payment of allowances in kind is allowed provided that this is given in addition to the statutory minimum wages

Article 3. Section 3 of the Act empowers the Minister to appoint a board for the agriculture industry to fix minimum wages. The Board normally consists of an independent Chairman and two other members, one representing the interests of employers and the other those of the workers. These two members are normally appointed from a panel of nominees made by representative organisations of both employers and workers. Additional members may be appointed representing the employers and workers concerned.

Section 24 of the Act empowers the Senior Industrial Officer to grant exemptions to the application of the minimum wage rates. So far no exemptions have been made.

The application of minimum wages and wage determination under the Act is entrusted to the Labour Department of the Ministry of Labour and Social Services.

Convention No. 100: Equal Remuneration, 1951

AUSTRALIA

Norfolk Island

This Convention is not applicable.

Articles 1 and 2 of the Convention. The wage rates of Norfolk Island Administration workers are fixed by the Commonwealth Minister for Administrative Services in accordance with section 8 of the Public Service Ordinance, 1941 and the principle of equal remuneration for work of equal value has been implemented in respect of such employees on the same basis as it has been implemented in the Australian Public Service.

Owing to the small size of the labour force in the Territory, the terms and conditions of workers in the private sector are largely unregulated by legislative provisions in respect to the determination of wage rates. However, there is little evidence to suggest that the principle of equal remuneration for work of equal value is not followed in this sector.

Article 3. There is no indication within Norfolk Island that there is a present need for the objective appraisal of jobs on the basis of the work to be performed and, until such a need is manifested little action is likely in this regard.

Article 4. Although there are no representative organisations of employers or workers in the Territory, there are no legislative impediments which prevent such organisations being established.

BOLIVIA

Labour Code, Presidential Decree of 26 May 1939 (LS 1939 - Bol. 1).

Presidential Decree of 19 April 1949.

Article 1 of the Convention. Under section 52 of the Labour Code and section 11 of the Presidential Decree of 19 April 1949 "remuneration" or "wages" shall mean all the workers' earnings, namely basic wage, bonuses, etc. There is no discrimination based on sex as regards remuneration.

Article 2. There is a wages board which regulates wages with the exception of those in the public sector and in agriculture.

Article 3. The wages board studies the bases for the determination of the rates of remuneration, without discrimination between men and women.

Article 4. Co-operation with employers' and workers' organisations is ensured by inspection and supervision by the Labour Inspectorate.

Article 8. The Ministry of Labour is the competent authority.

#### IRELAND

Anti-Discrimination (Pay) Act, No. 15 of 1974 (LS 1974 - Ire. 1).

Article 1 of the Convention. The Act defines "remuneration" as including any consideration whether in cash or in kind which an employee receives directly or indirectly in respect of his employment from his employer (section 1).

Article 2. The Act establishes the legal right to equal remuneration where women employed by the same employer in the same place of employment (or by an associated employer where the employees of both employers have the same terms and conditions of employment) are doing like work with men (section 2). Any provisions in collective agreements, employment regulation orders and agreements in which differences in rates of pay are based on or related to the sex of the employees shall be null and void (section 5).

Two Equal Pay Officers have been appointed to the Labour Court, with power to investigate disputes between employers and employees and make recommendations (section 6). A party to a dispute may appeal to the Labour Court (a) against the recommendation of an Equal Pay Officer and (b) for a determination that the recommendation has not been implemented. A party to a dispute may appeal to the High Court on a point of law (section 8). The employer shall not dismiss a woman solely or mainly for the reason that she sought equal pay (section 9).

Article 3. To determine work of equal value is primarily a matter for negotiation between employers and employees, or their trade unions, and may involve the use of job evaluation or similar techniques. In the course of investigations of a dispute, the results of any job evaluation or job analysis which may have been carried out is taken into account by the Equal Pay Officers.

Article 4. An Equal Pay Review Committee comprising a chairman appointed by the Government and three representatives each from organisations representing employers and employees has been established.

The legislation is administered by the Department of Labour on behalf of the Minister of Labour. The enforcement of the legislation is a delegated function of the Labour Court. Equal Pay Offices have been appointed to the Labour Court.

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Convention No. 102: Social Security (Minimum Standards), 1952

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## ECUADOR

Obligatory Social Security Act (Registro Oficial, 30 July 1959).

The Government refers to previous reports on social security Conventions ratified by Ecuador in the past.

The competent authorities supervising the application of the laws and regulations relating to the present Convention are the Ministry of Labour and Social Welfare and the Ecuadorian Institute of Social Security (IESS).

IESS publishes periodical bulletins containing standards, resolutions and court decisions on the subject of the Convention.

## FRANCE

New Caledonia

This Convention is not applicable.

Part I - General provisions

Article 1 of the Convention. The regulations give the same meaning to these terms as does the Convention.

Part II - Medical care

Article 7. Beneficiaries of sickness insurance under the Family Benefits Equalisation Fund, the Occupational Accident Insurance Fund and the Welfare Fund receive medical care in accordance with the provisions of the Convention.

Article 8. All morbid conditions except those of a minor nature are covered by the Equalisation Fund.

Article 9. The persons protected are workers in the sense of the Overseas Labour Code, who must belong to the Equalisation Fund's sickness insurance scheme, and their dependants (the spouse - except where the spouse is in gainful employment - and dependent children).

Article 10. The insured person or his dependants are entitled to reimbursement of the costs of general and specialist medical

care, hospital care, treatment, surgical operations, pharmaceutical supplies, laboratory analyses, prosthetic appliances and transport.

Reimbursements are made at the rate of 60 per cent or 100 per cent. Maternity insurance covers 70 per cent of medical expenses and the cost of pharmaceutical supplies, prosthetic appliances and hospitalisation arising out of the confinement and its consequences.

Article 11. Sickness insurance benefit is open to an insured person who can prove that he has completed at least 87 hours of paid work during the six months before the beginning of the incapacity. In the case of maternity insurance the insured person must prove that 87 hours of work have been performed during the three months preceding the presumed date of conception.

Article 12. Sickness insurance benefits in kind are granted for a period fixed by the director of the Fund as long as this is justified by the morbid condition. No limit is fixed by the regulations.

### Part III - Sickness benefit

Articles 13 and 14. A monthly benefit is payable to an insured person who suffers loss of earnings as a result of his sickness.

Article 15. Only insured workers covered by the Overseas Labour Code are entitled to cash benefit.

Article 16. The monthly benefit is equal to half of the wage in respect of which contributions are paid and which the insured person loses as a result of his sickness. It is increased to two-thirds of the wage when the insured person has at least three dependent children. In the event of hospitalisation it is reduced by half if the insured person has neither a dependent spouse nor dependent children.

Family allowances continue to be paid during the period of receipt of the sickness benefit.

Article 17. The duration of the qualifying period is the same as that for benefits in kind (see Article 11).

Article 18. Indemnities may not be granted for more than 12 months in a period of three consecutive years of sickness. Under protracted sickness insurance cash benefits may be paid for three consecutive years.

### Part IV - Unemployment benefit

Article 21. All employed persons are members of the Equalisation Fund's unemployment scheme.

Article 22. The unemployment benefit is a percentage of the average of the last three months' wages in respect of which

contributions are payable and received before the breach of the employment contract. For the first month the benefit is 50 per cent of the reference wage; for the following two months it is 35 per cent and for each succeeding month 20 per cent.

Article 23. The beneficiary must have completed one year of membership of the Equalisation Fund.

Article 24. The unemployment benefit is granted for a maximum period of six months, or 14 months if the unemployed person is at least 55 years old.

#### Part V - Old-age benefit

Article 26. Under the old-age insurance scheme the insured person is guaranteed a retirement pension at the age of 60, or at the age of 50 in the case of incapacity for work.

Article 27. The persons protected under old-age insurance are employed persons and their dependants (spouse, children).

Article 28. The amount of the pension is calculated in proportion to the number of points acquired by the worker during the period of gainful activity up to the age of 60. The guaranteed fraction of the pension for each year of service may not be lower than 1.5 per cent of the annual ceiling wage.

Article 29. No minimum period for insurance is prescribed.

Article 30. Old-age benefits are granted until the death of the beneficiary.

#### Part VI - Employment injury benefit

Article 32. An employment injury is an injury arising out of or in the course of employment of any person employed by one or more employers. A morbid condition, incapacity for work, and total and partial loss of earning capacity due to an occupational accident or disease are covered by the Equalisation Fund's insurance scheme. The pension granted to the surviving spouse and children of a victim of an occupational accident does not depend on the resources of the persons concerned.

Article 33. All employed persons are covered by the employment injury insurance scheme.

Articles 34 and 35. The employment injury insurance scheme covers all care and benefits specified in the Convention. The costs of functional and vocational rehabilitation and the retraining of the victim are borne by the Equalisation Fund. Payment is on the third-party principle and coverage is 100 per cent.

Article 36. The insured person receives a benefit for the entire period of temporary incapacity for work. The benefit is

equal to the wage, but with a special daily ceiling of 1 per cent of the annual ceiling of wages in respect of which contributions are payable.

When permanent incapacity persists after stabilisation of his condition, the worker whose working capacity is reduced receives a pension.

The wage used as a basis for the calculation of the pension is that which the worker received during the 12 months prior to the occupational accident. Certain elements are excluded from the reference wage, such as professional expenses and family benefits.

Each month's wage is readjusted with reference to the cost-of-living index of the month preceding the date on which the pension takes effect.

The amount of the pension depends on the degree of incapacity. An increase is granted when the victim of the occupational accident must depend on a third party to perform the ordinary acts of life.

In the event of death, the victim's dependants receive a pension calculated on the basis of the reference wage as defined above (30 per cent of this wage for the surviving spouse unless divorced or separated, 15 per cent for each of the first two children and 10 per cent for the remaining children; the total of the pensions may not, however, exceed 85 per cent of the annual wage).

Article 37. The granting of benefits is not conditional on residence requirements, except in the case of foreign workers; when they cease to reside in French territory they or their survivors receive a lump sum equal to three times the amount of the pension.

Article 38. Benefits are granted without limit of time.

#### Part VII - Family benefit

Articles 40 and 41. Employed persons covered by the Overseas Labour Code are entitled to various family benefits irrespective of the number of their children. An age limit is laid down for the receipt of family benefits.

Article 42. Family benefits are paid monthly to persons having completed a certain period of gainful activity. They are granted to the first and all successive children and their amount depends on the resources of the scheme. An allocation is paid to households in receipt of a single income or two incomes where these do not exceed two-and-half times the guaranteed minimum inter-occupational wage (the amount of the allocation).

Occasional maternity benefits such as prenatal allowances and maternity allowances are also paid.

Article 43. Family and single-income allowances are not subject to a qualifying period.

In the case of prenatal allowances the insured person must have been in wage-earning employment for at least three months at the presumed date of conception.

Article 44. In 1975 1,719,000 million francs CFP were distributed in the form of cash benefits. A total of 35,325 children had received family allowances in December 1975.

Article 45. Prenatal and maternity allowances are not paid if the person does not undergo the medical examinations required by the regulations. The family allowances may be suspended if the child does not attend school or, if he is not yet of school age, if the compulsory medical examination is not carried out.

#### Part VIII - Maternity benefit

Article 47. The regulations ensure the coverage of contingencies as laid down in the Convention.

Article 48. The persons protected are women in employment and the wives of employed persons.

Article 49. The maternity insurance scheme reimburses to the persons mentioned above 70 per cent of medical expenses and the cost of pharmaceutical supplies, prosthetic appliances and hospitalisation in connection with the pregnancy and its consequences.

Article 50. Section 116 of the Overseas Labour Code provides for the payment of a benefit equal to half the wage actually received at the time work was suspended. In addition, there is a supplementary benefit equal to half the salary; the sum of the two benefits may not, however, exceed the amount of the wage in respect of which contributions are payable.

Article 51. The payment of cash benefit is not subject to any qualifying period.

Maternity insurance is reserved for beneficiaries who have completed three months of wage-earning employment before the presumed date of conception.

Article 52. Cash benefits are paid for a period of 14 weeks, 6 of which are after the confinement.

#### Part IX - Invalidity benefit

Article 54. The definition of invalidity is that given by the Convention.

Article 55. Protected persons are workers as defined in section 1 of the Overseas Labour Code.



Article 56. Invalidity benefit may be paid to a worker whose degree of invalidity is such as to reduce his working capacity by two-thirds.

The amount of the pension is a percentage of the wage in respect of which contributions were payable during the 12 months preceding the interruption of work followed by invalidity (adjustments are provided for).

The pension is equal to 30 per cent of this wage for invalids who are capable of performing a remunerated activity and 50 per cent for those who are not. (The pension is increased by the guaranteed annual minimum wage for invalids who need the services of a third person.)

Article 57. Payment of an invalidity benefit is dependent on the completion of a minimum period of wage-paid employment (87 hours during each of the six months preceding the beginning of the incapacity).

Article 58. The invalidity benefit terminates at the age of 50, when it is replaced by an old-age pension.

#### Part X - Survivors' benefit

Article 60. Survivors' benefits are payable under the retirement, employment injury and welfare schemes.

Article 61. The persons protected are the dependants (spouse and children).

Articles 62 and 63. An old-age pension reverts to the beneficiary's surviving spouse on reaching the age of 60. This pension is also payable if the insured person dies after the age of 50 or after contributing to the scheme for at least 15 years.

There is no age requirement for persons suffering from total and permanent incapacity for work or for those with at least three dependent children. The pension is equal to half the retirement pension which the deceased received or would have received (increased by 10 per cent for a dependent child). Orphans under the age of 18 who have lost both parents and who were dependent on the insured person receive an orphans' pension.

The occupational injury scheme provides for the payment of a pension to the surviving spouse and dependent children of the victim (see Article 36).

A lump-sum death grant representing three times the last monthly wage in respect of which contributions were payable is paid to the survivors of the insured person, whatever the cause of death. This sum is increased by 15 per cent for a dependent child.

Article 64. The spouse's right to a reversionary survivors' pension lapses in the event of remarriage. The same applies to the pension payable in respect of an occupational injury. A sum equal to three times the amount of the latter is paid to the surviving spouse. Redemption is deferred if there are children.

Part XI - Standards to be complied with  
by periodical payments

Articles 65 and 66. See previous Articles.

Part XII - Equality of treatment of  
non-national residents

Article 68. Generally speaking, foreign workers in New Caledonia enjoy the same benefits as nationals. When, however, they cease to reside in French territory, the payment of benefits is interrupted if the new country of residence has not concluded a reciprocity agreement with France. This provision applies to retirement pensions and pensions in respect of employment injuries.

Part XIII - Common provisions

Article 71. The benefits paid by the Equalisation Fund are financed by workers' and employers' contributions, the present rates of which are 2.37 per cent for the workers' share and 21.53 per cent (plus employment injury contribution varying from 0.60 per cent to 5 per cent) for the employers. The contribution is based on a wage between the guaranteed inter-occupational minimum wage and a ceiling equal to 517 times the hourly guaranteed inter-occupational minimum wage.

Article 72. The Equalisation Fund is managed by a board consisting of five workers' representatives, five employers' representatives, two representatives of the administration, two representatives of the Territorial Assembly, and one member representing family associations.

Part XIV - Miscellaneous provisions

Article 76. Number of insured workers at 31 December 1975: 33,716; number of protected persons as at 31 December 1975: 85,721.

Convention No. 103: Maternity Protection (Revised), 1952

BOLIVIA

Labour Code, Presidential Decree of 26 May 1939 (LS 1939 - Bol. 1), converted into an Act on 8 December 1942 (LS 1942 - Bol. 1).

Social Security Code of 14 December 1956.

Regulations under the Social Security Code, Presidential Decree of 30 September 1959.

Article 1 of the Convention. Under section 60 of the Labour Code and section 34 of the Social Security Code the provisions of this Article apply to all women serving in public, private, autonomous or semi-autonomous undertakings, except those working in agriculture or in domestic service.

Article 2. The term "woman" applies to all female persons.

Article 3. If there are complications, maternity leave can be extended up to one year, provided that the affection is curable.

Article 4. The woman is entitled to receive a cash benefit of 50 per cent plus the medical benefit or, if she is insured, 70 per cent plus the medical benefit.

Article 5. Section 60 of the Labour Code grants entitlement to a break of at least one hour daily for the purpose of nursing.

Article 6. The woman cannot be dismissed until she has been declared to have recovered from the maternity.

Article 7. No specific action has been taken as regards agricultural work, domestic workers in private households, etc. Efforts are being made to introduce social security for agricultural workers.

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

MOROCCO

Decree of 21 July 1947 respecting weekly rest and public holidays (LS 1947 - Mor. 2).

Order of 25 July 1947 to issue regulations for the application of the Decree of 21 July 1947.

Article 3 of the Convention. The Decree of 21 July 1947 applies to all persons in the service of an employer in an industrial or commercial occupation or a liberal profession.

Article 4. Given the scope of the national legislation it is not considered necessary to define a line of demarcation.

Article 5. No exclusions are made under this Article.

Article 7. Special weekly rest schemes are provided for under sections 4-15, 18-24 and 30 of the Decree of 21 July 1947.

Article 8. Cases in which exemptions may be granted are provided for under sections 6-10, 16, 17, 25-29 and 31-33 of the Decree of 21 July 1947.

Labour inspectors, police officers and any other agents of the administration specially designated for the purpose are responsible for supervising the implementation of the laws and regulations.

#### NETHERLANDS

##### Netherlands Antilles

Labour Regulations, 1952.

Articles 2 and 3 of the Convention. The Regulations concern all persons employed by an enterprise.

Article 4. The legislation does not make a distinction between establishments within the meaning of this Article.

Article 5. Heads and managers of undertakings and their spouses and blood relatives in the first degree, are excluded from the scope of the Regulations.

Article 6. Section 8 of the Regulations guarantees workers at least 24 hours' rest every week.

Article 7. Section 20 of the Regulations empowers the Government to establish by decree special weekly rest schemes involving exceptions to the general rule laid down in section 8.

Article 8. Section 7(1) of the Regulations empowers the competent authority to grant permission for the provisions concerning weekly rest to be temporarily set aside where particular circumstances may reasonably be held to require it.

Article 9. No reduction of income occurs as a result of the application of the provisions of the Convention.

Article 10. Administration of the provisions concerning weekly rest is in the hands of officials appointed for this purpose by the Governor.

Offences are punishable by fines or imprisonment, in accordance with sections 24-28 of the Regulations.

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

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## AUSTRALIA

Commonwealth Racial Discrimination Act, 1975.

Commonwealth Administrative Appeals Tribunal Act, 1975.

Commonwealth Superannuation Act, 1922-1973.

Australian Public Service Act, 1922-1975.

Australian Public Service Regulations (Regulation 87B).

Australian Public Service Board: PSB Memorandum No. 18 to the  
Royal Commission on Australian Government Administration -  
Equal Opportunity - April 1975.

Australian Public Service Board: PSB Circular 1973/53.

Commonwealth Department of Employment and Industrial Relations:  
Circular CES No. 195.

Department of Employment and Industrial Relations: Management  
Circular No. 2/75.

Federal Butchers' Shops, etc. (Private Employees - Australian  
Capital Territory) Determination No. 10 of 1948.

Federal Graphic Arts Award 1957: Variations Resulting from the  
Decision of 18 January 1974.

Federal Meat Industry Interim Award 1965: Variations Resulting  
from the Decision in May 1975.

Federal Meat Processing Interim Award, 1973: Variation of  
30 June 1975.

StatesNew South Wales

Public Service Act, 1902 as amended..

Butchers Retail (State) Award - New South Wales Meat Preservers,  
etc. (State) Award.

Queensland

Industrial Conciliation and Arbitration Act, 1961-1973.

Parliamentary Commissioner Act, 1974.

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Industrial Conciliation and Arbitration Act, No. 66 of 1975.

South Australia

Prohibition of Discrimination Act, 1966-1970.

Sex Discrimination Act, 1975.

Ombudsman Act 1972-1974.

Public Service Act, No. 38 of 1974.

Superannuation Act, No. 43 of 1974.

Industrial Conciliation and Arbitration Act, No. 64 of 1975.

Casing Workers' Conciliation Committee Award.

Printing Conciliation Committee Award.

Aerated Waters Manufacturing Consolidating Award.

Dry Cleaners - Consolidating Award.

Printing and Packaging (Country) Consolidating Award.

Caretakers and Cleaners Conciliation Committee Award.

Tasmania

School Dental Nursing Service Act, 1956.

Nurses Registration Act, No. 10 of 1974.

Retirement Benefits Fund Act, No. 113 of 1974.

Victoria

Public Service Act, 1958.

Public Service (Amendment) Act, No. 8415 of 1973.

Workers' Compensation Act, 1958.

Ombudsman Act, 1973.

Public Service (Transitional Provisions) Act, No. 8692 of 1975.

Teaching Service (Amendment) Act, No. 8789 of 1975.

Superannuation Act, No. 8717 of 1975.

Racing (Mid-Week Racing) Act, No. 8776 of 1975.

Nurses (Amendment) Act, No. 8743 of 1975.

Mines (Amendment) Act, No. 8805 of 1975.

Western Australia

Furniture Trades Award, 1960.

Printing (Country) Award, 1969.

Building Trades Award, 1968.

Building Trades (Government) Award, 1968.

Nurses Act, No. 27 of 1968.

Parliamentary Commissioner Act, 1971.

Firearms and Guns Act, No. 12 of 1971.

Goldbuyers' Act, No. 74 of 1972.

Dentists Act, 1939-1972.

Industrial Arbitration Act, 1912-1973.

Mining Act, No. 1 of 1973.

Superannuation and Family Benefits Act, No. 75 of 1973.

Public Service Regulations (Regulation 35).

Public Service Board Circular No. 6/75.

Effect is given to the provisions of the Convention by a combination of law and practice.

Article 1 of the Convention. Australian law and practice are substantially in accordance with the requirements of the Convention and, in both the Commonwealth and state jurisdictions, action has been and is being taken to review and progressively remove provisions contained in legislation, regulations, administrative instructions and industrial awards which could be seen as discriminatory on the basis of sex, race or colour. Nevertheless, there remain a number of provisions which distinguish between the rights and entitlements of male and female workers and which, by virtue of the manner in which they are applied, could be construed as discriminating against either male or female workers solely on the ground of sex. The range of provisions which tend to operate to the disadvantage of women workers in regard to their terms and conditions of employment vary considerably both between jurisdictions and industries. However, the more significant examples of discrimination on the grounds of sex relate to wages paid to women performing work of equal value to their male counterparts, distinctions between men and women concerning the range and type of allowances to which they are entitled, fringe benefits available to workers generally, recruitment advertising which specifically excludes, or by inference discourages, females from applying and limited access to training.

While the gap between average weekly earnings for adult male and female workers is attributable, at least in part, to the fact that male workers tend to work more overtime than women, it is due

also to the fact that women generally are employed in the less skilled and consequently lower paid areas of employment and that, moreover, their upward mobility to the more highly remunerated occupations is more restricted than that of male workers.

Although less common than discrimination against women on the ground of sex, discriminatory employment practices operating to the disadvantage of male workers have come to attention. In general such discrimination stems from traditional attitudes towards women and their role in society. Often these provisions were implemented initially with the intention of protecting women from the hazards of industrial life. However, with changes in technology and working practices, the continuing need for, and desirability of, this type of protection is being challenged.

Basic community attitudes cannot be changed overnight and, for example, there continues to be a reluctance on the part of some employers to engage Aborigines who tend to be employed in the lowest paid and least secure areas of employment. In recent years the Department of Employment and Industrial Relations has adopted special measures designed to provide to Aborigines reliable information about employment and to encourage employment by various incentives. The Commonwealth Government has also moved to upgrade the skills and qualifications possessed by Aborigines through the operation of retraining schemes (initially under the Employment Training Scheme for Aborigines and from October 1974 under the umbrella of the National Employment and Training System - NEAT).

Discrimination against migrant workers by some employers persists. As with Aborigines, such discrimination springs in part from communication difficulties arising out of differing cultural backgrounds, language problems, educational difficulties faced by migrant workers and problems associated with the recognition of skills and qualifications attained in their home countries.

Some employers manifest a reluctance to employ or, having employed them, to promote women beyond the most junior levels.

Article 2. A national policy to eliminate discrimination in employment and occupation was outlined in a Parliamentary Statement made by the Minister for Labour on 22 March 1973.

Following the ratification of Convention No. 111, the Commonwealth Government, in co-operation with the State Governments and the major workers' and employers' organisations, established Tripartite Committees on Discrimination in Employment and Occupations at the national and state levels. The National Committee includes three representatives with special knowledge of the employment problems encountered by women Aborigines and migrants. In addition to investigating complaints on the grounds specified in Article 1 of the Convention, the Committees may receive and investigate complaints alleging discrimination in employment and occupation on grounds other than those set out in the Convention (e.g. age, nationality, physical disability, etc.), so that the National Committee can advise the Commonwealth Minister for Employment and Industrial Relations and, through him, the Commonwealth Government on the existence and incidence of such discrimination and the action necessary to eliminate it.



The Victorian Government established on 3 February 1975 a Committee on the Status of Women to advise the Government generally on matters related to the status of women.

The Committee's key recommendation was for the introduction of legislation prohibiting discrimination, direct or indirect, against any person on the grounds of sex or marital status.

The Victorian Anti-Discrimination Bureau receives complaints regarding alleged discrimination on the grounds covered by the Convention, together with the grounds of age, marital status, life-style, criminal record and physical appearance.

In addition, an Anti-Discrimination Council was established in September 1975 to identify problems within the ambit of Government, faced by persons suffering discrimination, including employment discrimination, and to formulate recommendations to assist in the implementation of remedial measures by the Victorian Government.

Article 3. The Commonwealth Government does not intend, at present, to enact comprehensive legislation concerning discrimination in employment and occupation.

The Racial Discrimination Act, 1975 (enacted to meet Australia's obligations under the United Nations Convention on the Elimination of all Forms of Racial Discrimination) proscribes discrimination on the grounds of race, colour, descent and national or ethnic origin in respect, inter alia, of employment and thus provides incidentally legislative support for certain aspects of ILO Convention No. 111.

The South Australian Prohibition of Discrimination Act, 1966-1970, prohibits discrimination against any person by reason of race, country of origin or colour of skin. Section 7 provides that an employee shall not be dismissed, injured in employment or altered in position to his or her prejudice by reason only of race, country of origin or colour of skin.

The Sex Discrimination Act, 1975, enacted by the South Australian Parliament prohibits discrimination on the grounds of sex and marital status in respect, inter alia, of many but not all aspects of employment.

A nationwide publicity campaign designed to foster community acceptance of the aims and objectives embodied in Convention No. 111 has been implemented by the National Committee on Discrimination in Employment and Occupation, which has received expert advice from persons with special knowledge of the problems of groups most subject to discrimination, and from media experts regarding the development of an advertising campaign designed to influence community attitudes and to remove discriminatory behaviour.

In the two years to 30 June 1975, the Committees on Discrimination in Employment and Occupation were successful in securing the elimination of a number of legislative provisions, policies and practices which were inconsistent with the national policy. The most significant changes were in the area of government employment. A number of legislative changes were achieved and in many cases regulations were amended to remove discriminatory provisions.

Seventy-five per cent of complaints of discrimination in employment and occupation on the seven grounds specified in ILO Convention

No. 111, which were resolved successfully by the Committees, concerned discrimination on the ground of sex, and they predominantly affected females.

With regard to race and colour, certain practices aimed at excluding the employment of persons of a particular race or colour were removed.

With regard to national extraction, approaches by the Committees resulted in the removal of policies and practices which had not previously been recognised by the organisations concerned as being discriminatory.

In recent years the Australian Public Service Board has taken a number of steps towards realising the objective of the elimination of discrimination in employment and occupation in the Commonwealth Public Service. In October 1973 the Board sent a circular (PSB Circular 1973/53) to all departments outlining action taken following a review of employment of women in the service and on 9 December 1973 the Australian Public Service Act, 1922-1975 was amended to repeal section 54A which contained special provisions relating to married women, including one enabling the Public Service Board to determine that a married woman may not hold certain offices, and sections 43(b) and 46(2)(e)(iv) which enabled the Board to specify that only males or females were to be appointed to specified offices or in particular proportions.

Allowances and other conditions which involve distinctions on a sex "breadwinner" basis are being reviewed by the Board to minimise the possibility of discrimination on grounds of sex in their application.

In April 1974 the Chairman of the Board in a letter to permanent heads emphasised in particular the importance of ensuring that women as well as men were selected as members of selection committees and other committees within departments and as departmental representatives on Promotion Appeal Committees, inter-departmental committees and formal training courses conducted by the Board and other institutions. In April 1975 the Board announced that an Equal Employment Opportunity Section was to be established in the Board's Office to assume continuing responsibility for the formulation, co-ordination, monitoring and review of the implementation of equal employment opportunity policies throughout the service. Quite apart from the Board's public pronouncements and administrative directions which clearly support and implement the national policy, provisions exist under the Public Service Act for any officer personally aggrieved at not being promoted to a particular position to appeal against the provisional promotee.

The Commonwealth Departments concerned with Aboriginal matters have made special efforts to recruit Aboriginals to positions where their specialist knowledge and ability to communicate with Aboriginals is considered to be important criteria for carrying out the work involved. As at 1 October 1974, a total of 1,918 Aboriginals were employed full time under the Australian Public Service Act. However, Aboriginals tend to be concentrated in employment requiring lower educational and skill qualifications.

Access to vocational training in the Australian Public Service is granted to all officers on an equal basis, there being no exclusion or preference of individuals on the basis of race, colour,

sex, political opinion or national extraction. Together with their male counterparts, a significant number of women received in-service training in supervision (638), management (296), ADP (679) and occupational training (4,753) under courses conducted by their departments in 1974.

In the area of state government employment action directed to the removal of discriminatory employment practices has been taken in a number of jurisdictions.

Revised instructions (Circular CES No. 195) were issued in October 1975 to the Commonwealth Employment Service to the effect that the Service is to refuse to accept vacancies with discriminatory instructions related to grounds specified in Convention No. 111, unless the restrictions are based on inherent requirements.

The Commonwealth Employment Service also administers the National Employment and Training System (NEAT), introduced in October 1974, which is based on the philosophy that training assistance should be available to any person whose ability to obtain suitable employment is inhibited by a lack of appropriate skills. For example, of the 25,000 approvals for NEAT assistance between October 1974 and December 1975, 11 per cent were migrants, 6 per cent were Aborigines and 52 per cent were women.

The first Annual Report of the National Committee on Discrimination in Employment and Occupation (March 1975) describes the results of the measures taken in pursuance of the national policy and provides a statistical analysis of complaints handled by the National Committee and State Committees on Discrimination in Employment and Occupation.

Article 4. The Commonwealth Parliament enacted the Administrative Appeals Tribunal Act, 1975 which establishes a judicial body empowered to review administrative decisions, including decisions on the ground of security.

Moreover, in August 1974, the Governor-General appointed a Royal Commission on Intelligence and Security to, inter alia: "... make recommendations as to the procedures which should be introduced to permit review of administrative decisions affecting citizens, migrants and visitors which were or may have been based on, or influenced by reports or information of an adverse kind furnished by the security intelligence services of the Australian Government".

The Department of Labour and Immigration in a formal submission to the Royal Commission dated May 1975 drew its attention to the obligations which flow from Article 4 following the ratification by Australia of Convention No. 111. The Royal Commission has not yet presented its recommendations to the Governor-General.

An Ombudsman Bill and a Defence Force Ombudsman Bill were submitted to the Commonwealth Parliament in March 1975. They were passed by the House of Representatives but lapsed in the Senate when the Governor-General dissolved both Houses of the Commonwealth Parliament on 11 November 1975.

The matters dealt with in Article 4 have more direct relevance to the federal jurisdictions. However, the State Governments of Victoria (the Ombudsman Act, 1973), Queensland (the Parliamentary

Commissioner's Act, 1974), South Australia (the Ombudsman Act, 1972-1974) and Western Australia (the Parliamentary Commissioner's Act, 1971) have adopted legislation which bears in part on the matters dealt with in Article 4.

Article 5. Special measures designed to meet the needs of persons who are members of minority of disadvantaged groups, in particular women, Aborigines and migrants, are considered to be necessary to assist these groups to attain a position in the community where they may compete on equal terms with more established groups of persons and achieve equal opportunity and treatment in employment and occupation. Such measures could be regarded as "positive" discrimination in favour of such groups.

Continuing consultations with representatives of employers' and workers' organisations is carried on through the normal operation of the National and six State Committees on Discrimination in Employment and Occupation.

Article 6. The question of applying the Convention in Australia's non-metropolitan territories is under consideration by the appropriate authorities.

#### Norfolk Island

This Convention is not applicable.

The Norfolk Island Public Service Ordinance and Regulations.

There are no legislative provisions in Norfolk Island which specifically assert that there shall be no discrimination in employment and occupation as defined in the Convention.

Government policy and practice are to avoid distinction, exclusion or preference on the basis of race, colour sex, religion political opinion, national extraction or social origin, which would have the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.

The Norfolk Island Public Service Ordinance and Regulations provide for methods of enforcement, redress and appeals for government employees (the public sector). There is no authority for giving effect to the provisions of the Convention in the private sector.

The Government considers that, so far as is known, the practice in the private sector is in accordance with the government policy and the provisions of the Convention.

#### AUSTRIA

State Fundamental Act (StGG) of 2 December 1867 concerning the general rights for citizens (Reichsgesetzblatt (RGBI), 1867, No. 142).

Articles 66 and 67 of the Saint-Germain State Treaty of  
4 September 1919 (StGBI 303/1920).

Federal Constitutional Law of 1955, as amended to 1964.

Article 6 of the State Treaty of 15 May 1955 (Bundesgesetzblatt  
(BGBI) 152) concerning the restoration of an independent and  
democratic Austria.

Article 14 of the Convention for the Protection of Human Rights and  
Fundamental Freedoms, ratified by Austria (BGBI, 210/1956)  
(constitutional law based on the Federal Constitutional Law of  
4 March 1964) (BGBI/59).

Federal Constitutional Act of 3 July 1973 for the application of  
the International Convention on the Elimination of all Forms  
of Racial Discrimination (BGBI/390).

Chambers of Labour Act (BGBI, 105/1954).

Works Council Act (BGBI, 97/1947) (LS 1947 - Aus. 2; 1971 - Aus. 2).

Works Constitutional Act of 1 July 1974.

Agriculture Act.

Second Agriculture Act Amendment 1974 (BGBI, 482/1974).

Employment Market Promotion Act (AMFG) (LS 1968 - Aus. 2;  
1973 - Aus. 1).

Employment of Children and Young Persons Act (BGBI, 146/1948).

Vocational Training Act (BGBI, 142/1969).

Physicians Act (BGBI, 92/1949).

Physicians Act Amendment 1975, adopted on 4 July 1975.

Nursing Services, Medical Auxiliaries, and Medical Assistants Act  
(BGBI, 102/1961).

Amendments to the Federal Act (BGBI, 102/1961) adopted on  
4 July 1975.

Federal Act (BGBI, 700) of 7 November 1974.

Home Work Act as amended by BGBI, 303/1975.

Construction Workers Leave Act 1972 (BGBI 414).

Midwives Training Ordinance (BGBI, 443/1971).

Ordinance of the Federal Minister of Social Administration respect-  
ing the placement of persons for whom it is difficult to find  
employment of 16 June 1969 (LS 1969 - Aus. 2).

Under Article 6 of the State Treaty of 15 May 1955: "Austria  
shall take all measures necessary to secure to all persons under  
Austrian jurisdiction, without distinction as to race, sex,

language or religion, the enjoyment of human rights and of the fundamental freedoms, including freedom of expression, of press and of publication, of religious worship, of political opinion and of public meeting".

The Constitutional Law (BGBI, 210/1956) stipulates that the rights and freedoms set forth in the Convention for the Protection of Human Rights and Fundamental Freedoms, ratified by Austria, shall be enjoyed without prejudice especially on the grounds of sex, race, colour, language, religion, political or other views, national or social origin appertenance to a national minority, property, birth or any other status.

Furthermore, section I of the Federal Constitutional Law of 3 July 1973 for the application of the International Convention on the Elimination of all Forms of Racial Discrimination stipulates that all forms of racial discrimination not already banned by section 7 of the Federal Constitutional Act as amended in 1929 and Article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms (BGBI, 210/1956), shall be prohibited.

Austrian citizens may be granted special rights or given special obligations provided that these do not conflict with Article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

Under the terms of the Saint-Germain State Treaty of September 1919, all Austrian nationals shall be equal before the law and shall enjoy the same civil and political rights without distinction as to race, language or religion.

Differences of religion, creed or confession shall not prejudice any Austrian national in matters relating to the enjoyment of civil or political rights, as for instance admission to public employment, functions and honours, or the exercise of professions and industries (Article 66).

No restriction shall be imposed on the free use by any Austrian national of any language in private intercourse, in commerce, in religion, in the press or in publications of any kind, or at public meetings.

Austrian nationals who belong to racial, religious or linguistic minorities shall enjoy the same treatment and security in law and in practice as the other Austrian nationals.

Austrian labour legislation contains no discrimination on grounds of race, colour, national extraction or social origin. However, distinctions are made occasionally on religious or political grounds and relatively frequently on the basis of sex. These distinctions have always objective grounds and differential treatment based on sex is almost always in favour, i.e. for the protection of women workers.

Convention No. 100 on Equal Remuneration has been ratified by Austria.

Section 1.3 of the Amendment Act of 4 July 1975 concerning the amendment of Federal Act BGBI, 102/1961, eliminates distinctions on the grounds of sex in that "qualified children's and

infants' nursing sisters" is replaced by "qualified children's and infants' nurses". This eliminates the last provision of Federal Act BGBl 102/1961, which could be considered as discrimination on the basis of sex.

Section 5, subsection 1 of the Midwives Training Ordinance (BGBl, 443/1971) refers exclusively to "female applicants for admission to a midwives' training institute". This exclusion of men from the occupation of midwives is justified by the requirements of this occupation.

The fact that compulsory military service and all services associated with military duty exists in Austria for male citizens only is justified by the nature and inherent requirements of military service and is not considered in Austria as a form of discrimination.

The Chambers of Labour, legally recognised representatives of the workers, have an obligation in application of the Chambers of Labour Act to represent and promote the social, economic, vocational and cultural interests of employees. The participation of the employers' and workers' associations in joint bodies such as the Employment Policy Advisory Board, the Economic Advisory Board, the Training Board, the Wages and Prices Commission, the Vocational Promotion Institute, the Economic Promotion Institute, etc., gives them a possibility to protect their interests and at the same time to ensure a common social policy of non-discrimination.

One of the measures used to educate the private sector is the information and training policy applied by the trade union associations in collaboration with the authorities and particularly the labour market administration services.

Article 7 of the Federal Constitutional Law as amended in 1929 provides that: "All public employees, including members of the Federal Army, shall be guaranteed the unrestricted exercise of their political rights".

Federal Act BGBl of 7 November 1974 containing provisions regarding the opening of competitions for certain leading posts was adopted to eliminate the possibility that preference on account of sex or political opinion might occur in appointments to leading executive posts. The suitability of candidates for posts publicly announced are examined by a joint commission in which employers' and workers' representatives participate.

Under the Employment Market Promotion Act of 1973 vocational guidance services and placement services shall be made available to any person by the employment office to which that person applies.

During the last four years, the proportion of workers' children among students rose from 6 to 13 per cent. The percentage of girls starting studies in high schools rose to over 40 per cent.

In the private sector unilateral modification of the employment contract by the employer because of suspicion or actual commission of activities mentioned in Article 4 of the Convention is inadmissible under the labour law; if it does take place, appeal can be made to a competent body. If any discrimination takes place on account of disciplinary measures in the public service, there is also a competent body to which appeal can be made.

No special measures as foreseen in clause 2 of Article 5 of the Convention have as yet been introduced, but legislation governing the protection of workers contains numerous provisions for differential treatment of male and female workers.

Isolated provisions giving the impression of preferential treatment for certain groups of employees, such as that contained in section 18, subsection 3 of the Home Work Act as amended by BGBl, 303/1975, establishing higher holiday pay because of an additional official holiday for members of the Lutheran, Calvinist, Old Catholic and Methodist Churches, are simply protective clauses for minorities. Similar reasons - compensation for past discrimination - underlie the provisions giving additional credits for various entitlements in respect of periods of arrest for political or racial reasons during the years 1934 to 1945 (such as the leave entitlements in section 4, subsection 5 of the Construction Workers Leave Act, 1972 BGBl, No. 414).

The Government considers that discrimination on the grounds indicated in the Convention does not exist in Austria.

#### NETHERLANDS

##### Netherlands Antilles

This Convention is not applicable.

The possible extension of this Convention to the Netherlands Antilles is dependent on the application of the government regulation on the minimum wages, which became effective in 1972, and on a general system of job classification that has still to be realised.

#### Convention No. 114: Fishermen's Articles of Agreement, 1959

#### UNITED KINGDOM

The Merchant Shipping Act, 1970.

Merchant Shipping (Crew Agreements, Lists of Crew and Discharge of Seamen) (Fishing Vessels) Regulations 1972: Statutory Instrument 1972 No. 919.

Merchant Shipping (Provisions and Water) (Fishing Vessels) Regulations 1972: Statutory Instrument 1972 No. 1872.

The provisions of the Convention are applied to all registered and unregistered fishing vessels of 80 feet and over.



The Department of Trade is responsible generally for the administration of all Acts of Parliament relating to fishing vessels and fishermen. The enforcement of the provisions outlined above is secured by a system of inspection, and when necessary by legal proceedings under the relevant Regulations of the Merchant Shipping Act, 1970.

#### Antigua

This Convention is not applicable.

There is no substantive legislation governing fishermen's articles of agreement. However, the Article of the Convention is under consideration by the Government of Antigua with a view to declaring the extent to which it is acceptable to the State.

#### British Solomon Islands

The Convention is not applicable.

Labour Ordinance (Cap. 75).

Trade Disputes Ordinance (No. 7 of 1976).

Labour (Seamen) Rules (Vol. V of the Laws).

Articles 2 and 3 of the Convention. Provision for the registration of collective agreements is contained in the Trade Disputes Ordinance.

Article 5. A form of seaman's record book is available and there is a general form of employment record book. Both are voluntary.

Article 9. Overseas ships use recognised Articles of Agreement - as for example those made under the UK Merchant Shipping Acts.

The labour legislation is administered by the Commissioner of Labour and an Inspectorate of ten officers.

Special steps have not yet been taken to implement the Convention.

#### Brunei

This Convention is not applicable.

Fishing is on a very small scale, mostly on a self-employed basis by way of small boats powered by outboard motors and producing only less than 2,000 tons of fish per year to meet the local

needs of a population of 150,000 people. Some 1,300 fishermen only are registered as such, but these are operated on a self-employed basis, not conducive to the need for Fishermen's Articles of Agreement to enterprises of a much larger scale in much larger countries as primarily envisaged by the Convention.

Dominica

This Convention is not applicable.

Considering the fact that the fishing industry in Dominica is still very much in its infancy and the majority of persons engaged in fishing of any sort are themselves boat owners who operate (in the main) on a part-time basis, there has been no need to introduce legislation to give effect to this Convention. Formal agreements do not appear necessary at this stage, especially since no significant problems have been experienced with regard to the principles enshrined in this Convention.

Falkland Islands (Malvinas)

This Convention is not applicable.

As there is as yet no commercial fishing either in-shore or off-shore in Falkland Islands waters, this Convention cannot apply.

Articles 1 to 12 of the Convention. These Articles have not yet been applied but will be taken account of for future developments.

Gibraltar

This Convention is not applicable.

There is no fishing industry in Gibraltar. Consequently it has not been found necessary to introduce legislation conforming with the requirements of the Convention.

Gilbert Islands

This Convention is not applicable.

Fisheries Ordinance, Chapter 45 of the Laws.

Employment Ordinance, Chapter 84 of the Laws.

Shipping Ordinance, Chapter 89 of the Laws commercial.

At the present time there are no large commercial fishing enterprises operating out of the Gilbert Islands. There are no fishing-boat owners' or fishermen's organisations. Commercial fishing is currently confined to one company (one small vessel) and local fishermen either working individually or in partnership or as a family unit. Fishing is restricted to the distance from port that permits return within the same day.

Section 3 of the Fisheries Ordinance restricts persons other than indigenous residents in the Gilbert Islands from commercial fishing within "fishery limits", or, if these are not defined, "territorial waters" to licensed fishermen.

#### Hong Kong

This Convention is not applicable.

There is at present no specific legislation applying fully the provisions of this Convention. The general interests of fishermen, as employees, and the owners of fishing vessels, as employers, are protected by the Employment Ordinance. Provisions have been made for the immediate discharge of the contract either by mutual consent or by either party under very special circumstances. Under this Ordinance, a contract of employment can be in writing or oral, expressed or implied, but any term of the contract of employment which purports to extinguish or reduce any right, benefit or protection conferred upon the employee by the Ordinance is automatically void.

Fishing vessels in Hong Kong are predominantly traditional, but power-driven, junks operated by family members. The tradition is such that there is no written employment contract and the oral contract is confirmed by an advance of the agreed wages from the employer to the fishermen.

#### Isle of Man

The Convention is not applicable.

The Isle of Man Government is at present considering the provisions of the Convention.

#### Montserrat

The Convention is not applicable.

Merchant Shipping (Agreements) Ordinance (Cap. 146) of the Revised Laws of Montserrat.

Except for the above Ordinance there is no local legislation specifically governing the provisions of this Convention.

Fishing is done on an unorganised scale by individuals. However, efforts are being made to put the fishing industry on an official and organised basis and when this is done protection would be made available through collective agreements along the lines spelt out in the Convention.

St. Kitts-Nevis-Anguilla

This Convention is not applicable.

There is no legislation or administrative regulations governing this Convention.

St. Lucia

This Convention is not applicable.

This Convention is applied in this territory as far as is practicable by the Merchant Shipping Act, 1894 of the United Kingdom.

There are no legislative and administrative regulations at the moment which apply specifically to the provisions of the Convention.

Convention No. 115: Radiation Protection, 1960

JAPAN

Industrial Safety and Health Law (Law No. 57 of 1972).

Enforcement Order of the Industrial Safety and Health Law  
(Cabinet Order No. 318 of 1972).

Ordinance on Industrial Safety and Health (Ministry of Labour  
Ordinance No. 32 of 1972).

Ordinance on the Prevention of Ionising Radiation Hazards  
(Ministry of Labour Ordinance No. 41 of 1972).

Labour Standards Law (Law No. 49 of 1947).

Ordinance on Labour Standards for Women and Minors (Ministry of  
Labour Ordinance No. 13 of 1954).

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

Ordinance on the Prevention of Ionising Radiation Hazards to Mariners (Ministry of Transportation Ordinance No. 21 of 1973).

According to the established interpretation of Article 48, paragraph 2 of the Constitution of Japan, a treaty concluded by Japan becomes part of the national law, and treaties are superior to laws in their legal effect.

Article 1 of the Convention. In Japan all the content of the Convention is realised through laws or regulations and its realisation is guaranteed by penal provisions.

Article 2. The scope of activities to which the Convention is applied is stipulated in annexed table 2 of the Enforcement Order of the Industrial Safety and Health Law. Article 3, paragraph 3, of the Ordinance on the Prevention of Ionising Radiation Hazards to Mariners contains similar provisions.

Article 3. Since there were cases of exposure among those engaged in gamma-ray photographing work, amendments were made to the Cabinet Order and Ministerial Ordinance based on the Industrial Safety and Health Law to provide for the appointment of an operation chief and voluntary checking.

With a view to protecting mariners engaged in the work of operating a nuclear-powered vessel, a ministerial ordinance was enacted under the Mariners Law.

Article 4. The Ordinance on the Prevention of Ionising Radiation Hazards and the Ordinance on the Prevention of Ionising Radiation Hazards to Mariners provide for limits of radiation dose, protection against external radiation, prevention of contamination, emergency measures, a foreman responsible for X-ray work (there is no provision on such a foreman in the Ordinance on the Prevention of Ionising Radiation Hazards to Mariners), working environment monitoring, medical examination, etc.

Article 6. The maximum permissible doses are fixed in accordance with the 1962 recommendations of the International Commission on Radiological Protection, and there are no modifications made thereafter.

Article 7. The levels referred to in this Article are stipulated in Article 4, paragraph 1, and Article 5 of the Ordinance on the Prevention of Ionising Radiation Hazards. Provisions to the same effect are provided in Articles 6 and 7 of the Ordinance on the Prevention of Ionising Radiation Hazards.

Work involving exposure to radium rays, X-rays and other harmful radiation is listed in Article 8, item 35, of the Ordinance on Labour Standards for Women and Minors, as work in which the employer must not employ minors under 18 years old.

With regard to mariners, similar restrictions on employment of minors are provided for in Article 85 of the Mariners Law.

Article 8. Under Article 6 of the Ordinance on the Prevention of Ionising Radiation Hazards, the employer is obliged to make appropriate arrangements so that the dose received by each of the

workers who enter the controlled area on duty (excluding radiation workers and workers temporarily entering the controlled area) may not exceed 1.5 rems (or 3 rems for the dose received solely by the skin) per year. Similar provisions are provided in Article 8 of the Ordinance on the Prevention of Ionising Radiation Hazards to Mariners.

Article 10. Effect is given to this Article by the provisions of Article 61, paragraphs 1 and 3, and Article 61-2, of the Ordinance on the Prevention of Ionising Radiation Hazards, according to which the employer who intends to construct, install or move a radiation equipment, a radiation equipment room, a radioactive substance, handling workroom or storage facilities for radioactive substances, or to alter the main structure thereof, shall submit to the Labour Standards Inspection Office the documents and statements in conformity with prescribed forms. The employer shall, when he uses a gamma-ray irradiation equipment for photographing in a place outside his own establishment, submit in advance to the Labour Standards Inspection Office the documents in a certain form, together with the drawing of the controlled area and a sketch of the neighbourhood. Similar provisions are contained in Article 46 of the Ordinance on the Prevention of Ionising Radiation Hazards to Mariners.

Article 12. Under paragraph 2 of Article 66 of the Industrial Safety and Health Law, the employer is obliged, as provided for by Ministry of Labour Ordinance, to have medical examinations carried out on special items of the workers engaged in harmful work defined by Cabinet Order, conducted by a physician. Radiation work is listed as harmful work under Article 22, item 2, of the Enforcement Order of the Industrial Safety and Health Law. Provisions on examination items, etc. are provided in Article 56 of the Ordinance on the Prevention of Ionising Radiation Hazards.

With regard to the frequency of medical examination, the same Article provides that the employer shall carry out medical examination on the above items by a physician, when workers are being engaged or transferred to the radiation work, and periodically once every six months (or less than six months regarding inspection of eyes) with regard to cataract and inspection of skin, once every three months (or less than three months) thereafter.

Provisions to the same effect are also provided in Article 39 of the Ordinance on the Prevention of Ionising Radiation Hazards of Mariners.

Article 13. Under the provisions of Article 43 of the Ordinance on the Prevention of Ionising Radiation Hazards, when an accident took place and the area where the dose due to the accident is likely to exceed 1.5 rem is formed, the employer is obliged to make soon a report to the Labour Standards Inspection Office. Under the similar provisions of Article 37 of the Ordinance on the Prevention of Ionising Radiation Hazards to Mariners, the shipowner is obliged to make a report to the District Maritime Bureau.

Under the provisions of Article 44 of the Ordinance on the Prevention of Ionising Radiation Hazards, when an accident took place, the employer is obliged to make the worker who was in the area where the accident occurred undergo the medical examination or treatment by a physician and, under the provisions of Article 45 of the said Ordinance, the employer is obliged to preserve for five years a record of the doses the workers received due to the accident, of the date and time when, and the place where, the accident

occurred, of the cause and details of the accident, of the circumstances under which the injuries were produced, and of the emergency measures the employer took.

Under the similar provisions of Articles 38 and 42 of the Ordinance on the Prevention of Ionising Radiation Hazards to Mariners, the shipowner is also obliged to preserve a record for ten years.

In respect of X-ray work and gamma-ray photographing work, it is provided in Article 14 of the Industrial Safety and Health Law that an operation chief shall be appointed from among those who passed the special state examination.

The supervision of the application of the Convention is carried out by the Labour Standards Bureau within the Ministry of Labour, a Labour Standards Office in each prefecture (47 offices in all) and Labour Standards Inspection Offices in the jurisdictional area of each Labour Standards Office (348 offices in all). Labour standards inspectors, industrial safety expert officers and industrial health expert officers are installed in these organs.

The inspectors and the safety and health officers may enter establishments, put questions to persons concerned and inspect documents and other things. The labour standards inspectors are also authorised to discharge the duties of the judicial police official with regard to the crime in contravention of the provisions of the Industrial Safety and Health Law (Articles 91 to 94).

All of these officials are national public employees and receive the necessary training.

Mariners' labour inspectors are installed, under the Mariners Law, in the District Maritime Bureaux (11 bureaux in all) and the branch offices of the District Maritime Bureau (50 offices in all); they engage in inspection with powers over shipowners or mariners, similar to those of labour standards inspectors over general establishments (Articles 105, 106, 107 and 108 of the Mariners Law).

Convention No. 118: Equality of Treatment  
(Social Security), 1962

FRANCE

New Caledonia

This Convention is not applicable.

Article 1 of the Convention. The definition of the various terms is the same as in the Convention.

Article 2. The benefits provided for by the Convention are the same as those granted to wage earners covered by the Overseas Labour Code and who are members of the Family Benefits and Industrial Accidents Equalisation and Provident Fund.

Articles 4 and 6. The regulations governing family benefits make the entitlement of a foreign worker to family benefits subject to the condition that he has resided in the territory for five years.

Foreigners belonging to a country with which France has signed a reciprocal agreement are not subject to this condition.

Article 5. A foreign worker who is resident in New Caledonia is granted the same benefits as a worker of French nationality. However, if he should leave the territory to go to a country which has not signed a reciprocal agreement with France, the payment of his old-age pension is suspended. The same rule is applied for benefits payable to survivors.

As regards industrial accidents pensions, a foreign worker who ceases to reside in a French territory receives a lump sum equal to three times the amount of the pension awarded to him. The same applies to the foreign survivors of foreigners who have been victims of industrial accidents. If these survivors are not resident in a French territory at the time of the accident they do not receive any benefit.

Convention No. 119: Guarding of Machinery, 1963

JAPAN

Industrial Safety and Health Law (Law No. 57 of 1972).

Enforcement Order of the Industrial Safety and Health Law  
(Cabinet Order No. 318 of 1972).

Ordinance on Industrial Safety and Health (Ministry of Labour  
Ordinance No. 32 of 1972).

Industrial Home Work Law (Law No. 60 of 1970) (LS 1970 - Jap. 1).

Enforcement Ordinance of the Industrial Home Work Law (Ministry  
of Labour Ordinance No. 23 of 1970).

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

Ordinance on Industrial Safety and Health of Mariners (Ministry  
of Transport Ordinance No. 53 of 1964).

Articles 1 and 16 of the Convention. Any revision or repeal of the relevant legislation is subject to deliberations in the competent councils including workers' and employers' members.

Article 2. This Article is applied by the provisions of section 43 of the Industrial Safety and Health Law and the Ordinance on Industrial Safety and Health enacted thereunder as well as by the Ordinance on Industrial Safety and Health of Mariners.



Articles 5 and 9. No exceptions are granted.

Article 6. The use of unguarded machinery is prohibited by section 20 of the Industrial Safety and Health Law and by numerous provisions of the Ordinance on Industrial Safety and Health enacted thereunder.

Similar protection is afforded to mariners under the Mariners Law and the Ordinance on Industrial Safety and Health of Mariners.

Article 10. Under section 59 of the Industrial Safety and Health Law the employer must give instructions on safety measures to new workers or when new or hazardous operations are involved. Shipowners are under a similar obligation under section 81 of the Mariners Law and section 11 of the Ordinance on Industrial Safety and Health of Mariners.

Article 13. Provisions regarding industrial homeworkers require the protection of dangerous parts of machinery.

Article 15. Machines and other power-driven equipment not provided with protective appliances on dangerous parts may not, according to section 43 of the Industrial Safety and Health Law, be transferred, leased or exhibited. Infringements of the relevant provisions are penalised by fines or imprisonment. Inspection services of the Labour Standards Bureau - and the District Maritime Bureaux in the case of mariners - are entrusted with the enforcement of the laws.

#### MALAYSIA

Factories and Machinery Act, 1967.

Factories and Machinery (Fencing of Machinery and Safety) Regulations, 1970.

Factories and Machinery (Safety, Health and Welfare) Regulations, 1970.

Factories and Machinery (Notification, Certificate of Fitness and Inspection) Regulations, 1970.

The Act and the Regulations are applicable to the whole of Malaysia, but at the moment they are only enforced in Peninsular Malaysia. The Act will be enforced in Sabah and Sarawak when local technical staff is available.

Part I of the Convention. Under the Act "machinery" excludes any machinery driven by manual power other than hoisting machines. The Act was drafted in consultation with the National Joint Labour Advisory Council.

Part II. The provisions of Articles 2, 3, 4 and 5 are covered under the Act and Regulations. No exemptions have been issued.

Article 6. Sections 14, 15 and 16 of the Act and the Factories and Machinery (Fencing of Machinery and Safety) Regulations, 1970 enforce this Article.

Article 9. No exemptions are allowed.

Article 10. Sections 21 and 26 of the Act apply this Article.

Article 15. The Act and Regulations provide all the necessary measures to ensure effective enforcement of the provisions of this Convention.

Inspection services are carried out by inspectors of the Factories and Machinery Department, Ministry of Labour and Manpower.

Article 16. Consultation with the National Joint Labour Advisory Committee.

Part V. Under the Act, machinery does not include (a) any machinery used for the propulsion of vehicles other than steam boilers or steam engines; or (b) any machinery driven by manual power other than hoisting machines; or (c) any machinery solely used for private and domestic purposes; or (d) office machines.

The application of the legislation is entrusted to the Director General, Factories and Machinery Department for enforcement and supervision. There are mechanical engineers, technical assistants and technicians to assist the Director General in the enforcement and supervision of the legislation.

# MOROCCO

Decree of 2 July 1947 to regulate employment (13 Shaaban 1366).

Order of 18 February 1938 issuing general regulations respecting the exploitation of mines other than fuel mines (17 Hija 1356).

Order of 4 July 1939 (16 Jumada I 1358) issuing general regulations respecting the exploitation of fuel mines.

Order of 4 November 1952 (13 Safar 1372) prescribing general safety and health measures for all establishments in commerce, industry and the liberal professions.

Order of 11 June 1949 (13 Shaaban 1368) to establish the list of machines or parts of machines which are dangerous to workers and for which there are protective devices of recognised efficacy.

Article 1 of the Convention. No special decision has been taken regarding machinery operated by manual power.

Article 2. There has been no need to adopt any measures in regard to the prohibition specified in this Article.

Article 5. This provision has not been applied.

Article 6. The prohibition specified in this Article follows from section 30, paragraph 6 of the Decree of 2 July 1947. It has not been deemed necessary to adopt special provisions to prescribe the guarding of machinery. It is the labour inspectors' responsibility to ensure that the standards relating to the guarding of machinery are implemented in conformity with the safety and health regulations.

Article 9. No special exemptions have been granted.

Article 10. Under section 41 of the Decree of 2 July 1947, employers must keep posted up an abstract of that Decree and the orders made in pursuance thereof; this abstract was the subject of a special order issued on 27 November 1947.

Article 13. The regulations do not contain any special provisions relating to self-employed workers.

Article 15. Appropriate penalties are provided for in sections 59-70 of the Decree of 2 July 1947 and sections 51-58 of the same Decree define the duties of the officials responsible for labour inspection.

Article 16. Ratification of the Convention has not necessitated the drawing up of new provisions which might have called for consultations with the organisations of workers and employers.

Article 17. The application of the Convention was not limited by a declaration appended to the ratification.

Convention No. 120: Hygiene (Commerce  
and Offices), 1964

FRANCE

French Polynesia

Labour Code (Overseas Territories), (Title VI, sections 133-137)  
(LS 1952 - Fr. 5).

Order No. 621/IT of 29 May 1950.

Order No. 506/ITS of 25 February 1965.

The legislation relates to all enterprises. Safety and health problems are studied by a technical advisory committee on which employers' and workers' organisations are represented.

The provisions of Articles 7 to 18 of the Convention are applied by Order No. 621/IT and those of Article 19 by Order No. 506/ITS.

Convention No. 121: Employment Injury Benefits, 1964

JAPAN

Workmen's Accident Compensation Insurance Law (Law No. 50 of 1947 (LS 1947 - Jap. 6), as amended.

Mariners' Insurance Law (Law No. 73 of 1936), as amended.

National Public Employees' Accident Compensation Law (Law No. 191 of 1951), as amended.

Local Public Employees' Accident Compensation (Law No. 121 of 1967), as amended.

Article 2 of the Convention. Recourse is not had to any temporary exception.

Article 3. Recourse is not had to the provisions of this Article.

Article 4. Recourse is had to paragraph 2(a), (b), (c) and (d) of Article 4.

Article 5. No declaration under Article 2 has been made.

Article 6. The degree of loss of earning capacity or corresponding loss of faculty that gives rise to cash benefits is classified into 14 grades.

Article 7. Industrial accident is defined as injury and disease, invalidity or death resulting from employment injury. Recourse is had to the provision of paragraph 2 of this Article.

Article 8. Recourse is had to the provision (c).

Article 9. The benefits are provided throughout the contingency. Eligibility for benefits is not subject to a condition as to the length of employment, the duration of insurance or the payment of contribution. Recourse is had to the provision of paragraph 3(a). Individual employers are however under a statutory obligation to compensate for the three-day waiting period. The reasons for having recourse to this provision subsist during the period under review.

Article 10. All medical care, including that listed in (a) to (f) is afforded and, where possible, the treatment under (g) is given. Many hospitals for the treatment of victims of industrial accidents set up by the scheme are equipped with facilities for medical rehabilitation.

Article 11. Recourse is had to paragraph 2. The victims of employment injury can receive free medical care at a medical institution designated by the Government, when they have received medical care in a medical institution other than the institution designated.

The extent of a reimbursement is the same as the extent of medical care provided at a designated medical institution.

Article 12. No declaration under Article 2 has been made.

Article 13. Recourse is had to the provisions of Article 19. Cash benefits in respect of temporary or initial incapacity are paid until the victims recover or symptoms of their illness or injury are consolidated.

Article 14. The loss of faculty is assessed and the corresponding benefit rate is fixed. Recourse is had to the provisions of Article 19. The benefit granted as a periodical payment in case of substantial partial loss of earning capacity likely to be permanent is a percentage of the benefit payable in case of total permanent disability. The benefits for lesser degrees of disability are paid in the form of a lump sum.

Article 15. Recourse is not had to paragraph 1 and no declaration under Article 2 has been made.

Article 16. The third grade of the disability schedule corresponds to the total permanent disability, to which a benefit equivalent to 245 days of average daily wages is payable per year. Those who need constant attendance fall under the first grade and receive benefits equivalent to 313 days of average daily wages a year. Therefore, the difference between these two types of benefits corresponds to the increments in the periodical payments. Those who need attendance from time to time fall under the second grade and receive benefit equivalent to 277 days of average daily wages a year.

Article 17. A pension is payable to those who are physically handicapped and have totally lost their earning capacity. Where the degree of loss has changed to become slight, a lump-sum benefit will be paid instead of the former pension.

Article 18. Those who may become a beneficiary of compensation for bereaved family are widows, widowers, parents and grandparents (above age 60), children (including unborn child) and grandchildren (under age 18) and brothers and sisters (under age 18 or above age 60) who have been sustained by the earnings of the worker at the time of his death. Those who are invalid are not restricted by age limit.

Article 19. The benefits are calculated on the basis of insured wages, i.e. average daily wages of the person protected, and the rates are expressed as follows: temporary incapacity (daily rate): 80 per cent of the daily insured wages; permanent total disability (yearly rate): 245 times the daily insured wages; death of the breadwinner (yearly rate): 56 per cent of the yearly insured wages (i.e. 365 times the daily insured wages). Average daily wages are subject to a minimum of 1,800 yen, but no maximum is stipulated.

Article 21. Where the average yearly wages in all industries exceed 120 per cent or are below 80 per cent of the average amount of wages in the year in which the worker concerned was injured or was ill the amount of partial and total invalidity and survivors' pensions is automatically revised for each beneficiary.

Article 22. Benefits are not suspended in the case of (a), (c) and (g) above. As regards (b), (d), (e) and (f) only the minor part of benefits may be suspended.

Article 23. Any person who has objections to settlement on benefit under the Workmen's Accident Compensation Insurance may request an examination by the Workmen's Accident Compensation Insurance Referee, and if dissatisfied with a decision thus given, he may request a re-examination by the Labour Insurance Appeal Committee. He may bring the case before the Court after the Committee has made a decision. Similar appeal procedures are also adopted by the Mariners' Insurance, National Public Employees' Accident Compensation and Local Public Employees' Accident Compensation.

Article 24. Employment injury benefit schemes are administered directly by public authorities.

Article 25. Full responsibility is assumed by the Government for due provision of benefits under the scheme.

Article 26. (a) Under a number of laws, employers are obliged to take various preventive measures for industrial accidents and occupational diseases; (b) rehabilitation services are provided through Workmen's Compensation (Rosai) Hospitals, Rosai Rehabilitation Workshops and Vocational Training Centres for Physically Handicapped Persons; (c) under the Physically Handicapped Persons' Employment Promotion Law, the State researches suitable occupations for them and provides vocational guidance.

Frequency and severity rates of employment injury have been declining.

Article 27. All workers under compulsory coverage are afforded equal protection, irrespective of their nationality.

Convention No. 123: Minimum Age (Underground Work), 1965

MALAYSIA

Mining Ordinance (Sarawak).

Mining Rules, 1934.

The scope of the national provisions respecting the minimum age for admission to employment underground is defined in the Mining Enactment and other mining enactments and ordinances.

In pursuance of the provisions in force no boy under the age of 16 years and no woman shall be employed in any underground work.

Supervision of the application of the national provisions is entrusted to officers of the Mines Department.

Contravention of the relevant national provisions makes an employer liable to a fine under the relevant mining laws.

Convention No. 126: Accommodation of  
Crews (Fishermen), 1966

YUGOSLAVIA

Act respecting the Security of Navigation Services (Službeni List (Sl.L.), Nos. 39/64 and 47/65).

The Registration of Sea-Going Ships and Boats Act (Sl.L., No. 6/69).

The Basic Act respecting the Protection of Labour (Sl.L., No. 15/65) (LS 1965 - Yug. 3).

Acts respecting the Protection of Labour of the Republics of Croatia and Slovenia (Narodne novine SR Hrvatske, No. 54/74, and Uradni List SR Slovenije, No. 32/74).

Regulations on Safety and Health on Sea-Going Vessels (Sl.L., Nos. 6/57 and 32/58).

Articles 1 and 2 of the Convention. The legislation ensuring the application of the Convention applies to all ships and boats entered into the prescribed register of ships and boats.

A sea-going ship is a vessel of more than 10 gross registered tons having a deck, and a sea-going technical vessel of the same tonnage though without a deck.

A sea-going boat is a sea-going vessel of up to 10 gross registered tons with or without a deck, as well as a sea-going vessel of more than 10 gross registered tons without a deck other than a technical vessel of the same tonnage.

Article 3. All laws and regulations are published in official gazettes.

The responsibility for compliance with laws and regulations lies with the shipper, i.e. the organisation of associated labour making use of the vessel, and with the responsible person in that organisation.

The system of inspection is maintained by administrative bodies in charge of the security of navigation and labour inspection bodies.

Appropriate penalties for violations have been prescribed by law.

The long-established arrangements for consultation on various questions of the situation and development of the maritime industry, the conditions of life and work of seamen, etc. exist in the form of consultations arranged either by the competent body of administration or trade unions or associations of the shipping industry.

Articles 4 to 5. Prescribed measures and standards securing the compliance with the terms of this Convention have to be adhered to in the construction and reconstruction of all ships and other vessels comprising the merchant marine. The competent labour inspection authority takes part in both the preliminary control of plans and subsequent inspection of a vessel.

Inspection bodies hold subsequent regular or periodic inspections of conditions on board a ship.

Any member of the crew may request from the management body on board a vessel or from the organisation of associated labour that prescribed measures and standards be applied and, if his request is not complied with, he may request the inspection authority to make the inspection and take an appropriate decision thereon.

Articles 6 to 16. The provisions of these Articles are applied by the Regulations on Safety and Health on Sea-Going Vessels.

Article 17. The Convention is being applied both to ships under construction and reconstruction, and to ships built previously.

Article 18. Provisions of the law, other regulations of general application and provisions of ratified international Conventions may be departed from by introducing more favourable solutions concerning protection and other conditions of work.

Supervision of the application of the legislation is entrusted to the competent bodies of the maritime administration and to labour inspection authorities.

Convention No. 127: Maximum Weight, 1967

FRANCE

French Polynesia

This Convention is not applicable.

Labour Code (Overseas Territories), sections 115, 118 and 119 (LS 1952 - Fr. 5).

Orders 177 and 178/IT dated 2 February 1956 concerning work of women and of pregnant women and work of children.

The term "young workers" means young persons of either sex under 18 years of age. All sectors of economic activity are covered by the Labour Inspection.

The legislation contains detailed provisions specifying, according to the mode of transportation, the weight of load that can be moved by women and young persons. Certain means of transportation may not be used by young women workers and others by all young workers.



The Consultative Labour Committee which includes representatives of workers' and employers' organisations participated in the elaboration of these regulations. The Inspection of Labour and Social Laws is responsible for supervision of the application of the legislative and regulatory texts.

## POLAND

Labour Code (Act of 26 June 1974) (Dziennik Ustaw (DU), No. 24, 1974, Text 141) (LS 1974 - Pol. 1).

Decree of the Minister of Labour and Social Welfare and the Minister of Health, dated 1 April 1953, on occupational safety and health in the handling and transport of loads (DU, No. 22, 1953, Text 89).

Decree of the Council of Ministers, dated 28 February 1951, respecting the prohibition of women's work, and the annex to the Decree containing a list of jobs forbidden to women (DU, No. 12, 1951, Text 96) (LS 1951 - Pol. 2B).

Act of 10 November 1954 respecting the application of labour protection laws, safety and health, and labour inspection by trade unions (DU, No. 8, 1968, Text 47).

Decree of the Council of Ministers, dated 26 September 1958, containing a list of jobs forbidden to young persons (DU, No. 64, Text 312).

Decree of the Minister of Health and Social Welfare, dated 10 December 1974, respecting medical examination of workers (DU, No. 48, 1974, Text 296) (LS 1974 - Pol. 5).

Articles 1, 2, 3 and 7 of the Convention. The legislation, which is binding for all sectors of the national economy, prohibits the lifting and transport of loads of over 50 kg. or objects longer than 4 m and weighing more than 30 kg. by one worker over distances greater than 25 m or up to levels higher than 4 m.

The manual transport of loads is prohibited for persons whose state of health does not allow them to perform this kind of work. Persons engaged in this work must undergo an initial medical examination and periodic checks at least once a year.

Polish legislation forbids the employment of women on arduous work harmful to their health.

The Decree of 28 February 1951 establishes the maximum weights of loads for manual lifting and transport by women: permanent work, up to 20 kg.; occasional work, up to 30 kg. (manual transport on inclines and staircases, 15 and 25 kg. respectively).

Pregnant women are forbidden to lift loads of over 5 kg. during the first six months of pregnancy.

The Decree of 26 December 1958 prohibits the employment of young persons between 15 and 18 years of age on the manual lifting

and transport of loads if this work exceeds one-third of the young person's working time.

The maximum weights for young persons are established as follows: between 15 and 16 years of age: boys 8 kg., girls 5 kg.; over 16, boys 16 kg., girls 10 kg.

The transport and shifting of loads on inclines and stair-cases is allowed on condition that the gradient is not more than 30° and the height of the incline or stairs is not more than 5 m; in this case the permissible weights are reduced to between 3 and 8 kg.

Articles 4, 5, 6 and 8. The Labour Code imposes the obligation on undertakings and management to ensure that safety and health conditions and standards are met; workers are under the obligation to observe them.

The Decree of 1 April 1953 lays down the obligation to instruct workers (by radio, bulletins and notices) on the safest technical means for the manual transport of loads and the obligation to maintain equipment in proper working order and to inspect it periodically.

Under the Labour Code and the Decree of 10 November 1954 the Labour Inspectorate is responsible for supervising safety conditions and compliance with the relevant regulations.

Convention No. 129: Labour Inspection  
(Agriculture), 1969

FINLAND

Act respecting Labour Protection (299/58) (LS 1958 - Fin. 1).

Act respecting Administration of Labour Protection (574/72).

Act respecting Supervision of Labour Protection (131/73)  
(LS 1973 - Fin. 1).

Articles 1 to 4 of the Convention. Agricultural undertakings and educational institutions of the field must observe the Labour Protection Act (299/58). The supervision of labour protection in agriculture comes under Acts 274/72 and 131/73. The central authority, the National Board of Labour Protection, directs and supervises field work through its labour protection districts.

Article 5. Work carried out by employers' close relatives who are permanently living in the same household as the employer is not liable to inspection, unless the employer also employs other persons on the same work. Work carried out by two or more people in a common undertaking is liable to inspection, unless they are connected by bonds of relationship.

Article 10. Women are eligible for appointment to the labour inspection staff; they inspect mainly the application of the Act to Protect Young Persons in Employment and the Act concerning the Protection of Working Mothers.

Article 11. The inspectorates can call in the experts needed.

Article 12. The government services co-operate with the inspection services.

Article 13. Collaboration between inspectors and employers and workers is ensured; their representatives assist in inspections and play a role in the prevention of infringements.

Article 14. The provincial governments are obliged under article 83 of the Constitution to appoint a sufficient number of inspectors necessary to ensure the application of the relevant legislation. The criteria listed in Article 14 of the Convention are taken into account. Two-hundred-and-thirty-three inspectors were appointed in 1971 in the agricultural employers' mutual insurance associations.

Article 15. Labour inspectors are provided with the necessary offices; the location is determined with due regard to the geographical situation of the undertakings. Transportation is ensured either through the use of official cars or by reimbursement for travelling expenses.

Article 16. Labour inspectors are empowered to enter undertakings at any time of the day and night while the establishment is operating. Inspectors are required to notify the employer prior to inspection except in cases where this might be prejudicial to the performance of their duties.

Article 17. No provision is made to associate labour protection authorities in the preventive control of new plant, materials and new processing methods. The Testing Centre of the Federal Union of Agricultural Employers' Mutual Insurance Associations does carry out preventive controls of agricultural machines at the request of the manufacturer or on its own initiative.

Article 18. Labour inspectors are empowered to take steps with a view to remedying defects including measures with immediate executory force in the event of imminent danger to health or safety.

Article 19. Employers are required to report disabling or fatal accidents within three days; and inspectors are associated in the inquiries.

Article 20. Labour inspectors are prohibited from having any activity which may prejudice their service interests and are required not to reveal any commercial secrets or source of complaints.

Article 21. The number of inspectors is regularly increased to ensure that they can adequately carry out their functions.

Articles 22 and 23. The inspectors have the power to initiate legal or administrative proceedings without warning; they have the discretion to give warning instead.

Article 24. Legal sanctions are provided in the legislation.

Article 25. Section 139(b) of the Industrial Code and section 772(2) of the Federal Insurance Code require inspectors to make yearly reports.

Article 26. The information on the activities of labour inspectors in agriculture are contained in the annual inspection reports published by the provincial governments within 12 months of the year to which they relate.

Convention No. 130: Medical Care and  
Sickness Benefits, 1969

GERMANY, FEDERAL REPUBLIC OF

Federal Insurance Code (RVO), dated 19 July 1911 (Reichsgesetzblatt (RGBl), p. 509), in force for sickness insurance as of 1 January 1914, as amended by the Notification of 15 December 1924 (RGBl I, p. 779) (LS 1924 - Ger. 10), with numerous amendments and additions.

Act respecting sickness insurance in agriculture (KVLG), dated 10 August 1972 (Bundesgesetzblatt I, p. 1433).

As a result of the ratification of this Convention, the following legislative provision has been amended: section 184 of the RVO was amended so as to guarantee that from 1 January 1974 hospital treatment shall be provided in all cases in which hospitalisation is necessary, without limit as to time.

Part I - General provisions

Articles 2 and 3 of the Convention. The Federal Republic of Germany has not availed itself of the opportunity of making temporary exceptions or exclusions.

Article 4. The Federal Republic of Germany has not excluded the categories referred to in paragraph 1 of this Article. The wives and children of persons in these categories are also entitled to medical care.

Article 5. (a) Persons who are employed or work only on a casual basis, especially as temporary staff, for a period which in the course of a year from its commencement on is usually, or under prior agreement, limited to not more than three months or 75 working days in all, are exempt from insurance. The same applies to persons who are employed or work regularly or periodically but only for a low wage or earned income. (s. 168(2), RVO.)

(b) Members of an employers' family living in his home and working for him are not exempt from insurance if they are engaged

under an employment relationship based on a labour contract explicitly or implicitly concluded vis-à-vis the member of the family.

Subparagraph (c) is not applied.

Article 6. The Federal Republic of Germany does not avail itself of this Article.

Article 7. Insured persons and the members of their families are entitled to medical care of a curative nature and the following measures for the early diagnosis of diseases:

- (1) for children under 4 years of age, examination for early diagnosis of diseases that endanger the child's normal or physical or mental development;
- (2) for women aged 30 and over, an annual check-up to diagnose early signs of cancer;
- (3) for men aged 45 and over, an annual check-up to diagnose early signs of cancer (s. 181 RVO, s. 8 KVLG).

In addition, the rules of the Sickness Fund may make provision for measures aimed at the prevention of illnesses among the individual members of the Fund. Such measures include the maintenance of sanatoria and convalescent homes, vaccination, and general and special measures for the prevention of sickness (s. 187(4), s. 363 RVO, ss. 11 and 70 KVLG).

The concept of incapacity for work has not been legally defined. Jurisprudence is based, however, on the following indisputable principle:

incapacity for work is recognised as entitling a person to claim the payment of pecuniary sick benefit when an illness renders the worker unable to perform the work he is required to do under the terms of the employment relationship or when he might continue to work only at the risk of aggravating his condition in the near future.

## Part II - Medical care

### Article 9.

Medical care comprises the following:

- (a) medical and dental treatment;
- (b) various pharmaceutical supplies and spectacles;
- (c) prosthetic and orthopaedic appliances and other aids;
- (d) contributions towards the costs of dentures and crowns or payment of the full costs;
- (e) testing for stress and strain and occupational therapy.

Medical care must be adequate and suitable; it must not, however, go beyond what is necessary (s. 182(1), No. 1 RVO, s. 13 KVLG).

Article 10. Subparagraph (a) is applied.

Article 12. Persons drawing pensions from the statutory pensions insurance scheme or benefits from the unemployment insurance scheme are covered by statutory sickness insurance (s. 165(1), No. 3 RVO, s. 2(1), No. 4 KVLG and s. 155 AFG).

Article 13. All benefits referred to in subparagraphs (a) to (f) are granted when needed.

The claim to benefits is covered by the following provisions:

- (a) s. 182(1), No. 1(a) RVO, s. 13(1), No. 1 KVLG;
- (b) s. 182(1), No. 1(a) RVO and s. 184 RVO, s. 13(1), No. 1 and s. 17 KVLG;
- (c) s. 182(2), No. 1(b) RVO, s. 13(1), No. 2 KVLG;
- (d) s. 184 RVO, s. 17 KVLG;
- (e) s. 182(1), No. 1(a) RVO, s. 13(1), No. 1 KVLG;
- (f) s. 182(1), No. 1(e) RVO, s. 13(1), No. 5, KVLG (stress-and-strain tests and occupational therapy);  
s. 182(b) RVO, s. 16(2) KVLG (orthopaedic care);  
s. 187(2) RVO, s. 21 KVLG (convalescent care);  
s. 193 RVO, 2. 21(a) KVLG (supplementary rehabilitation benefits, sporting facilities for the handicapped, etc.).

Article 14. A declaration in virtue of Article 2 has not been made.

Article 15. There are no qualifying periods for compulsorily insured persons as regards medical care.

Article 16. The benefits referred to in Article 13(a) to (f) are granted without limits as to time.

Medical attendance does come to an end as a rule 26 weeks after a person leaves the insurance scheme. The membership of compulsorily insured persons is maintained as long as they are entitled to sickness benefits (s. 311(2) RVO, s. 48(2), Nos. 2 and 3 KVLG).

Medical care is suspended in the case referred to in (a) if the person concerned voluntarily betakes himself to a foreign country without the consent of the Governing Body of the fund after the occurrence of the event giving rise to benefit (s. 216(1), No. 2 RVO, s. 42(1), No. 3 KVLG). For the case referred to in (f) the following applies: if a person who applies for a benefit does not fulfil his membership obligations and if the clarification of the circumstances is thereby rendered considerably more difficult, the benefit carrier may wholly or in part withdraw or forgo payment, in so far as the requirements for payment of benefit are not established. This also applies if the person entitled to benefit in some other way renders the clarification of the circumstances considerably more difficult (s. 66, General Part - Social Code).

Article 17. As a rule the legislation concerning the statutory sickness insurance scheme does not include sharing in the cost of medical care. An exception applies only for the benefits referred to in Article 13(c). Under s. 182(a) RVO, s. 14 KVLG, persons receiving pharmaceutical supplies have to pay to the dispensing agent 20 per cent of the costs, but not more than 2.50 DM per prescription. Pensioners, students, trainees, persons with reduced earning capacity and those receiving sickness and rehabilitation allowances are exempt from this charge. Because it is so low this charge does not cause any social hardship.

Article 19. Subparagraph (a) is applied (see Article 10).

Article 21. The pecuniary sick benefit amounts to 80 per cent of the normal remuneration (normal wage) that is forfeited as a result of the incapacity for work and may not exceed the net amount of the normal remuneration forfeited.

Article 22. The normal wage is calculated from the remuneration earned by the insured person in the last completed wage period preceding the commencement of incapacity for work (or in the last four weeks, whichever is longer), minus non-recurring gratuities (s. 182(4) and (5) RVO, s. 19(3) KVLG).

Paragraph 3 is applied. The maximum limit in 1976 amounts to 2,325 DM per month.

Article 25. There is no provision for a qualifying period for the payment of sickness benefit.

Article 26.

1. Sickness benefit is granted without limit of time but where the incapacity is caused by one and the same illness, such benefit is not granted for more than 78 weeks within any period of three years reckoned from the date of commencement of the incapacity (s. 183(2) RVO, s. 20(1) KVLG).

2. No declaration was made in virtue of Article 2.

3. Paragraph 3 does not apply.

4. Sickness benefit is suspended if an insured person voluntarily betakes himself to a foreign country without the consent of the Governing Body of the fund after the occurrence of the event giving rise to benefit, so long as he remains there without the said consent (s. 216(1), No. 2, s. 42(1), No. 3 KVLG). The rules of the sickness fund may provide that a member shall be refused sickness benefit in part or altogether for the duration of an illness if this has been incurred intentionally (s. 192 RVO, s. 20(5) KVLG). For the case referred to in Article 28(f) the following applies: if a person who applies for a benefit does not fulfil his membership obligations and thus renders the clarification of the circumstances considerably more difficult, the benefit carrier may withdraw or refuse in part or altogether the benefit in so far as the requirements for the payment are not fulfilled. This also applies if the claimant otherwise renders the clarification of the circumstances considerably more difficult (s. 66, General Part - Social Code).

Article 27.

1. A funeral benefit is as a rule paid for all insured persons (s. 201 RVO, s. 37(1) KVLG). If a sick insured person dies of his sickness within one year of the exhaustion of the sick benefit for it, while still a member of the fund, the funeral benefit shall be paid provided that he remained incapable of work until his death (s. 202 RVO).

2. Paragraph 2 is not applied.

Article 29.

1. Under the Social Courts Act every claimant has a right to appeal if he maintains that a benefit has been wrongfully refused him or that he was entitled to a higher or different benefit from the one awarded him.

2. Paragraph 2 is not applied.

Article 30. The application of the Convention is guaranteed by the legislation of the Federal Republic of Germany.

Article 31. The sickness insurance institutions are public self-governing corporations. Self-government is on principle exercised through the insured persons and the employers on an honorary basis.

The self-governing bodies of the insurance institution, the representatives' meeting and the executive board, are each composed as a rule of equal numbers of representatives of the insured persons and the employers. The insurance carriers are subject to state supervision.

Article 32. Insured persons who are not German nationals have the same rights as nationals to benefits.

Convention No. 131: Minimum Wage Fixing, 1970

## AUSTRALIA

Conciliation and Arbitration Act, 1904-75.

StatesNew South Wales

Industrial Arbitration Act, 1940, as amended.

Victoria

Labour and Industry Act, 1958.



Queensland

Industrial Conciliation and Arbitration Act, 1961-74.

South Australia

Industrial Conciliation and Arbitration Act, 1972-75.

Western Australia

Industrial Arbitration Act, 1912-73.

Tasmania

Wages Board Act, 1920 (LS 1924 - Aust. 1), (LS 1934 - Aust. 3).

Article 1, paragraph 1, of the Convention. Industrial tribunals established in the federal and state jurisdictions are empowered to fix minimum rates of wages which are legally enforceable.

There are two types of minimum wage: one is the rate for each classification prescribed in an award, and the other is an amount prescribed in awards as the minimum rate for ordinary pay for adults in respect of ordinary hours of work.

The great majority of Australian wage earners are covered by a minimum wage system or by wage awards.

Paragraph 2. The federal tribunal and those of certain states, namely the Australian Conciliation and Arbitration Commission and the Industrial Commissions in New South Wales, Queensland, South Australia and Western Australia, are quasi-judicial bodies. Employers' and workers' organisations may apply to the tribunals for awards to cover their members. In Victoria and Tasmania there are industry wages boards on which employers' and workers' organisations in the industry concerned are represented.

Paragraph 3. Most wage earners who are not covered by minimum wages or wages fixed by awards are either those which are not organised or those which have not sought coverage under the existing wage-fixing system.

Article 2, paragraph 1. In Australia wage rates in awards, determinations and registered collective agreements have the force of law and are not subject to abatement. The relevant labour legislation in the federal and states' jurisdictions provides for sanctions in the event of failure to apply minimum wages.

Paragraph 2. Employers and workers are free to bargain collectively to fix wage rates provided that the parties do not fix them below those set in the relevant awards.

Article 3. Minimum wages and wages fixed by award are determined with reference to the needs of the worker and to economic factors. Traditionally, the needs of the worker were a basic criterion for all wage awards. However, because of the country's long periods of economic prosperity, economic factors have tended to override the formal "needs" element in wage fixing.

In its National Wage Case decision handed down on 30 April 1975 the Australian Conciliation and Arbitration Commission conditionally accepted the principle of wage indexation in order to ensure that the workers' needs were met and maintain the purchasing power of wages.

Article 4, paragraph 1. The tribunals empowered to fix and adjust minimum wages fall into two broad categories, the one of a quasi-judicial nature at the level of the federation and four other states, the other, in Victoria and Tasmania, in the form of wages boards consisting of equal numbers of employers' and workers' representatives with an independent chairman. In New South Wales and South Australia the Industrial Commissions are supplemented by conciliation committees which are similar in composition and function to wages boards. For certain activities, such as coal-mining and the public service, there are special tribunals at the level of several jurisdictions.

Paragraph 2. In most jurisdictions there is provision for consultation on the operation and modification of minimum wage-fixing machinery, and as a matter of general practice employers' and workers' organisations are consulted either through these bodies or directly when governments are contemplating changes to the machinery.

Paragraph 3. Representatives of employers' and workers' organisations participate in the operation of labour tribunals.

Article 5. The Inspectorates attached to the labour department of each jurisdiction are empowered to assist in securing the observance of wards and industrial legislation.

#### UNITED REPUBLIC OF CAMEROON

Labour Code of 27 November 1974 (LS 1974 - Cam. 1).

Order of 29 October 1970 to render enforceable a decision of the National Joint Collective Agreements and Wages Board.

Decree of 3 May 1976 establishing wage zones and minimum wage rates.

Order of 29 January 1976 to render enforceable a decision of the National Joint Collective Agreements and Wages Board.

Article 1 of the Convention. The Decree of 3 May 1976 abolished the guaranteed minimum inter-occupational and agricultural wages (SMIG and SMAG), and divided the territory into three wage zones.

Article 2. The Order of 29 October 1970 established 12 occupational categories with six grades within each of these categories, though a further grade may be decided upon by agreement.

Article 3. The Order of 29 January 1976 fixed the wage rates for each of the above-mentioned categories.

The Labour Inspectorate is responsible for the enforcement of the laws and regulations in this respect.

## MEXICO

Federal Labour Act (Diario Oficial, 1 Apr. 1970) (LS 1969 - Mex. 1).

Article 1 of the Convention. The Federal Labour Act contains provisions on the fixing and application of minimum wages. Under these provisions minimum wages are fixed by the National and Regional Minimum Wage Commissions. Minimum wages may be of a general nature and, if so, they are applicable to all workers in the area or the areas referred to.

Article 2. Section 97 of the Federal Labour Act stipulates that minimum wages are not subject to abatement.

Article 3. Under the various legislative provisions, particularly section 562 of the Federal Labour Act, minimum wages are fixed taking into consideration elements prescribed by the Convention.

Article 4, paragraph 1. Section 570 of the Federal Labour Act stipulates that minimum wages shall be fixed regularly.

Paragraph 2. The wage-fixing procedure of the National and Regional Commissions foresees the need to consult workers and employers and authorises both groups to submit any studies they may consider necessary.

Article 5. The existing inspection system ensures the application of the legal provisions. Under section 878 of the Federal Labour Act failure to apply minimum wages is punishable by a fine of 500 to 10,000 pesos.

Section 890 provides that workers, employers and trade unions may report instances of failure to comply with the labour standards to the labour authorities.

## ZAMBIA

The Minimum Wages, Wages Councils and Conditions of Employment Act of 16 July 1948 (Cap. 506).

The Industrial Relations Act of 20 December 1971 (LS 1971 - Zam. 2).

Article 1 of the Convention. A system of minimum wages has been established through Wages Boards and Wages Councils. Joint Industrial Councils also establish minimum wages for specific industries. Presently there are two Wages Boards and two Wages Councils. Wages regulation orders apply to a few industries.

The Boards and Councils determine what category of employees may be excluded from the application of the wages determination.

Employees in domestic service are excluded from the application of any minimum wages determination, because of the problems imposed by enforcement.

Article 2. Upon affirmation by the Minister, a determination made by a Wages Board or Wages Council has the force of law, and every employer affected by such determination is obliged to pay wages at no less than the minimum rate. Any employer who fails to comply with this obligation commits an offence and is liable to a fine.

As soon as an employers' association is formed, a Joint Industrial Council within and for the industry with which the association is concerned must be established for the purpose of carrying on collective bargaining for the industry. When a collective agreement has been established and registered, it has statutory effect.

Article 3. In determining the minimum wages, the Wages Boards and Wages Councils take into account the general level of wages in the country, the cost of living, and the government policy on prices and incomes.

Article 4. The Minister is empowered to appoint a Wages Board consisting of a chairman and two other members not connected with the industry for which the Board has been established but representing the interests of employers and workers respectively, to fix minimum wages and other conditions of employment in respect of any category of employees. At present there are two Boards, for industrial undertakings and for agriculture.

The Minister may also appoint a Wages Council to regulate wages and other conditions of employment for any workers or group of workers. The Council is composed of independent persons, one of whom is the chairman, and an equal number of other members from both the employers' and the employees' and the employees' representative organisations. At present there are two Councils. One is for shop workers and the other is for employees in hotels, clubs and restaurants.

Determinations of a Board or Council are forwarded to the Labour Commissioner for publication in the Government Gazette. After 28 days the Minister considers any objections received and proceeds to affirm, vary or add to the determination before it is re-published in the Gazette as a wages determination.

Article 5. The enforcement of minimum wages is the responsibility of the Department of Labour and this is done through regular visits of inspection to employment establishments by Labour Officers and Labour Inspectors.

Convention No. 132: Holidays with Pay  
(Revised), 1970

UNITED REPUBLIC OF CAMEROON

Law No. 74-14 of 27 November 1974 instituting the Labour Code  
(LS 1974 - Cam. 1).

Decree No. 68-DF-254 of 10 July 1968 establishing the means of applying the paid leave system.

The labour administration is responsible for enforcement of the laws and regulations.

## IRAQ

Act No. 110 of 1973 to amend Labour Law No. 151 of 1970 (IS 1970 - Iraq 1).

Article 1 of the Convention. The provisions of the Convention are given effect by Labour Law No. 151 of 1970.

Article 2. The provisions of the Convention are applied to all workers without exception.

Article 3. Every worker is entitled to an annual paid holiday of 20 days; an additional two days' leave is granted for each additional five years' service; workers employed in arduous and hazardous conditions and young persons are entitled to not less than one month's leave.

Article 4. A worker whose length of service is less than one year is entitled to leave proportionate to his length of service.

Article 5. The minimum period of service required for entitlement to annual paid leave is six months, but a worker who leaves his job before he has completed six months' service is entitled to the proportionate leave referred to under the preceding Article.

Article 6. Public holidays falling during a worker's annual leave are not counted as part of his leave.

Article 7. While on leave a worker receives the same remuneration as during his period of service; the amounts due are paid when leave is granted. If a worker is unable to take his leave he must be paid compensation equivalent to his wages.

Article 8. Where, exceptionally, leave has to be taken in instalments, the worker shall be granted at least 14 days' uninterrupted leave.

Article 9. The uninterrupted part of the leave must be taken in the course of the year in respect of which leave is granted and the remainder by the end of the following year of service.

Article 10. The rules of employment of each establishment fix the times at which workers may take their annual leave; where a workplace has no rules of employment, a worker may take his leave whenever he chooses.

Article 11. Upon termination of employment a worker shall be entitled to compensation equal to any leave which he has not yet taken.

Article 12. Any agreement to waive annual leave shall be null and void.

Article 13. A worker is not entitled to engage in gainful activity during his annual leave.

Article 14. The labour inspectorate supervises and controls the application of the legal provisions respecting annual leave with pay by means of visits to employers, inspections of registers and appropriate sanctions.

IRELAND

Holidays (Employees) Act, 1973 (LS 1973 - Irl. 3).

Article 2 of the Convention. The Act does not apply to out-workers, agricultural workers, seafarers, lighthouse or lightship employees, fishermen, state employees (except those in industrial work or unestablished subordinate duties) and relatives of employees.

Article 3. The Act provides for three weeks annual paid leave.

Article 4. Pro rata entitlements are acquired for less than a year's service.

Article 5. The minimum qualifying period is one month.

Article 6. Public holiday entitlements are provided as are entitlements concerning sickness while on leave.

Article 7. Remuneration is calculated according to the normal time rate or, in other cases, average earnings. It must be paid in advance.

Article 8. After eight or more qualifying months of service annual leave includes an unbroken period equivalent to two working weeks.

Article 9. Annual leave must be given within the leave year or within six months thereafter.

Article 10. The employer must consult the employee before determining the time of leave, and regard must be had to the employees opportunities for rest and relaxation.

Article 11. When an employee leaves service, compensation for annual leave must be paid.

Article 12. An exception is allowed for employees whose remuneration includes board or lodging. Such employees may elect double pay in lieu of leave.

Article 13. Employees have no legal claim for remuneration for work done during the leave.

Article 14. Measures for enforcement include inspection and legal proceedings on behalf of employees.

Article 15. The Convention has been accepted in respect of employed persons in sectors other than agriculture. The Minister for Labour is responsible for the enforcement of the Act.

## MADAGASCAR

Labour Code, 1975.

Article 2 of the Convention. Workers with a special status, such as civil servants, are excluded, but they already enjoy two-and-a-half days' leave for each month of effective service.

Article 3. Except where collective agreements or individual contracts of employment contain more favourable provisions, workers acquire the entitlement to paid leave at the rate of two-and-a-half days per month of effective service.

Article 4. The leave entitlement is calculated proportionately to the time worked (2.5 days a month).

Article 5. Two weeks of uninterrupted leave must be granted and taken on completion of 12 months of effective service.

Regular absences for reasons of sickness (up to a limit of six months), occupational accidents and diseases, maternity leave, exceptional leave granted to the worker on the occasion of family events (up to a limit of ten days a year) and periods of paid leave are assimilated to effective service and may not be deducted from the acquired leave entitlement.

Article 7. The employer must pay the worker an allowance at least equal to his wage and other elements in his remuneration.

Article 8. Only the leave in excess of two weeks may be divided.

Article 9. The part of the leave exceeding two weeks may be accumulated over three years.

Article 11. In the event of breach or expiry of a contract compensation calculated on the basis of acquired rights must be granted in place of leave.

Article 13. Legislation does not forbid the workers to engage in gainful activity during their leave; in the light of national conditions such a prohibition would run the risk of remaining purely theoretical.

Article 14. Labour inspectors and controllers ensure the application of the provisions relating to labour relations.

## NORWAY

Act respecting annual holidays of 14 November 1947 (LS 1947 - Nor. 1) with subsequent amendments, last by Act of 14 December 1973.

Article 1 of the Convention. The labour inspection services provide guidance on the Act. In practice the employees enforce their claims through the trade unions or the courts of justice.

Article 2. The Act covers all persons employed in the service of another. The following categories of employees were excluded after consultation of the organisations of employers and employees:

- (a) employees remunerated solely by a share in profit or by a share of the catch (in fisheries);
- (b) the employer's family members;
- (c) civil servants; and
- (d) part-time employees.

The corresponding reasons for these exclusions are:

- (a) it was found undesirable to interfere in profit-sharing arrangements. However, a separate act concerning holidays for fishermen has been passed;
- (b) family members have been excluded because of supervision difficulties. They are nevertheless entitled to holiday pay under guidelines of a separate act;
- (c) civil servants enjoy holiday rights under separate legislation at least as wide as that under the Act respecting annual holidays; and
- (d) part-time posts were excluded in cases where the employment is so short that the question of holidays is insignificant.

Article 3. The annual holiday is not less than 24 working days.

Article 4. Employees who have not completed a full qualifying year are entitled to a full holiday, with pay proportionate to the length of service during the year.

Article 5. There is no minimum period of qualifying service. Persons employed later than 30 September during the holiday year (which begins 1 May) are not entitled to holidays.

Article 6. Sundays and customary holidays are not counted as working days to be deducted from the holiday. The employee is entitled to postponement of his holiday if he is incapacitated for work or if he falls ill during his holiday.

Article 7. Holiday pay is equivalent to 9.5 per cent of earnings, or the normal wage for ordinary hours of work during the holiday, whichever is higher. Holiday pay is paid in cash on the last payday before the holiday begins.

Article 8. Eighteen consecutive days of the holiday period should be allowed during the period 1 May to 30 September, except that in agriculture and other occupations where the nature of the work requires one half of the holiday may fall outside this period.

Article 9. Holiday should be terminated before the end of the holiday year, i.e. not later than 12 months after the holiday pay has been earned. In certain cases the Ministry consents to postponements. Postponements are not granted unless based on the wishes of the employee.



Article 10. Within the time limits of the legislation, the employer determines the time of the holidays after advance discussions with the employees or their representatives.

Article 11. If an employee leaves his employment without his holiday having been completed, he shall receive the appropriate holiday stamps.

Article 12. It is unlawful for the employee to relinquish his entitlement to the annual holiday, except in cases specifically provided for in the Act.

Article 13. There are no restrictions on the employee's use of his holiday.

Article 14. The labour inspection service provides guidance on the implications of the Act.

Article 15. The Act covers employees both in agriculture and other occupations.

Convention No. 134: Prevention of Accidents  
(Seafarers), 1970

FINLAND

Act respecting Occupational Safety on Board Ship (345/67), Amendments (110/74) and (429/75).

Article 1 of the Convention. The definition of seafarer is quite clear and in fact broader than the Convention in that it covers some classes of military personnel.

Article 2. The National Board for Labour Protection has been gathering statistics since its formation in 1970 and as of 1976 these statistics will be available for use.

Article 3. As yet there is no report from the Government concerning the starting of research projects based on their statistics.

Article 4. Although some details, such as machinery and personal protective equipment, are covered in the Act not all of these items have been the subject of detailed regulation.

Article 5. The obligations of the various groups, shipowners, seafarers and others concerned, are clearly laid out in the Act.

Article 6. The Act does not clearly set out the requirements for enforcement or inspection. This is covered by the Act respecting the Supervision of Labour Protection (131/73).

Article 7. The Act covers in detail the arrangements for a safety organisation aboard ship.

Article 8. The Ministry of Social Affairs and Health has set up a board to deal with these matters. This board has a membership consisting of Government, employers and employees. The employees' members must include representatives from the union of deck officers, engineering officers, radiotelegraphists and ratings.

Article 9. No mention is made in the Act concerning vocational training but in paragraph 7 of the Act provision is made for the posting of appropriate notices and other safety instructions aboard the vessel.

#### MEXICO

Political Constitution of the United States of Mexico, 1917  
(LS 1960 - Mex. 1 (extracts) and 1962 - Mex. 1 (extracts)).

Federal Labour Act of 2 December 1969 (LS 1969 - Mex. 1).

Article 1 of the Convention. As a result of the ratification of the Convention by the Mexican Government, and in accordance with article 133 of the Federal Political Constitution, those provisions of the Convention which require no action to implement them have become part of Mexican law. In consequence the term "seafarer" is applicable to all the persons specified in the Convention. Furthermore, Chapter III of Part VI of the Federal Labour Act, which deals with seafarers, defines seamen on board ship, and there is accordingly no room for doubt as to whether a particular category of persons should or should not be excluded from the definition of "seafarers".

Article 2. The Statistics Department, which is attached to the General Directorate for Economic and Social Studies, is responsible for compiling accident statistics.

Article 3. As soon as the relevant data is available it will be feasible to carry out the research required.

Article 4. New Occupational Health and Safety Regulations are now in preparation. A copy of the Convention is being sent to the authorities drafting these Regulations so that they can take it into account in their work.

Article 5. Naturally, the provisions of the new Regulations will be binding.

Article 6. Under the terms of section 212 of the Federal Labour Act, the Inspectorate of Labour is responsible for the enforcement of the labour laws, including the provisions respecting communications by sea and inland waterway when vessels are in port. The National Institute for Labour Studies is responsible for training the officials concerned, who concern themselves, inter alia, with all the matters to which reference is made in the Convention.

Article 7. The terms of reference of the committee provided for in this Article are analogous to those of the joint safety and health committees.

Article 8. Programmes for the prevention of occupational accidents are drawn up by the competent authorities in co-operation with the shipowners and the seafarers; the joint committees mentioned above also participate.

Article 9. Copies of the present report are being sent to the Marine Secretariat, the General Directorate for Occupational Medicine and Safety, the General Directorate for Vocational Training and the National Institute for Labour Studies, with the urgent request that steps be taken for the information of seafarers and for acquainting them, through posters and leaflets, with the relevant instructions.

#### NIGERIA

Merchant Shipping Act, 1962.

Docks (Safety of Labour) Regulations, 1958.

Article 1 of the Convention. No doubt has arisen as to the coverage of persons regarded as seafarers for the purpose of this Convention. The application of certain chapters of the Merchant Shipping Act, 1962, and the Docks (Safety and Labour) Regulations, 1958, clearly define the categories of persons covered by the Convention.

Article 2. The Maritime Division of the Federal Ministry of Transport is empowered by this Act as the competent authority to investigate.

As the Docks (Safety of Labour) Regulations, 1958, are made under the Factories Act, 1955, the reporting of accidents and dangerous occurrences at docks are made under the provisions of the Act by the Factories Inspectorate Division of the Federal Ministry of Labour. Under the Regulation every accident which disables a worker, including seafarers, for more than five days from earning full wages and every accident resulting in death of the worker are notifiable. All such accidents are kept as required in this paragraph.

Paragraph 4 of the Convention is fully complied with in so far as dock accidents are concerned. This is also being complied with under the Merchant Shipping Act, 1962. As each accident is recorded in separate files, no comprehensive sample of statistics of accidents is readily available for submission.

Article 3. No research on this matter has yet been conducted but the need for research into shipping accidents and ways of preventing them have been fully recognised by the Government. With regard to accidents at the docks, analysis and research are constantly being carried out by the Factory Inspectorate Division of the Federal Ministry of Labour.

Article 4. There are subsidiary administrative rules and regulations made by means of Order-in-Council which define measures aimed at safeguarding those in maritime employment.

The requirements of clause 3 of this Article are embodied in the Docks (Safety of Labour) Regulations, 1958, in so far as they affect persons who are employed on board ships which are berthed at Nigerian docks.

Article 5. The shipowners' obligations are fully laid down in the Merchant Shipping Act, 1962, Chapter 64 onwards, as well as in Chapters 33-52. These requirements are also contained in the Dock (Safety of Labour) Regulations, 1958, now in force in Nigeria.

Article 6. The Merchant Shipping Act, 1962, contains adequate provisions to secure maximum protection for seafarers against occupational accidents. Copies of relevant provisions are adequately publicised in official notices for the attention of those in maritime employment. The Act has also made specific provisions for penalties for breaches of such regulations.

Such provisions are brought to the attention of seafarers through the notices mentioned above and mostly through safety lectures and occasional formal instruction organised for the benefit of crew-men from time to time under the auspices of the seafarers' organisations.

Article 7. No formal provisions have been made on this matter.

Article 8. Although no such formal arrangements have been established yet, this matter is being pursued through administrative directives to our National Shipping Lines and shipowners' organisations. In addition, the National Industrial Safety Council, in pursuance of its accident prevention policy, conducts lectures, courses and publishes a quarterly magazine, the "Safeguard", which by and large acts as a means for the dissemination of information on accident prevention in general.

Article 9. Except as indicated under Article 6 above, no other method for bringing accident-preventing instructions to the attention of seafarers has been organised. Adequate administrative directives are given from time to time to National Shipping Lines on this matter.

Article 10. The application of the legislative and administrative arrangements relating to the Prevention of Accidents (Seafarers) Convention, No. 134, is carried out by the Maritime Division of the Federal Ministry of Transport.

Convention No. 135: Workers' Representatives, 1971

FRANCE

French Polynesia

This Convention is not applicable.

Labour Code (Overseas Territories), sections 164-169  
(LS 1952 - Fr. 5).

Order No. 897/IT of 4 July 1955 regulating the application of section 164 of the Labour Code (Overseas Territories) in respect of staff representatives.

All dismissals of staff representatives envisaged by the employer or his representative must be submitted to the Inspectorate of Labour and Social Legislation for decision.

Staff representatives are allowed ten hours per month, to be counted as working time and remunerated at the normal rate, for the exercise of their duties. They are received collectively by their employers at least once a month.

They may bring to the notice of employers all individual or collective claims which have not been directly satisfied. All staff representatives benefit from the protection mentioned above.

#### MEXICO

Constitution of the Republic, 1917 (LS 1960 - Mex. 1 (extracts) and 1962 - Mex. 1 (extracts)).

Federal Labour Act of 2 December 1969 (LS 1969 - Mex. 1).

Article 1 of the Convention. Section 123, clause XVI, of the Constitution establishes the right of workers to associate in defence of their interest, and to form unions, professional associations, etc. Clause XXII obliges an employer who dismisses a worker for having joined a trade union or association to fulfil the contract or pay the worker three months' wages by way of compensation, at the worker's choice.

Section 354 of the Federal Labour Act recognises the freedom of workers to associate in defence of their interests. Section 47, in enumerating the reasons constituting justification for the employer's terminating the employment relationship without liability, does not include the activities of a worker as representative of his colleagues, which presupposes that if the employer dismisses him for this reason such dismissal is unjustified.

Other provisions require the employer to facilitate the performance of union duties by workers (section 132, clause X), provide trade unions with rooms for their offices, charging rent therefor (section 132, clause XXI) and make the deductions required to pay trade union dues (section 132, clause XXII).

Article 2. Under clause X of section 132 of the Federal Labour Act the employer is required to allow workers leave of absence to hold incidental or permanent office in their industrial association or public or state office, on condition that they give sufficient notice thereof and that the number of workers appointed is not such as to impair the proper working of the undertaking.

Article 3. The term "workers' representatives" is understood to include the persons mentioned in this Article.

Article 4. Note is taken of the possibility allowed by this Article.

Article 5. The courts have long upheld the principle of precedence of trade union representatives over those referred to by the Convention as "elected"; in concrete terms they have adopted the criterion that, in both strikes and economic disputes, it is the union which is responsible for representing the occupational interests of all the workers in the undertaking, and its representatives may not be interfered with in the performance of their duties by representatives of temporary alliances.

#### NIGER

Labour Code (Act No. 62-12 of 13 July 1962) (Journal officiel, 25 August 1962).

Under section 163 of the Labour Code staff delegates in an undertaking may be dismissed only with the authorisation of the Labour Inspectorate. Former delegates enjoy the same legal protection for six months after expiry of their term of office, and candidates for the office of workers' delegate are protected three months from the date of publication of the candidatures.

Staff delegates are allowed free time, considered as working time, or a maximum total duration of 15 hours per month, to perform their functions.

#### UNITED KINGDOM

##### Antigua

This Convention is not applicable.

Labour Code (Act No. 14 of 1975).

Effect is given to the provisions of the Convention by custom, practice and collective agreements.

Workers' representatives in any undertaking enjoy effective protection against any act prejudicial to them, including dismissal, based on their status or activities as workers' representatives, or on union membership or participation in union activities, in so far as they act in conformity with existing laws or collective agreements.

Effective protection is ensured to workers' representatives in the undertaking against any act prejudicial to them by section C 62 of the Labour Code.

In a case in which a worker had been dismissed allegedly because of his trade union activities, the Arbitration Tribunal found that there was not sufficiency of cause to justify the dismissal, and therefore ordered that the worker be reinstated without loss of pay.

### Belize

This Convention is not applicable.

The Labour Ordinance, 1959 (No. 15).

The Trade Unions Ordinance, Cap. 142, RE 1960.

The Trade Disputes (Arbitration and Inquiry) Ordinance, Cap. 143, RE 1960.

The Government Workers' Rules, 1964 (Printing Department, British Honduras).

Article 1 of the Convention. Workers' representatives are fully protected under section 30 of the Labour Ordinance No. 15 of 1959. The proviso to section 46(1) also implies that an employer may not set up as a good and sufficient cause that the worker at the time of dismissal was a member of a trade union.

Article 2. In the private sector workers' representatives are accorded special privileges to carry out their functions promptly and efficiently through agreements or long-established practice or custom. In the public sector they enjoy similar privileges under Administrative Rules (see Rule 25 of the Government Workers' Rules).

Article 3. Generally, trade union representatives are elected by the members of such trade unions.

Article 4. Workers' representatives are freely elected by union members subject to conditions specified in the trade union constitution. No external factors determine the type or types of workers' representatives.

Article 5. There is no undertaking where trade union representatives and elected representatives coexist.

Article 6. This Convention is adequately covered through national laws, administrative rules and national customs.

Subject to the direction of the Minister, the Labour Commissioner assisted by one senior and seven labour inspectors are responsible for enforcing the labour legislation and Administrative Regulations.

Apart from national law which gives full coverage of the Convention, collective agreements have been accepted as a means to

achieve industrial harmony and stability which is evidenced by the increasing number of collective agreements successfully negotiated over the past two years. There were only two arbitration tribunals appointed during the period, all of which gave awards in favour of the workers.

### British Solomon Islands

This Convention is not applicable.

Constitution of the Solomon Islands (Statutory Instruments, 1974, No. 1262; Legal Notice No. 41, 1974).

Trade Unions Ordinance (Cap. 76).

Government's General Orders Nos. C 601-604 and S 1801-1804.

The Government's General Orders Nos. C 601-604 and S 1801-1804 make provision for worker representation of claims and grievances through staff associations and joint consultative committees. In the private sector, all enterprises with 50 or more workers are encouraged to promote joint consultation and to include a non-discrimination clause in the constitution of each committee.

The Constitution of the Solomon Islands makes provision at section 11 for freedom of assembly and association. The Trade Unions Ordinance (Cap. 76), section 60, forbids under penalty discrimination against employees who are members of a trade union, and the section makes it an offence to prohibit an employee from membership or to subject him to any penalty.

Article 1 of the Convention. See above. An established labour division of the Ministry of Foreign Trade, Industry and Labour administers the labour legislation and is available to investigate or receive information about alleged breaches of the labour law.

Article 2. It is declared policy to promote responsible trade unionism and joint consultation (National Development Plan, Vol. 2, section 4, page 11). There is only one really effective joint consultative committee in the private sector. In the case of government employees, office premises are available for meeting, normally outside working hours.

Articles 3 and 4. No special measures.

Article 5. By administrative instruction it is the policy wherever practicable to associate trade unions with joint consultative committees. This is only operative so far in the case of the Works Division of the Ministry of Works and Public Utilities. However, such mutuality is also envisaged with respect to the ad hoc Central Joint Consultative Committee of Government, and with respect to arrangements for the more important enterprises, such as public authorities and other large employees in the private sector.



Brunei

This Convention is not applicable.

Trade Unions Enactment, 1961.

The Convention is partially applied in the case of trade union representatives by section 19 of the Trade Unions Enactment, 1961, and in the case of members of the Brunei Oilfield Workers' Union by their recognition and collective agreements with the Brunei Shell Petroleum Company.

Article 1 of the Convention is applied to trade union representatives by virtue of section 19 of the above-mentioned Enactment.

Article 2. Clause 9 of the recognition agreement between the Brunei Oilfield Workers' Union and the Brunei Shell Petroleum Company provides for regular meetings between representatives of the union and the company, at mutually convenient times, to discuss matters of mutual interest. Clause 10 provides that where such meetings are held within working hours the union representatives will be granted the necessary time off from work without loss of pay. Clause 10 also provides that not more than one union representative may be permitted to leave his work for the purpose of dealing with a dispute, but it is a matter for the discretion of the company whether he should be permitted to do so without loss of pay. Clause 11 makes similar provision regarding the attendance of union members at international conferences, etc. regarding trade union matters. Clause 5 repeats the provision regarding regular meetings between union and management on matters relating to conditions of employment while clause 4 provides for access to the management in cases of individual or collective grievance.

Neither agreement provides specifically for the collection of trade union dues, the posting of notices or the distribution of news sheets, etc. on the company's premises but there are no instances in which such requests have been refused.

As regards other trade unions, the Government Medical and Health Employees' Union enjoys similar facilities as regards access to and regular meetings with the head of the department. Permission has also been given for the collection of trade union dues and the posting of notices. But these facilities have been accorded as a matter of administrative practice and not under any form of written collective agreement.

Article 3. There are no elected representatives of workers within the strict definition of paragraph (b) of this Article. In the case of certain grades of employees of the Brunei Shell Petroleum Company, who are not eligible for membership of the Brunei Oilfield Workers' Union under the terms of its constitution and have no union of their own, consultation with the management on issues of a collective nature is effected by consultation with representatives elected by the employees concerned. But the election is not governed by any national law or collective agreement.

Article 5. Since the kind of situation envisaged in this Article does not arise, no special measures are necessary to deal with it.

Falkland Islands (Malvinas)

This Convention is not applicable.

There are no local laws which apply the provisions of the Convention. The sole industry of the Falkland Islands is sheep-farming for wool. An annual meeting is held between representatives of the General Employees' Union and members of the Sheep Owners' Association which establishes the conditions applicable for the ensuing year. The union has delegates at the various farms who receive and collate material for consideration by the union which is discussed at the annual meeting. Non-farm workers in the capital are well organised and their delegates submit points for consideration at an annual meeting to consider wages for the town of Stanley. Representatives of the trade union, the Falkland Islands Company (the largest employer of labour) and Government discuss the points raised and act accordingly. It is considered that the existing system is satisfactory.

Article 1 of the Convention. Full protection is enjoyed by workers' representatives; there have been no known cases of any acts prejudicial to them.

Article 2. Labour is scattered over a wide area but workers' representatives have full facilities to enable them to carry out their work.

Article 4. There has never been any need to take any measures in that respect.

Article 5 is inapplicable in the prevailing circumstances.

Gilbert Island

This Convention is not applicable.

Trade Unions Ordinance, Cap. 15 (previously the Trade Unions and Trade Disputes Ordinance as so amended by s. 41 of the Industrial Relations Code No. 33 of 1974).

General Orders Section L 12.

Article 1 of the Convention. There is no specific law at present which gives effect to this protection and consideration will be given to see if such is necessary.

Article 2. No obstacle is put in the way of union representatives carrying out their union duties but, in the case of government association, activities may not be carried out during working hours unless they involve negotiations with the Government.

Article 4. It is not considered that any specific measures are necessary to identify the type of workers' representative, as such persons are obvious from their office within the union.

Article 5. The situation does not apply in the territory.

Hong Kong

This Convention is not applicable.

There is at present no specific legislation applying fully the provisions of the Convention. The Employment (Amendment) (No. 2) Ordinance, 1974, does not meet, in respect of workers' representatives who are not union members or officials, all the provisions of Convention No. 135.

Article 1 of the Convention. The Employment (Amendment) (No. 2) Ordinance, 1974, confers certain rights on employees and protects them from action by employers which is intended to prevent their employees from exercising these rights. The rights include the right to be or to become a member or an officer of a registered trade union, the right, at any appropriate time, to take part in the activities of the trade union and the right to associate with other persons for the purpose of forming or applying for the registration of a trade union in accordance with the provisions of the Trade Unions Ordinance. The amending ordinance affords protection for union members or participation in union activities, but not to workers' representatives in general. It is an offence to include in an offer of employment to a person a condition or requirement that he will undertake to relinquish his membership of a trade union, not to become a member of a trade union, or not to associate with persons for the purpose of forming or applying for the registration of a trade union.

Article 2. Few facilities are afforded to trade unionists or workers' representatives by employers to enable them to carry out their functions promptly and efficiently in undertakings. However, there has never been any difficulty in securing the rights of employers and workers to associate for all lawful purposes. It is the policy of the Government to encourage the development and growth of democratic trade unions whose primary object is to improve the industrial, social and economic conditions of their members. Workers' unions and employers' associations are free to conclude collective agreements and there is no legislation to restrict this freedom. It is the policy of the Government to leave the main responsibility for the settlement of terms and conditions of employment to employers, workers and their respective unions. However, the Labour Relations Service of the Labour Department provides advisory and conciliation services to employers and workers and their unions in disputes arising out of their terms and conditions of employment. In addition, officers of the Service give advice to employers and workers with the aim of promoting good labour relations.

Article 3. (a) The Employment (Amendment) (No. 2) Ordinance gives legislative effect to this item.

(b) There are no legislative or administrative measures to give effect to these provisions. Moreover, it is not the custom for workers to elect representatives except in a very few properly constituted joint consultative committees. The majority of workers' representatives emerge spontaneously as spokesmen or negotiators when a conflict arises between workers and management within an undertaking. Although no legal rights, apart from those conferred on trade unionists, are granted to workers' representatives for the purpose of joint consultation or collective bargaining, the Labour Relations Service of the Labour Department continues to promote the betterment of industrial relations by fostering the growth of consultative machinery at plant level.

Article 4. The Employment (Amendment) (No. 2) Ordinance gives legislative effect to this Article in respect of trade unionists but not to other workers' representatives.

Article 5. It is not the custom or practice for both trade union representatives and elected representatives to exist within the same undertaking. Therefore, there is no need for legislative or administrative measures to encourage the elected representatives of an undertaking to co-operate on all relevant matters with the trade unions concerned.

Article 6. In the present context where elected representatives are most uncommon, it is considered unnecessary to take any special steps to give effect to the Convention. However, should the number of such elected representatives increase, the position will be reviewed.

#### St. Vincent

This Convention is not applicable.

Constitution of St. Vincent (Statutory Instruments, 1969, No. 1500).

Effect is given to the provisions of the Convention, (a) by practice, and (b) under section 13 of Chapter 1 of the Constitution of St. Vincent which deals with protection of fundamental rights and freedoms (protection is afforded from discrimination on grounds of race, etc.).

An article entitled "union security and function" is generally included in each collective agreement signed, dealing with the following issues: the right to exercise trade union functions and assistance by employer to enable union to carry out its legitimate functions; granting of paid leave to union delegates to attend legitimate union business or seminars, etc.; provisions of space by posting of material necessary to the conduct of union affairs; permission for union official to visit employers' premises in connection with matters relating to workers represented by the union; provision by employer to trade union of company's rules and practices in St. Vincent; provision by the company to all employers of copies of any collective agreement; furnishing to union by the company of job titles, etc.; notification of creation of new job titles, etc.: the right to negotiate wages, etc.

Article 1 of the Convention. Protection is afforded from discrimination on grounds of race, etc. under the Constitution (Chapter 1, section 13). In addition, effective protection against acts prejudicial to workers' representatives, based on membership and participation is ensured to workers' representatives by means of collective agreements. The provisions of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), are applicable to St. Vincent and, in practice, all rights to workers' representatives are recognised and protected.

Article 2. Clauses dealing with "union security and function" are included in collective agreements. By means of the above-mentioned measures, workers' representatives are afforded such facilities as may be appropriate to carry out their functions promptly and efficiently.

Article 4. No measures have been taken in that respect by means of national laws or regulations, collective agreements, arbitration awards or court decisions.

Article 5. The practice of having both trade union representatives and elected representatives in the same undertaking does not exist; hence there is no need for measures to ensure that elected representatives do not undermine the position of trade union representatives.

#### Tuvalu

This Convention is not applicable.

Trade Unions Ordinance, Cap. 15 (previously the Trade Unions and Trade Disputes Ordinance as so amended by s. 41 of the Industrial Relations Code No. 33 of 1974).

General Orders Section L 12.

Article 1 of the Convention. There is no specific law at present which gives effect to this protection and consideration will be given to see if such is necessary.

Article 2. No obstacle is put in the way of union representatives carrying out their union duties but, in the case of government association, activities may not be carried out during working hours unless they involve negotiations with the Government.

Article 4. It is not considered that any specific measures are necessary to identify the type of workers' representative, as such persons are obvious from their office within the union.

Article 5. The situation does not apply in the territory.

Convention No. 136: Benzene, 1971

KUWAIT

The Employment (Private Sector) Act, No. 38 (1964), Part XII.  
Ministerial Order No. 17, 21 August 1972.

Part XII of the Act is concerned with occupational accidents and diseases.

The Order contains provisions for pre-employment medical examination and periodic medical examinations including a blood test. They are made at the expense of the employer, and carried out by a physician. Findings are recorded, and inspecting officials ensure that the examinations are carried out.

MOROCCO

Decree of 13 Shaaban 1366 (2 July 1947) to regulate employment (LS 1947 - Mor. 1).

Order of 26 Kaada 1371 (18 August 1952) establishing special health measures applicable in establishments in which the personnel is exposed to the hazards of benzene poisoning (Législation marocaine du Travail, second edition, Vol. 1, section F.160).

Order of 3 Hijja 1371 (25 August 1952) establishing a list of industrial jobs in the performance of which health measures have to be taken in order to prevent benzene poisoning (ibid., section F.161).

Order of 4 Hijja 1371 (26 August 1952) authorising derogations from the obligations under the Order of 18 August 1952 establishing special health measures applicable in establishments in which the personnel is exposed to the hazards of benzene poisoning (ibid., section F.161).

Order of 5 Hijja 1371 (27 August 1952) establishing the terms of the notice regarding benzene poisoning hazards (ibid., section F.162).

Order of 6 Hijja 1371 (28 August 1952) establishing the provisions of recommendations for the medical examinations carried out in compliance with the Order of 18 August 1952 establishing the special health measures applicable in establishments in which the personnel is exposed to the hazards of benzene poisoning (ibid., section F.164).

Order of 20 May 1967 issued for the implementation of the Decree of 31 May 1943 bringing occupational diseases within the coverage of the legislation in respect of industrial accidents, particularly Annex I, table 4, concerning occupational benzene poisoning (Bulletin officiel, 22 May 1968).

Order of 13 July 1958 extending to the northern area and the province of Tangiers certain provisions of the labour legislation applicable in the southern area.

Decree of 11 Kaada 1389 (19 January 1970) extending to the Ifni territory the application of the legislation and regulations in force in the Kingdom (Bulletin officiel, 21 Jan. 1970).

Article 1 of the Convention. The activities covered by the protective measures provided for by the Convention are defined by section 1 of the Order of 26 Kaada 1371 (18 August 1952) as industrial operations performed with hydrocarbon benzene or products containing it. A list of these operations was established by the Order of 3 Hijja 1371 (25 August 1952).

Article 2. The regulations in force do not place any obligation on employers to use less harmful substitute products, when these are available, instead of products containing benzene.

Article 3. No temporary derogations of the type authorised by paragraph 1 of Article 3 of the Convention have been made.

Article 4. The regulations in force establishing the list of industrial operations in which health measures have to be observed in order to prevent benzene poisoning do not indicate operations in which the use of benzene is prohibited.

Article 5. The special preventive hygiene measures to be taken in establishments where the personnel is exposed to the hazards of benzene poisoning are defined by the Order of 26 Kaada 1371 (18 August 1952).

Articles 6, 7 and 8. The technical preventive measures against the hazards of benzene are described in the Orders of 26 Kaada 1371 (18 August 1952) and 5 Hijja 1371 (27 August 1952).

Articles 9 and 10. The medical examinations provided for in these Articles are covered by the provisions of section 4 of the Order of 26 Kaada 1371 (18 August 1952) and the Order of 6 Hijja 1371 (28 August 1952).

Article 11. The measures stipulated in this Article are the subject of the provisions of section 1, subsections 1 to 5, of the Order of 6 Hijja 1371 (28 August 1952).

Article 13. Compulsory notices indicating in particular the hazards of benzene poisoning and technical preventive measures are the subject of the Order of 5 Hijja 1371 (27 August 1952).

Article 14. Application of the regulations mentioned above is the responsibility of the authorities whose terms of reference are defined in sections 51 to 58 of the Decree of 13 Shaaban 1366 (2 July 1947).

Convention No. 137: Dock Work, 1973

## NORWAY

Unemployment Insurance Act, No. 4, of 28 May 1959, section 11, last paragraph, and regulations concerning daily cash benefit from the unemployment for dockworkers (LS 1959 - Nor. 1).

The Convention is also applied by means of collective agreements.

Article 1 of the Convention. The terms "dockworkers" and "dock work" are not formally defined, but apply generally to all workers having dock work as their main occupation and who are regularly attached to and bound to be at the disposal of the Office established by an agreement between the organisations of employers and workers. An attempt has been made to solve problems arising out of new methods of cargo handling, by means of collective agreements.

Article 2. Regular employment to dockworkers is provided through job rotation. A fixed wage system has been introduced in five ports. In the other ports a minimum wage is guaranteed through a collective agreement applicable throughout the country.

Article 3. Registers for dockworkers are maintained by the dock work offices, and registered dockworkers have an exclusive right to all dock work. They have a duty to report, and a waiting period is paid for a minimum of two hours if the worker does not obtain an assignment.

Article 4. The responsibility for adjusting the size of the regular working force in each port rests upon the board of the dock work office. New methods of cargo handling have not entailed any problems in regard to redundant workers in Norway.

Article 6. A plan for starting special vocational training courses for dockworkers under the auspices of the employment authorities has been approved, and these courses will begin in the autumn of 1977.





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.

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Brazil	19, 53, 91, 98, 103, 107, 108	11, 26, 99, 111	5, 14, 21, 45, 58, 97, 100, 106, 120
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Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.
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Colombia	3, 9, 22, 26, 95, 106	62	1, 5, 7, 8, 11, 13, 14, 15, 21, 30, 99, 100, 111
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Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.
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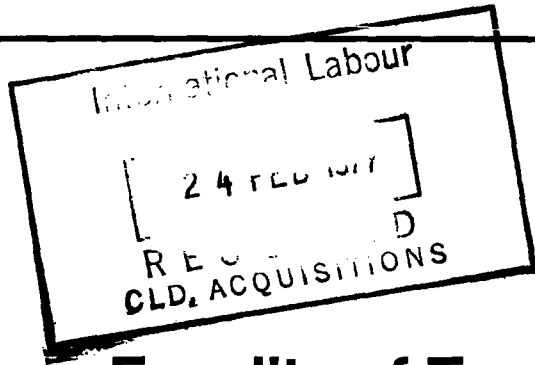


Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.
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Guernsey	81	26, 35, 36, 37, 38, 39, 40, 99, 122	5, 7, 8, 11, 15, 32, 45, 50, 64, 86, 87, 97, 98, 108
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International Labour Conference  
63rd Session 1977



Report III  
(Part 2)

# **Equality of Treatment (Social Security)**

**Summary of Reports on Convention No. 118**

(Article 19 of the Constitution)

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International Labour Office Geneva



Report III  
(Part 2)

*Third Item on the Agenda*

Information and Reports on the Application  
of Conventions and Recommendations

# **Equality of Treatment (Social Security)**

**Summary of Reports on Convention No. 118**

(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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In this report, references to legislative texts published by the ILO in the Legislative Series (LS) appear in parentheses.





## 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 Equality of Treatment (Social Security) Convention, 1963 (No. 118).

The governments of member States were requested to send their reports to the International Labour Office before 1 July 1976. 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 1976.

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 63rd (1977) Session, will include the general survey by the Committee on the reports on the above-mentioned Convention.

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EQUALITY OF TREATMENT (SOCIAL SECURITY) CONVENTION,  
1962 (No. 118)

ALGERIA

Orders of 6 May and 10 June 1941 of the Governor to establish a family benefits scheme (Journal officiel (JO), 15 May and 10 June 1941).

Order of 10 June 1949 to give executive effect to Decision No. 49-045 of the Algerian Assembly, respecting the organisation of a social security system in Algeria (JO, 14 June 1949) (LS 1949 - Fr. 4), as amended by Decision No. 52-041 confirmed by Decree of 28 August 1952 (JO, 5 September 1952) (LS 1952 - Alg. 1) and by Decision No. 59-012 confirmed by Decree of 17 August 1959 (Recueil des Actes Administratifs, 15 September 1959) (LS 1959 - Alg. 1 A).

Ordinance No. 66-183 of 21 June 1966 to provide for the payment of compensation for accidents and occupational diseases. (JO, 28 June 1966 N: 55) (LS 1966 - Alg. 1).

Ordinance No. 71-14 of 5 April 1971 respecting the organisation of a new social insurance scheme in agriculture (JO, 9 April 1971 N: 29) (LS 1971 - Alg. 1).

Non-nationals who are permitted to exercise an employment by virtue of the regulations regarding the employment of the labour force are bound by the same obligations and benefits from the same rights as nationals in respect of social security. Employment injury benefits are paid to non-nationals abroad in accordance with the provisions of the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19). Under national legislation, children domiciled outside Algeria do not qualify for family allowances (Article 2 of the Order of 10 June 1941). National legislation does not explicitly exclude the payment of social insurance benefits outside Algeria. Individual arrangements are made with certain countries through agreements regarding the maintenance of acquired rights and rights in course of acquisition.

ARGENTINA

Act No. 20744 to approve the rules governing contracts of employment. Dated 11 September 1974. (Boletín oficial (BO), 27 September 1974, No. 23003, p. 2) (LS 1974 - Arg. 2), as amended by Act No. 21297 (BO, 21 May 1976, No. 23410, p. 2).

Act No. 9688 respecting industrial accidents and occupational diseases. Dated 11 October 1915. (Leyes Nacionales, Vol. XIX, p. 204) (Consolidated text, LS 1957 - Arg. 1 C), modified by Legislative Decree No. 7607 of 5 July 1957 (BO, 18 July 1957, No. 18440) (LS 1957 - Arg. 1 B) as amended.

Consolidated text of Legislative Decree No. 18037 of 30 December 1968, to institute a new pension scheme for employees (BO, 20 November 1974, No. 23039) (LS 1974 - Arg. 3 A) as amended.

## EQUALITY OF TREATMENT (SOCIAL SECURITY)

Consolidated text of Legislative Decree No. 18038 of 30 December 1968, to institute a new pension scheme for self-employed persons (BO, 20 November 1974, No. 23039) (LS 1974 - Arg. 3 B).

Consolidated text of Legislative Decree No. 18017 of 24 December 1968, respecting family allowance funds (BO, 16 January 1975, No. 23077) (LS 1974 - Arg. 3 C).

(a) Medical care. Medical care is provided free of charge for all inhabitants, without regard to nationality, through a hospital network covering the entire country. In addition, there are social welfare services under the responsibility of the trade union bodies.

(b) Sickness benefits and (g) Employment injury benefits. Sections 208 to 213 of the Contracts of Employment Act (No. 20744) deal with cases of accidents and disease for which the worker is not responsible, without distinction between nationals and foreigners. This system is extended by the Act respecting Industrial Accidents and Occupational Diseases (No. 9688). Section 14 of this Act establishes that "... the successors of a worker, whatever his or their nationality, shall enjoy the rights granted by this law, even if they do not reside in the country".

(c) Maternity benefits. These are dealt with in Act No. 20744, which provides that a worker shall be entitled to the allowances granted by the social security systems, which shall guarantee that she receives an amount equal to the remuneration corresponding to the period in which her employment or occupation is prohibited, in accordance with the requirements and other conditions prescribed in the appropriate regulations (section 177).

(d) Invalidity benefits; (e) Old-age benefits; (f) Survivors' benefits. Invalidity, old-age and survivors' benefits are dealt with in Legislative Decree No. 18037 and 18038/68, in accordance with Act No. 21327 of June 1976. This system protects practically the entire working population without distinction between nationals and foreigners.

(h) Unemployment benefits. Sections 231 to 239 of Act No. 20744 relate to the notice and compensation system and subsequent articles deal with situations and compensation constituting the machinery for the granting of unemployment benefit, compensation for seniority or dismissal, indirect dismissal, ending of a contract due to the employer's bankruptcy or insolvency, etc. This type of benefit, like those already referred to, is granted without distinction on account of nationality.

(i) Family benefits. No distinction is made between nationals and foreigners in the national system of family allowances and benefits instituted by Decree No. 18017/68 and its amendments.

## AUSTRIA

The General Social Insurance Act (ASVG) of 9 September 1955 (Bundesgesetzblatt (BGBl.), 30 September 1955, Text 189) (LS 1955 - Aus. 3), as amended by 31 amending laws for sickness, accident and pension insurance for employees.

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The Unemployment Insurance Act of 1 July 1958 (BGBI., 10 September 1958, Text 199) (LS 1958 - Aus. 1), as amended.

The Family Charges Equalisation Act of 24 October 1967 (FLAG) (BGBI., 1967, Text 376) (LS 1967 - Aus. 2), as amended by 11 amending laws: version in force on 1 January 1975 (BGBI., 1975, Text 74).

The Federal Ministry for Social Affairs is responsible for supervising the sickness, accident and pensions insurance funds and supervises the activities of the Land and other labour offices in the field of unemployment insurance. The employers' and workers' organisations are directly involved in the application of the legislation since their delegates participate in the administrative board of the insurance funds and for employment insurance in the committees set up by the above-mentioned labour offices. The Federal Ministry of Finance is responsible for the implementation of the Family Charges Equalisation Act.

No modifications have been made in the national legislation with a view to giving effect to the provisions of the Convention.

There are some difficulties in the application of the Convention, in particular as regards the following branches: (1) with regard to invalidity, old-age and survivors' benefits, the obligation of the Convention is not acceptable since the provision of Article 5 of the Convention requires payments of pension benefits abroad and the term "benefits" in virtue of Article 1 of the Convention includes additional benefits; where pension plus any other net income does not reach a prescribed standard, the pension insurance fund provides an additional allowance so as to raise the sum total to the general standard, but the payment of such a supplement depends upon the beneficiary's residence in the country; (2) in addition to unemployment benefits, the emergency assistance is in principle granted only to Austrian citizens since it is a state welfare benefit. The assistance is, however, granted to the unemployed citizens of the other State, if (i) the State has an equivalent arrangement to the Austrian scheme, (ii) the arrangement applies to Austrian citizens in the same manner as for its own citizens, and (iii) there is a formal agreement in the matter.

For the time being, there are no plans to adopt measures to give effect to those provisions of the Convention.

### BARBADOS

The National Insurance and Social Security (Benefit) Regulations, 1967 (cap. 47 of the Laws of Barbados).

Regulation 48(c) of the Regulations provides that a person should not be disqualified from receiving an invalidity benefit by reason of being absent from Barbados for such period as the Board may allow, having regard to the particular circumstances of the case, provided that he is entitled to the invalidity benefit before leaving Barbados. This provision is intended to provide a measure of control over the movements of persons who are deemed to be invalid; the payment continues for unlimited period while the beneficiary is abroad so long as the Board is satisfied that the invalidity continues.

## EQUALITY OF TREATMENT (SOCIAL SECURITY)

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This provision raises some doubts as to whether it fully complies with Article 5 of the Convention; in the light of the advice of the Committee of Experts the adoption of measures to give effect to the provisions not yet covered by the national legislation will be considered.

### BELGIUM

Act of 9 August 1963 to institute and organise a compulsory sickness and disability insurance scheme (Moniteur belge, 1-2 November 1963, Nos. 219-220).

Co-ordinated Acts respecting family benefits for wage earners.

Circular No. 221 of 5 May 1965.

Bilateral social security agreements.

Legal provisions and/or regulations also exist which cover all the matters dealt with in the Convention.

All social security agreements negotiated by Belgium stipulate that workers are governed by the legislation in force in the country where they are employed. There are a few exceptions to this general rule to make the scheme more flexible.

The principle of equal treatment is also stipulated in each agreement. Its significance is symbolic rather than practical since workers' social security legislation does not provide for any discrimination between Belgian and foreign workers as regards their rights to benefits.

Legislation further provides that benefits are payable only to persons domiciled on Belgian territory.

With regard to medical care, maternity benefits, invalidity benefits and death grants, the Act of 9 August 1963 on sickness and disability insurance provides that a Royal Order will determine the conditions under which such benefits may be payable abroad, irrespective of nationality. Reciprocal agreements further provide for the payment of benefits in contracting countries.

Old-age benefits and survivors' benefits are paid in Belgium irrespective of nationality or sex. These benefits are paid abroad to Belgians residing abroad and to foreign workers who have been employed in Belgium and are nationals of a country with which Belgium has a corresponding reciprocal agreement.

With regard to a guaranteed income for elderly people, equal treatment for Belgian and foreign workers in respect of benefits payable is determined by the relevant reciprocal agreements. The same applies to foreign workers from States Members of the European Economic Community.

As to employment injury benefits, Belgian regulations do not impose any condition of residence.

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With respect to unemployment, Belgian regulations stipulate residence conditions for Belgian and foreign workers. Reciprocal agreements may provide for exceptions to this principle.

Family allowances are not normally payable in respect of children brought up outside Belgium. However, in accordance with article 52, paragraph 1, of the co-ordinated Acts, the Minister of Social Welfare may waive the restriction on such children. Collective measures have been adopted on behalf of foreign workers engaged in mining whose children are brought up in their country of origin; these measures have now been extended to workers in other industries. However, the number of beneficiary children in the case of the latter category of workers is restricted to four and the amount of the allowance paid is also restricted; in the case of workers employed in mines, there are no such restrictions.

No amendments have been made to national legislation or practice in order to enforce all or part of the provisions of the Convention. Its ratification raises certain problems which are described below.

Article 5 of the Convention. (1) It is not clear whether Belgium conforms to the provisions of the Article as regards invalidity benefits and death grants or not. As regulations stand at present, it is not possible to ratify the Convention in respect of invalidity benefits and death grants unless the phrase at the end of Article 5, paragraph 1 - "subject to measures for this purpose being taken, where necessary, in accordance with Article 8" - means that the requirements imposed by the Article are subject to the existence of a multilateral or bilateral instrument. If this is the case, there is no reason why the provisions of the Convention regarding invalidity benefits and death grants cannot be accepted. However, the same does not apply if the provision is only intended to refer to measures of application designed to ensure compliance with the obligations accepted.

(2) In so far as the guaranteed income for elderly people is a part of the "old-age benefits" branch of social security - as is apparent from the interpretative Decree of 22 June 1972 of the Court of Justice of Luxembourg in the FRILLI v. Belgium case - the result of the ratification of Convention No. 118, all other conditions being met, would be to permit the granting of the guaranteed income for elderly people to nationals of all the countries that have ratified the Convention without any condition of residence in Belgium.

(3) Family allowances. Belgium's main objections are to Articles 6 and 10 of the Convention.

Article 6. The purpose of this Article is to establish equality of treatment in respect of the conditions and limitations applicable to allowances sent abroad. In the case of a child brought up in a country that has ratified the Convention, these conditions and limitations would be the same whether the child was Belgian or a national of any other country that has accepted the obligations of the Convention. This provision is not acceptable because it goes too far. Generally speaking, the agreements that Belgium has signed with countries that are not Members of the European Economic Community only refer to the children of nationals of those countries who continue to be brought up there. They do not concern Belgian children residing in such countries. If

## EQUALITY OF TREATMENT (SOCIAL SECURITY)

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Article 6 were to be applied, not only would Belgium no longer be able to decide itself what measures it deemed useful to take with respect to its own nationals but it would no longer even be able not to take certain measures if it so wished.

Article 10. Ratification of Convention No. 118 would entail an extension of the rights of children of refugees and stateless persons brought up in a country that was not a Member of the European Economic Community. Such children would therefore be able to claim family allowances under the terms and within the limits of Article 6, whatever the ratifying country in which they resided, whereas at present Circular No. 221 of 5 May 1965 requires that the child of a refugee or stateless person not brought up in a country of the European Economic Community should reside in the country where the worker last resided before taking up employment in Belgium.

### BOLIVIA

Act of 14 December 1956 to promulgate a Social Security Code  
(LS 1956 - Bol. 1).

Article 1 of the Convention. There are no provisions for benefits granted under transitional schemes in Bolivian legislation. Death grants, or any lump sum payable in the event of death, are covered in the Code under "funeral benefit".

Article 2. The Code provides for the following benefits: benefits in cash and in kind in respect of sickness and maternity; incapacity allowances, old-age benefits and pensions; employment injury benefits; family benefits.

Article 3. The Code is binding on all Bolivian citizens and aliens of both sexes working for remuneration on the territory of the Republic in the service of another person, whether natural or artificial (article 6 of the Code).

Article 4. Benefits are paid without any condition of residence to the legally constituted beneficiaries in the national territory.

Article 6. There are no restrictions in respect of the family benefits scheme, which guarantees the payment of benefits to nationals and children of aliens residing in another country.

Article 8. Bolivia is considering the possibility of approving the Andean Social Security Instrument under which maintenance of migrants' pension rights would be determined by the Board of the Cartagena Agreement.

Article 11. Although the Bolivian Government has not ratified this Convention, it has received and granted administrative assistance in respect of certain countries.



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### BRAZIL

Act No. 3807 of 26 August 1960 to promulgate the Social Insurance Act, as amended by Act No. 5890 of 8 June 1973 and by other, earlier provisions (Diário Oficial, 11 June 1973, No. 110, p. 5586) (LS 1973 - Bra. 2).

Social welfare legislation is applicable irrespective of nationality.

### BULGARIA

Ukase No. 544 to promulgate the Labour Code (Izvestiya (Izv.), 13 November 1951) (LS 1951 - Bul. 2).

Regulations respecting the application of Part III of the Labour Code (Izv., No. 30, 15 April 1958).

Ukase No. 465 of 6 November 1957 to promulgate a Pensions Act (Izv., No. 91, 12 November 1957) (LS 1957 - Bul. 1).

Public Health Act (D'rjaven vestnik (DV), No. 88, 6 November 1973).

Regulations respecting the application of the Public Health Act (DV, No. 31, 19 April 1974).

Decree No. 134 of 22 February 1968 respecting the encouragement of childbearing (DV, No. 15, 23 February 1968) (LS 1968 - Bul. 2).

No distinction is made between nationals and non-nationals under Part III of the Labour Code of 1951 respecting social security benefits in the event of sickness, employment injury, maternity, invalidity, old age, death and dependants. The regulations respecting the application of Part III of the Labour Code stipulate explicitly (article 1(0)) that foreigners, including stateless persons, are subject to compulsory insurance on an equal footing with Bulgarian citizens, without any condition of reciprocity.

The old-age insurance of members of agricultural co-operatives was established by law as long ago as 1961. The compulsory insurance of members of agricultural co-operatives was introduced on 1 September 1967 with respect to short-term risks: temporary invalidity due to sickness, employment injury, occupational disease, medical care, quarantine, treatment of sick dependants, etc.

Article 26 of the Public Health Act stipulates that all Bulgarian citizens are entitled to free medical assistance from the corresponding health establishment. Health personnel are required to provide the sick with timely and qualified assistance. Article 27 states that non-nationals and stateless persons with a permanent authorisation to reside in Bulgaria receive medical assistance on an equal footing with Bulgarian citizens. The medical assistance available to non-nationals and stateless persons who do not have a permanent residence permit is governed by regulations respecting the application of this Act, unless other provisions exist in international agreements. Article 28 stipulates

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that emergency medical assistance is provided for all persons irrespective of nationality who are involved in accidents or suddenly fallen ill. The rights of nationals and non-nationals are also laid down in the regulations respecting the application of the Public Health Act.

The Pensions Act applies both to nationals and non-nationals who are wage earners, salary earners, members of the administrative staff of workers' co-operative farms, members of workers' production co-operatives, cultural workers or lawyers (article 2). This principle is explicitly confirmed by Point 83 of the regulations respecting the application of the Pensions Act, which states that seniority is based on the length of employment in Bulgaria of non-nationals, on an equal footing with Bulgarian citizens. The principle also applies to stateless persons.

Article 2 of the Decree respecting the encouragement of child-bearing stipulates that the salaries of persons insured under the Labour Code, persons insured under the Ordinance respecting the insurance of cultural workers, etc., members of workers' production co-operatives and persons drawing personal survivors' pensions are paid a monthly children's allowance in addition to their remuneration or pension.

Bulgarian citizenship is not a requirement for the granting of survivors' pensions (articles 31 to 38 of the Pensions Act).

Bulgarian legislation does not provide for the payment of pensions abroad except in the cases specified in Point 21 of the regulations respecting the application of the Pensions Act and, specifically, when the pension is granted in respect of an employment injury sustained in Bulgaria, when an agreement has been signed with the country concerned (International Social Policy Co-operation Treaty) and where there is reciprocity. At 31 December 1975, the People's Republic of Bulgaria had concluded international social policy treaties with Albania, the German Democratic Republic, Poland, Romania, the USSR, Hungary, Czechoslovakia and Yugoslavia.

As a result, the provisions of Articles 4 to 9 of Convention No. 118 are partly reflected in Bulgarian legislation, in the spirit of Article 12, paragraph 2, of the Convention. Moreover, the question of benefits due prior to the entry into force of Convention No. 118 is dealt with in social policy co-operation agreements, although this is not required under Article 12, paragraph 1, of the Convention.

### BURMA

The Social Security Act of 1954 (No. LXVII of 1954, dated 22 October 1954) (LS 1954 - Bur. 1).

Regulations made under the Social Security Act, 1954.

The Act provides for sickness, maternity, death and employment injury benefits as well as free medical care. Sections 211 and 212 of the Regulations are directly related to the provisions of the Convention.

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No modification has been made so far in the national legislation with a view to giving effect to the provisions of the Convention.

The consideration for the ratification of the Convention will perhaps be delayed since steps to amend the national legislation are being taken.

### BYELORUSSIAN SSR

The Constitution of the USSR and the Constitution of the Byelorussian SSR.

Fundamental principles governing the labour legislation of the USSR and the Union Republics, of 15 July 1970 (Vedomosty Verkhovnogo Soveta SSSR, 22 July 1970, No. 29, Text 265) (LS 1970 - USSR 1).

Fundamental principles governing the health legislation of the USSR and the Union Republics, of 19 December 1969 (Vedomosty, 1969, No. 15, Text 313).

National Pension Act, of 14 July 1956 (Vedomosty, 28 July 1956, Text 313) (LS 1956 - USSR 4).

Act respecting pensions and allowances for members of collective farms, of 15 July 1964 (Vedomosty, 18 July 1964, No. 29, Text 340) (LS 1964 - USSR 1).

Regulations respecting the granting and payment of allowances to pregnant women, single mothers and mothers with large families, of 12 August 1970 (Sobranie Postanovleniy SSSR, 1970, Text 123).

Regulations respecting the granting and payment of the state pensions, of 3 August 1972 (Sobranie Postanovleniy SSSR, 1972, No. 17, Text 86).

Labour Code of BSSR, of 23 June 1972 (Isdatelstvo Belarus, Minsk, 1972).

Regulations respecting the granting and payment of benefits on state social insurance, of 5 February 1955 (Sotsialnoe obespechenie i strakhovanie v SSSR, 1972, p. 54).

The legislation does not make any distinction between citizen of the BSSR and foreigners who permanently live on the territory of the BSSR.

Article 2, section 1, of the Convention. (a) Medical care. Under Section 32 of the fundamental principles governing the health legislation of the USSR and the Union Republics and under Section of the Health Act of the BSSR, non-nationals permanently resident in the USSR have the same rights to medical care as citizens of the USSR if they live on the territory of the Byelorussian SSR.

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(b) Sickness benefit. Under Section 239 of the Labour Code of the BSSR, all wage earners and salaried employees are covered by compulsory state social insurance.

(c) Maternity benefit. Under Section 70 of the Regulations respecting the granting and payment of benefits on state social insurance, maternity benefits are paid at the rate of full wage to all women irrespective of length of service and whether or not they are members of the trade union.

(d) Invalidity benefit; (e) Old-age benefit; and (f) Survivors' benefits. Under Section 1 of the state pension law non-nationals are eligible for these benefits on the same conditions as citizens of the USSR. In accordance with Section 119 of the Regulations in respect of granting and payment of state pensions, employment abroad is taken into account for the award of a pension.

(g) Employment injury benefit. See under branches (a), (b), (d) and (f) above.

(h) Unemployment benefit. Because unemployment has been abolished there is no base for the unemployment allowance envisaged in Article 2.

(i) Family benefit. Non-nationals have the same rights as citizens of the USSR.

## CAMEROON

Act No. 74-14 instituting the Labour Code, dated 27 November 1974 (Official Gazette of the United Republic of Cameroon (OG), 5 December 1974, No. 4 (Supplementary), p. 113) (LS 1974 - Cam. 1).

Act No. 67-LF-7 instituting a Family Allowances Code, dated 12 June 1967 (OG, 15 September 1967 (Supplementary)).

Act No. 69-LF-18 instituting old-age, invalidity and survivors' pensions insurance, dated 10 November 1969 (OG, 1 December 1969, No. 4 (Supplementary), p. 123) (LS 1969 - Cam. 3).

Ordinance No. 59-100 to establish compensation and measures to prevent employment injuries and occupational illnesses, dated 31 December 1959 (Official Gazette of the State of Cameroon, 17 February 1960, p. 206).

The Act respecting family benefits enables all wage earners, irrespective of nationality, to be paid prenatal benefits, maternity benefits, family allowances and maternity leave benefits for women wage earners.

The Pensions Insurance Act enables all workers covered by the Labour Code to be paid old-age, invalidity and survivors' pensions. Under Section 1(2) of the Labour Code the term "worker" means any person, irrespective of nationality, who has undertaken to place his gainful activity under the direction of an individual or corporation.

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The Act respecting occupational hazards enables all workers covered by section 1 of the Labour Code to be paid employment injury and occupational illness benefits.

The benefits provided for by the above-mentioned legislation may be paid to foreign beneficiaries who have left the national territory if there are reciprocal agreements in force between Cameroon and the country of their new residence.

### CANADA

The Hospital Insurance and Diagnostic Services Act 1957, Ch. 28 (Acts of the Parliament of Canada, 1956-57, p. 155).

The Medical Care Act 1966, Ch. 64 (*ibid.*, 1966-67, Part I, p. 563).

The Canada Pension Plan 1965, Ch. 51 (*ibid.*, 1964-65, Part I, p. 605) (LS 1965 - Can. 2).

The Old Age Security Act 1951, Ch. 18 (Revised Statutes of Canada, 1952 ed., Vol. III, p. 4125) (LS 1951 - Can. 2).

The Unemployment Insurance Act 1971, Ch. 48 (Acts of the Parliament of Canada, 1970-71-72, Vol. I, p. 981) (LS 1971 - Can. 4).

The Family Allowances Act 1973, Ch. 44 (*ibid.*, 1973-74, p. 591).

### Medical care

National health insurance is achieved through a series of interlocking provincial plans which qualify the provinces for federal support if they meet the minimum criteria of the federal legislation under the Hospital Insurance and Diagnostic Services Act and the Medical Care Act.

The national health insurance programmes are designed to ensure that all residents of Canada, regardless of citizenship status, have access to needed medical and hospital care on a prepaid basis. Eligibility for health insurance coverage from the province of residence normally will cease on departure, although a few plans, such as that in Ontario, will provide coverage for a few months following departure to reside in another country.

In 1972, all provinces accepted the concept that residence requirements must be the same between the provincial hospital and medical care insurance plans. With the exception of British Columbia they also agreed to make it possible for newly arrived landed immigrants to obtain first-day coverage (most previously did so). There has been no indication that the provinces anticipate making any further changes in the eligibility and portability provisions of their plans vis-à-vis the provisions of the Convention.

### Invalidity benefit; old-age benefit; survivors' benefit; family benefit

The Canada Pension Plan provides retirement, survivor, invalidity and death benefits and certain family dependent children's

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benefits in cases of invalidity or death, without regard to nationality. The only limiting criteria are related to the length of contributory period.

The federal social security programmes which appear to be included under the Convention are the Family Allowances (FA) and Old Age Security (OAS) demogrants. The Guaranteed Income Supplement (GIS) and Spouse's Allowance (SA) are income tested supplements to the OAS programme. As these programmes are supplementary in nature they will not be covered in this report. The benefits provided by these supplements are not internationally portable.

A monthly Family Allowance (FA) is paid on behalf of a dependent child, to a parent who is a resident of Canada and who is: a Canadian citizen; or a landed immigrant; or admitted to Canada for no less than one year under prescribed circumstances (however, the benefit is then payable retroactively to the original date of application).

There is no difference between the treatment of nationals and non-nationals under these programmes. The nationals of countries which do not accord similar benefits to Canadians are equally treated even though they may be excluded under the provisions of Article 4, paragraph 1.

However, universal residence requirements do exist for these programmes contrary to Article 4, paragraph 1. Moreover, the current residence requirements for Old Age Security exceed those provided by Article 4, paragraph 2(c); but it should be noted that these residence requirements apply equally to nationals and non-nationals. Amendments to these residence requirements, which will improve the position vis-à-vis the Convention, are currently being proposed by the Government to Parliament.

Old Age Security beneficiaries must have lived in Canada for a total of not less than 20 years in order for this benefit to be paid abroad for a period greater than six months. This would appear to conflict with the provisions of Article 5, paragraph 1.

Contrary to Article 6, there is no portability of Family Allowance benefits when ordinary residence terminates.

There is no provision under the Old Age Security or the Family Allowances legislation to enter the type of international agreements as provided for in Article 7 of the Convention. However, it is the intention of the Government to submit to Parliament legislation empowering the Government to negotiate with interested foreign governments in relation to the Old Age Security.

### Unemployment, sickness and maternity benefits

Equality of treatment is granted to nationals of other countries who establish landed immigrant status.

No specific modifications have been made in the legislation, nor are any planned, which would give effect to particular provisions of the Convention.

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The elimination of the condition of residence for the receipt of benefit as provided for in Article 4 presents a difficulty for ratification. Except for a very special reciprocal agreement with the United States of America and one or two other very minor exceptions, entitlement to unemployment, sickness and maternity benefit has always been contingent on residence in Canada. Because of the relatively high levels of benefit under the Canadian programme, and the difficulties in ensuring adequate enforcement of the conditions of benefit in other countries and the substantial differences in programme structures, Canada cannot agree to this clause.

Article 7 provides for the totalisation of rights, in this case based on employment, for the calculation of benefit. It has not yet been possible for Canada to agree to this even on a one-to-one basis with any country. The requirement for such totalisation for use in determining entitlement for unemployment benefit in Canada is very minor (eight weeks of work are needed). Landed immigrants resident in Canada should normally have no difficulty obtaining this amount of work.

### Employment injury benefit; survivors' benefit

All the Canadian provinces and the Northwest and Yukon Territories have workmen's compensation legislation. In the federal jurisdiction the Merchant Seamen Compensation Act and the Government Employees' Compensation Act have been enacted to ensure protection to workers who are not covered by any other workmen's compensation acts.

Under their legislation, the Canadian jurisdictions grant normally equality of treatment with their own nationals to non-nationals, including stateless persons and refugees within their territory, both as regards coverage and the right to benefits. This is done without any condition of reciprocity.

Under the various Workmen's Compensation Acts, the payment of benefits to non-residents is sometimes permitted, at the discretion of the Board or Commission, and sometimes mandatory; it is usually conditional upon reciprocity as regards residence. The only distinction between nationals and non-nationals as regards the grant of benefit abroad is to be found in New Brunswick and Saskatchewan where non-resident alien dependants may be awarded a lesser sum than non-resident national dependants. Only Quebec, Ontario, British Columbia and Northwest Territories can be virtue of their present legislation guarantee the payment of benefit abroad to nationals and non-nationals in respect of employment injuries that occurred in Canada, irrespective of their country of residence.

No specific modifications have been made in the legislation, nor are any planned, which would give effect to particular provisions of the Convention. Where there have been discussions with respect to the possibility of reciprocal agreements, Canada has favoured the bilateral rather than the multilateral approach such as Convention No. 118.

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### CENTRAL AFRICAN REPUBLIC

Act No. 63/412 of 5 June 1963 to establish a retirement scheme for employed persons covered by the Labour Code (Journal officiel de la République centrafricaine (JORCA), 1 July 1963, No. 13).

Act No. 65-66 of 24 June 1965 to establish a scheme for the payment of compensation for, and the prevention of, employment accidents and occupational diseases (JORCA, 15 July 1965, No. 14).

Law No. 65-57 of 3 June 1965 to establish a family benefits scheme for wage-earning employees (JORCA, 1 July 1965, No. 13) (LS 1965 - CAR 1).

Ordinance No. 70-64 of 30 September 1970 to establish a sickness insurance scheme (JORCA, 1 November 1970, No. 21) (LS 1970 - CAR 1).

The nationals of any other State that has ratified the Convention receive equal treatment with nationals as regards their right to maternity benefits, old-age benefits, employment injury benefits and family benefits.

Old-age benefits are paid under agreements between the Central African Social Security Office and corresponding foreign agencies, in the event that the beneficiaries reside abroad.

Foreign workers who have suffered employment injury or occupational illness continue to receive their benefits through the corresponding fund of their country of residence, which is then reimbursed by the Central African Social Security Office.

Family allowances are only payable if the children residing abroad are genuinely dependent on the worker who is employed and residing in the Central African Republic.

There is no legislation on social security branches other than those accepted, except for medical care which is governed by an Ordinance of 1970 which the Central African Social Security Office is currently endeavouring to apply.

Given the current economic situation, no steps are being taken at present to accept obligations deriving from branches other than the four mentioned above.

### COSTA RICA

The Costa Rican Social Insurance Fund has expressed no opinion as to the possibility of ratifying this Convention.



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### CUBA

Act No. 1100 of 27 March 1963 respecting social security (Gaceta Oficial, 4 April 1963, as amended by Act No. 1165 of 23 September 1964) (GO, 29 September 1954, No. 31).

Act No. 1263 of 14 January 1974 respecting maternity (GO, 16 January 1974, No. 3).

The State provides for the social security of workers and their dependants in the event of maternity, illness, industrial and ordinary accidents, invalidity, old age and death. For the purposes of inclusion in the scheme and the granting of benefits, national legislation makes no distinction based on nationality between workers and other beneficiaries. The legislation accordingly conforms essentially to the provisions of the Convention. However, there is no provision for the payment of benefits to Cuban or alien beneficiaries residing abroad. In practice, such payments abroad are not normally authorised. Consequently, national legislation and practice does not conform to the provisions of Article 5 of the Convention, which can therefore not be ratified.

No other measures are currently envisaged with a view to applying the Convention.

### CYPRUS

Social Insurance Law No. 106 of 1972 (Official Gazette, 29 December 1972, No. 981, Suppl. No. 1, p. 1017) as amended by Law No. 22 of 1974 and Law No. 11 of 1975.

Article 2 of the Convention. The legislation covers sickness, maternity, invalidity, old-age, survivors' and employment injury benefits. Medical care and family benefit are not provided under the scheme. The payment of unemployment benefit has been suspended by Law No. 11 of 1975, owing to the financial situation of the scheme due to the present situation of the country.

Article 3. Under the legislation, equality of treatment as regards coverage and right to benefits is granted to non-nationals. No distinction is made between nationals and non-nationals in the case of survivors' benefits. No exceptions are made in accordance with paragraph 3 of this Article.

Article 4. Equality of treatment as regards the grant of benefits is accorded without any condition of residence. No exemptions to the provisions of paragraph 1 are made in accordance with paragraph 2 of this Article.

Article 5. In case of residence abroad, the provision of invalidity, old-age and survivors' benefits, death grants and employment injury pensions is guaranteed. Under the scheme, special arrangements are made for the payment of the above benefits to beneficiaries residing abroad, but those arrangements do not involve the other countries and no recourse is had to the provision of Article 8. As regards paragraph 2, the provision of the benefits is not made subject to the participation in the schemes for the maintenance of acquired rights and rights in course of acquisition.

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Article 7. No agreement has been concluded with any member State for which the Convention is in force.

Article 9. No agreement which may derogate the provision of the Convention has been concluded.

Article 10. Under the legislation, no distinction has been made between nationals and refugees or stateless persons. As regards paragraph 3, no exemption to the application of the Convention is provided for.

In view of the financial difficulties of the scheme, it is considered advisable to postpone for the time being consideration of ratification of Conventions concerning social security. Nevertheless, the Government wants to know the extent of obligations imposed upon member States by Article 7 and in particular whether the obligations under Article 8 also apply to a State which ensures equal treatment to nationals and non-nationals without any conditions of reciprocity.

### CZECHOSLOVAKIA

Public Health Act of 17 March 1966 (Sbírka Zákonů (SZ), 30 March 1966, No. 7, Text 20).

Notification of the Ministry of Health of 13 June 1966 respecting the provision of prophylactic care and treatment (SZ, 24 June 1966, No. 16, Text 42).

Act of 30 November 1956 respecting the sickness insurance of employees (SZ, 17 December 1956, No. 29, Text 54) (LS 1956 - Cz. 3B).

Act of 27 June 1968 respecting the extension of maternity leave and the grant of maternity benefits and children's allowances under the Sickness Insurance Scheme (SZ, 1 July 1968, Text 88) (LS 1968 - Cz. 2).

Act of 4 June 1964 respecting a social security scheme for co-operative farmers (SZ, 15 June 1964, Text 103) (LS 1964 - Cz. 2B), in the form promulgated in 1976 (SZ, 14 May 1976, No. 10, Text 51).

Social Security Act of 12 November 1975 (SZ, 14 November 1975, No. 28, Text 121).

### Medical care

Preventive and curative medical care is governed by the Public Health Act of 1966. Non-nationals and stateless persons receive appropriate emergency medical treatment free of charge. In addition, they receive preventive medical care free of charge to the extent stipulated in bilateral agreements. Non-nationals residing in Czechoslovakia who have a contract of employment or are members of a co-operative and those residing in Czechoslovakia who receive a pension under the country's social security scheme have access to medical care on an equal footing with nationals. Non-nationals and their dependants are not granted this right if they only work in

Czechoslovakia on a temporary basis for employers having no permanent residence or establishment therein, unless bilateral agreements provide otherwise. Non-nationals residing in Czechoslovakia for purposes of vocational training are entitled to medical care under the same conditions as Czechoslovak citizens. Preventive medical care is provided for the students of developing and other countries holding Czechoslovak scholarships, on an equal footing with Czechoslovak students. Non-nationals are also entitled to paid preventive medical care at rates established by the Ministry of Public Health.

Sickness, maternity and family benefits

All wage earners in Czechoslovakia are normally subject to compulsory sickness insurance, irrespective of nationality (article 2 of the Act of 1956). Foreign nationals who are only temporarily working in Czechoslovakia for employers having no permanent residence or establishment therein are exempted from sickness insurance (article 5(c)). Except where provided for under international agreements, benefits in cash are not paid abroad.

Under the Act of 1968 (article 20), family allowances are granted for such time as a dependent child lives in Czechoslovakia. Allowances are not granted in respect of dependent children living abroad unless (a) the child is temporarily resident outside Czechoslovakia for reasons of treatment, recreation or study, (b) the child is accompanying one of its parents who has been sent to work for a Czechoslovak organisation abroad on a temporary basis, or (c) the grant of such allowances has been the subject of an international agreement.

Invalidity, retirement and survivors' pensions

Pensions are granted both to Czechoslovak citizens and to non-nationals who have worked for a given period of time in Czechoslovakia. However, under the Act of 1975 (article 10, paragraph 2(b)), periods of work and study abroad are only taken into account for the acquisition of the right of a non-national to a pension or in the calculation of the amount of the pension if, at the date of the acquisition of that right, the foreign worker has his residence in Czechoslovakia and has worked in the country for at least ten years, except where international agreements provide otherwise.

Pensions are not payable abroad or in respect of any lengthy period spent abroad by the beneficiary, except where international agreements provide otherwise (paragraph 69). If the beneficiary resides in a State with which no agreement has been signed, the Federal Ministry of Labour and Social Affairs may, in exceptional circumstances, authorise the payment of benefits to nationals and non-nationals alike. This principle applies specifically in the case of compensation payable under the terms of the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19), which Czechoslovakia has ratified.

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### Employment injury benefits

There are no special legislative provisions relating to employment injury benefits. Under specific conditions, sickness, invalidity and survivors' benefits are paid.

### Unemployment benefits

There is no unemployment in Czechoslovakia. However, as a result of changes in the structure of the national economy (closing down of inefficient enterprises, reductions in staff due to rationalisation of work or the prohibition of certain types of work for women), isolated cases may arise where it is impossible to find suitable employment immediately for workers affected by such measures. In such cases, workers receive benefits in cash until they are able to find a new contract of employment (Notification No. 74/1970 respecting loss of employment, placement and insurance of material needs of workers in connection with rationalisation and organisation measures). These provisions make no distinction between nationals and non-nationals.

### Maintenance of acquired rights and rights in course of acquisition

Agreements have so far been signed with Poland, the Democratic Republic of Germany, Bulgaria, Yugoslavia, Romania, Hungary the USSR, France and Switzerland.

For the reasons given above, the ratification of Convention No. 118 has not yet been considered.

### DENMARK

The Daily Cash Benefit (Sickness or Maternity) Act (Lovtidende A, 1972, No. XXVI, Text 262, p. 507).

The Invalidity Pensions Act (ibid. A, 1976, No. VIII, Text 39, p. 94).

The Old-Age Pensions Act (ibid. A, 1976, No. VIII, Text 41, p. 113).

The Widow's Pension and Assistance Act (ibid. A, 1976, No. VIII, Text 40, p. 106).

The Family Allowances and Other Family Benefits Act (ibid. A, 1973, No. XXXIX, Text 443, p. 1429).

Denmark has ratified the Convention in respect of medical care, sickness, employment injury and unemployment benefits.

Article 3 of the Convention. The Maternity Benefit Scheme covers all persons who are gainfully employed and pays the benefits irrespective of nationality. Old-age, invalidity and widows' pensions and family benefit are payable to Danish nationals who have been permanently resident in Denmark for at least 12 months after the age of 15. The requirement of nationality is however waived

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to nationals of other EEC Members (EEC Regulation No. 1408/71) and subject to special residence requirements (see below) to nationals of other Nordic countries and certain countries with which Denmark has agreements on social security.

Article 4. Maternity benefit is paid by the social welfare authority of the area in which the person protected is resident. The Nordic Convention of 1955, as amended, on social security benefits, grants Nordic nationals the same access to benefits as Danish nationals, after three years' residence in Denmark immediately prior to the application for benefit. The conventions with the United Kingdom (1959), Switzerland (1954 on social insurance only), France (1951) and Germany (1953) grant in general entitlement to pension under the same conditions as Danish nationals after five years' residence in Denmark. The general rule in the convention with Germany provides for 15 years' residence in Denmark for the entitlement to old-age pension. With regard to family benefit, the nationals of the above countries are placed on an equal footing with Danish nationals as soon as they take up residence in Denmark, or after six months' residence. Other nationals are entitled to the ordinary, increased and extra family allowances after 12 months' residence, and to special family allowances after three years' stay in Denmark.

Article 5. The requirement of permanent residence is waived in various provisions of national legislation on pension and agreements: (i) Danish beneficiaries of a full old-age pension can continue receiving it abroad; (ii) national beneficiaries may continuously receive invalidity pension abroad, if they have resided in Denmark for ten years immediately prior to application for the pension and also for ten years after having reached 15 years of age; (iii) the chief executive officer of the National Social Security Office waives the residential requirement under prescribed conditions, for the beneficiaries of old-age, invalidity and widows' pension after the pensions have been awarded; (iv) pensions are payable to nationals residing in other EEC countries and to non-nationals from these countries; (v) the residential requirement is waived for non-national beneficiaries under the bilateral agreement (Nordic national beneficiaries can continuously receive the Danish pension in other Nordic countries for a period not exceeding three years).

Article 7. The period of residence in another Nordic country is included for calculation of the total period of residence (article 4 of the Nordic Convention). German nationals who have resided for less than 15 years in Denmark but at least for five years immediately prior to the application are also entitled to Danish old-age pension, provided that the period of residence in Denmark and the insurance period in the German scheme together amount to at least 15 years (article 18 of the Danish-German Convention). Agreements concluded between Denmark and some contracting parties to the European Interim Agreement of 1953 concerning provisions for aggregating period of residence are also applied to nationals of other contracting parties to this Agreement (article 3(1)(b) of the European Interim Agreement).

Article 10. Refugees and stateless persons resident in Denmark are granted equal treatment with nationals as regards the entitlement to old-age, invalidity and widows' pensions (the convention relating to the status of refugees of 1951 and the convention relating to the status of stateless persons of 1954).

## EQUALITY OF TREATMENT (SOCIAL SECURITY)

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The main consideration inducing Denmark to refrain from accepting the obligations of the Convention in respect of the above-mentioned benefits is the fact that the entire costs of those benefits are defrayed by taxation revenue. Full equality of treatment for migrants including the right to have the pension disbursed in the country of origin would necessitate a substantial increase in the expenditure.

### EGYPT

Social Security Act No. 79 of 1975.

The Law, which came into force from 1 September 1975, covers all workers in the public, private and co-operative sectors. The second article of this law applies also to foreigners working in the private sector under certain circumstances.

All provisions of Convention No. 118 have been discussed with the representatives of employers and workers and their opinion was that this Law covers the purposes of this Convention.

### EL SALVADOR

Constitution of 8 January 1962 (Diario Oficial (DO), 16 January 1962).

Decree No. 1263 of 3 December 1953: Social Insurance Law (DO, 11 December 1953, No. 226, p. 8725) (LS 1953 - Sal. 3), as amended by Decree No. 243 of 13 December 1968 (DO, 19 December 1968, No. 239, p. 3358) (LS 1968 - Sal. 2 A) and by Decree No. 2607 of 13 March 1958 (DO, 9 April 1958, No. 64, p. 2718) (LS 1968 - Sal. 2 B).

Decree No. 15 of 23 June 1972 containing the Labour Code (DO, 31 July 1972, No. 142, p. 7012).

No legal, regulatory or administrative provision whatsoever discriminates against aliens in respect of social security. Article 186 of the Constitution stipulates that social security is a public service compulsory in character. In pursuance of this provision, the Social Insurance Act was decreed. Article 2 of this Act stipulates: "The Social Insurance Scheme shall in successive stages and in a gradual and progressive manner provide coverage for the risks to which workers are exposed by reason of (a) sickness, ordinary accident; (b) industrial accident, occupational disease; (c) maternity; (ch) invalidity; (d) old age; (e) death; and (f) involuntary unemployment."

Book Three of the Labour Code also contains regulations in respect of social welfare and security.

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### FINLAND

The Maternity Benefit Act, dated 13 June 1941 (Suomen Asetuskokoelma-Finlands Författningssamling (SA - FF), 1941, No. 424).

The National Pensions Act, dated 8 June 1956 (SA - FF, 1956, No. 347) (LS 1956 - Fin. 2 A).

The Workers' Pensions Act, dated 8 July 1961 (SA - FF, 1961, No. 395, p. 779) (LS 1961 - Fin. 4).

The Temporary Employees' Pensions Act, dated 9 February 1962 (SA - FF, 1962, No. 134).

The Survivors' Pensions Act, dated 17 January 1969 (SA - FF, 1969, No. 38, p. 49) (LS 1969 - Fin. 1).

The Employment Act, dated 23 December 1971 (SA - FF, 1971, No. 946) (LS 1971 - Fin. 1).

The Act respecting Child Allowances, dated 22 July 1948 (SA - FF, 1948, No. 541, p. 867) (LS 1948 - Fin. 3).

Finland has ratified the Convention in respect of the following branches: medical care, sickness benefits and employment injury benefits.

Generally, social security benefits are granted irrespective of nationality. Invalidity assistance is, however, granted only to a national permanently resident in the country. The residential conditions referred to in the Convention differ to some extent from those effective in Finland. The period of residence as regards the entitlement to unemployment pension is much longer.

### Maternity benefit

Benefits are granted to every mother resident in the country who is a national. The provisions concerning the remuneration during maternity leave, based on certain collective agreements, are, however, equally applied to nationals and non-nationals.

### Invalidity, old-age and unemployment benefits

Under the National Pensions Act, pensions are payable as follows: disability pension to a person 16 to 64 years of age; old-age pension to a person who has attained the age of 65 years; old-age assistance to a woman 60 to 64 years of age who is unmarried and of limited income; unemployment pension to a person 60 to 64 years of age. These pensions which include child supplement are paid at a flat rate. Earnings-related pensions under the Employees' Pension Act and the Temporary Employees' Pensions Act are payable to all employees subject to a minimum period of work for the same employer. The entitlement of national pensions does not depend on employment period or on numbers of contributions paid. A national pension is payable to a person of age 16 or more after one year following his removal to Finland for the purpose of living there, if in the past he resided in the country for more than half

## EQUALITY OF TREATMENT (SOCIAL SECURITY)

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of the time prior to the removal, subject to a minimum of five years. A national pension is also payable to a person entitled to a benefit from the countries, other than the Nordic countries and Great Britain, which concluded a special social security agreement with Finland. A pension paid from another country may influence the amount of a national pension, but it does not prevent the entitlement to the latter. In the case of emigration from Finland, any national and non-national who is entitled to a national pension receives a pension from the country for a year. The Employment Act excludes non-nationals from the coverage of unemployment benefit, but nationals of the other Nordic countries are covered.

### Survivors' benefit

Survivors' pension is payable after the death of a resident in Finland to his children (up to 16 or 21 years old in some cases) and to a widow subject to certain conditions. The pension is payable to a non-national only if he had lived in Finland for the last five years before his death. The pension is payable to beneficiaries even living abroad, if they had migrated to Finland before the death.

### Family benefit

Child allowance is payable to every child resident in Finland who is under 16.

The Social Security Agreement between Nordic countries provides that nationals of any Nordic country staying in Finland are secured the same social security rights as Finnish nationals, that rights acquired in a Nordic country are maintained during a transitional period if a migration is to another Nordic country, and that periods of staying in a Nordic country are counted in granting social security benefits, subject to restriction on the simultaneous payment of pension from different countries. The Agreement between Finland, Iceland, Norway, Sweden and Denmark concerning social benefits granted in case of sickness and confinement includes similar provisions.

It is intended to apply the provisions of the Convention as far as possible and to consider them in legislative work. A government bill concerning the Act to amend the Employment Act which will extend its application to non-nationals on conditions more precisely defined by the Ministry of Labour is now under discussion in Parliament.

The national legislation complies well with the provisions of the Convention as regards most of the social security branches, although there are certain differences.



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### FRANCE

Social Security Code, Decree No. 1279 of 10 December 1956 (Journal officiel (JO), 18 December 1956).

Rural Code, Decree No. 433 of 16 April 1955 (JO, 18 April 1955).

Labour Code, Act No. 73-4 of 2 January 1973 (JO, 3 January 1973, No. 2).

France, which has ratified the Convention, has been unable to accept its obligations in respect of branch (e) owing to difficulties pertaining to the nature of certain old-age benefits which cannot be defined as social security benefits and whose inclusion in the category of benefits in respect of which the Convention calls for equality of treatment is not contemplated at the present time. A thorough study of the matter is nevertheless being made. Pending the results of the investigations being made into the subject in the European Economic Community, it is not possible to indicate what the French attitude will be.

As concerns branch (h), in respect of which France has likewise not accepted the obligations of the Convention, the totalisation of periods of employment or insurance for the purpose of qualification for unemployment benefit is not practised by France with respect to nationals of States not Members of the EEC with which there exists no reciprocity agreement.

### GERMAN DEMOCRATIC REPUBLIC

Order respecting the social insurance of wage earners and salaried employees (SV0), dated 14 November 1974 (Gesetzblatt der Deutschen Demokratischen Republik (GBL.), Part I, No. 58, 2 December 1974, p. 531).

Order respecting social insurance under the state insurance scheme, dated 16 January 1975 (GBL., Part I, No. 8, 11 February 1975, p. 141).

Order respecting the compulsory social insurance of private doctors, dentists and veterinary surgeons and persons independently employed in art and cultural activities, dated 15 December 1970 (GBL., Part II, No. 102, p. 770).

Order respecting improvement of voluntary additional pension insurance and social welfare benefits in the event of incapacity for work, dated 10 February 1971 (GBL., Part II, No. 17, 12 February 1971, p. 121).

Order respecting the calculation and award of pensions, dated 4 April 1974 (GBL., Part I, No. 22, 17 May 1974, p. 201).

Order respecting improvement of insurance protection in the event of accidents occurring during the performance of social, cultural or sporting activities, dated 11 April 1973 (GBL., Part I, No. 22, 15 May 1973, p. 199).

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Order respecting the award of statutory children's allowance and special support for large families and single citizens with three children, dated 4 December 1975 (GBL., Part I, 1976, No. 4, 6 February 1975, p. 54).

Nationals and non-nationals who are resident in the territory of the GDR enjoy the same social security protection.

Social security benefits are only payable to persons who are resident in the territory of the GDR. However, the GDR has concluded social security agreements with a number of States, under which the nationals of a contracting party who are resident in the territory of the other contracting party are granted the social security benefits provided under the legislation of the second party.

In respect of pensions, the legislation provides that periods of employment completed by nationals outside the Republic are counted as pensionable employment, when they were compulsorily insured for pension purposes under the foreign legislation or would have been so during this period under German democratic legislation. Periods of employment completed by non-nationals outside the Republic are only counted for pension purposes if they have spent at least five years in pensionable employment in the GDR. This provision does not apply in respect of employment injury benefit.

Experience has shown that domestic legislation guarantees the equal treatment of foreigners and stateless persons resident in the Republic; therefore, there is no call for any change therein.

### FEDERAL REPUBLIC OF GERMANY

Book IV of the Federal Insurance Code (RVO) (LS 1973 - Ger. (FR) 1) as amended.

Salaried Employees' Insurance Act of 28 May 1924 (AVG) (LS 1924 - Ger. 6) as amended.

Act to reorganise the law governing foreign pensions (FRG), dated 25 February 1960 (Bundesgesetzblatt (BGBL.), I, 3 March 1960, No. 9, p. 93) (LS 1960 - Ger. (FR) 1) as amended.

Federal Family Allowances Act (BKGG), dated 14 April 1964 (BGBL., I, 18 April 1964, No. 18, p. 265) (LS 1964 - Ger. (FR) 1) as amended in 1975 (BGBL., Part I, No. 13, 6 February 1975).

Conditions regarding insurance and benefits are the same for all persons residing in the Federal Republic of Germany, irrespective of nationality. Pensions are not paid as a rule to persons permanently and voluntarily resident outside the territory of the FRG (including West Berlin).

German nationals abroad may, under specific conditions, draw their pensions. However, when the pension relates to entitlements acquired exclusively or mainly outside the territory of the FRG, including West Berlin (e.g. if the period of insurance was spent in Silesia or East Prussia) German nationals are not entitled to payment; payment of pensions is nevertheless generally granted on a discretionary basis.

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Persons who are not of German nationality receive pensions if they belong to one of the following categories: orphans whose guardians are customarily resident abroad; survivors of German nationals; victims of National Socialism; or foreign workers who have been employed in the FRG and who are covered by the European Community's law or a bilateral or multilateral social security agreement to which the FRG is a party.

Persons residing in the German Democratic Republic and the Polish or Soviet territories which formed part of the German Reich as it existed on 31 December 1937 do not receive pensions or any other benefits. Numerous claims are nevertheless before the Federal Social Court which will have to decide whether there are grounds for pensions to be paid in these territories which now form part of Poland and the Soviet Union.

By virtue of the Federal Family Allowances Act persons who are domiciled or customarily resident in the FRG (including West Berlin) receive family allowances for children domiciled or customarily resident in the FRG (including West Berlin). No distinction is made as to nationality. As a rule, family allowances are not payable for children residing outside the FRG.

As regards pensions insurance no changes have been made in the legislation or practice in respect of the application of all or part of the Convention.

In the European Communities EEC Regulation No. 1408/71 applies whereby workers who are nationals of other member States are entitled to the full German family allowances for their children living inside the Community. The FRG has entered into agreements with Switzerland and Austria which have been ratified by the respective national legislation and under which workers who are nationals of these countries are entitled to the full German family allowances for their children living in their country of origin. The Rhine Boatmen's Social Security Agreement also provides for full family allowances to be paid for children living in the country of origin.

The FRG has ratified agreements with Greece, Yugoslavia, Portugal, Spain and Turkey whereby family allowances are paid for children living in those countries. In view of the lower cost of living in those countries the allowances are fixed as follows: first child: 10 marks; second child: 25 marks; third and fourth child: 60 marks each; fifth and each subsequent child: 70 marks each.

The Government of the FRG considers that, as far as suspension of pension rights for persons who are not German nationals is concerned, it cannot, in the interests of German nationals who have entitlements to benefits from foreign insurance institutions, waive this provision as long as the legislation of the other States retains similar restrictions and does not guarantee reciprocity. This consideration underlies the conclusion of new agreements and the improvement of old ones.

The German pensions legislation takes into account, moreover, numerous situations that have arisen outside the present boundaries of the FRG (including West Berlin) and that, for the most part, relate to the consequences of the war (e.g. the expulsion of

## EQUALITY OF TREATMENT (SOCIAL SECURITY)

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populations). The regulations are based on a principle of integration whereby the persons concerned are to be treated as if they had passed their entire working lives in the FRG. This principle can only be applied, however, to those who reside in the country and thus integrate themselves into the community of insured persons who will subsequently bear the cost of benefits to be paid them.

The provisions of Article 5, paragraph 2, of the Convention give preferential treatment to non-contributory schemes, found particularly in the Nordic countries but also in Canada, Australia, South Africa, Czechoslovakia and others, for invalidity, old-age and survivors' pensions. States with non-contributory schemes which have accepted the obligations of Convention No. 118 are not bound to provide benefits of this kind to claimants residing abroad. They can in fact make the granting of these benefits subject to the participation of the States concerned in a scheme for the maintenance of rights. For States with contributory schemes such as the FRG, this possibility does not exist.

This provision unduly favours States with non-contributory schemes. Financing without contributions or without an obligation to contribute are basically merely two different ways of raising the necessary resources to pay out social benefits.

Maintenance of the right to family allowances for children residing in the country of origin implies close co-operation between the Federal Labour Institute and the competent administrations in the country of origin - for example, in drawing up the family status certificate. There are numerous countries with which such close co-operation cannot be guaranteed.

As regards pensions insurance no measures are planned for applying the provisions of the Convention not yet covered by national legislation or practice; such measures would in fact entail such an increase in the financial costs of these statutory pensions schemes in the FRG as cannot for the moment be contemplated.

Likewise, no measures are planned for applying such provisions of Article 6 as are not yet covered by national legislation. Nevertheless, in order to improve the situation of persons in the circumstances concerned, the Federal German legislation provides for tax relief for families which do not receive allowances for their children.

### GREECE

Emergency Law No. 1846 of 14 June 1951 respecting social insurance (EK, Part I, 21 June 1951, No. 179, p. 1239) (LS 1951 - Gr. 4), as amended in 1960 (LS 1960 - Gr. 1) and in 1966 (LS 1966 - Gr. 1).

Article 2 of Act No. 1846 of 1951 stipulates that all wage earners are covered by social security insurance. However, aliens temporarily employed in Greece may not be covered by insurance (Article 4) if the interested persons and the authorities of their country so desire. In so far as it can be considered discrimination, this exemption is the only obstacle to ratification of the Convention.

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### GUINEA

Act No. 21/AN/60 of 12 December to institute a social security code, promulgated by Decree No. 103/PG of 31 March 1961.

Guinea has ratified the Convention whose obligations it has accepted in respect of the following branches of social security: medical care, sickness benefit, maternity benefit, old-age benefit, survivors' benefit, employment injury benefit and family benefit. It has not accepted the obligations of the Convention in respect of unemployment benefit, since the socialist policy pursued by the Government excludes any possibility of unemployment.

### GUYANA

The National Insurance and Social Security Act, No. 15 of 1969 (The Laws of Guyana, rev. ed. 1973, Cap. 36:01).

The national legislation covers medical care, sickness, maternity, invalidity, old-age, survivors' and employment injury benefits. Under the legislation, equality of treatment for social security of nationals and non-nationals who are in insurable employment in the country is granted without any residential qualification.

Invalidity, old-age and survivors' benefits are payable to persons who are absent from Guyana and in the United States in virtue of the National Insurance (citizens of United States of America modification) Order (section 49 of the Act). Similar reciprocal arrangements are being worked out to cover the Commonwealth Caribbean Islands.

No real difficulty is experienced in giving effect to the provisions of the Convention. The ratification of the Convention could be considered at a time when most of the provisions are implemented.

### HUNGARY

Social Security Act of 22 April 1975 (Magyar Közlöny, 22 April 1975, No. 28, p. 415).

The Act does not make any distinction between Hungarian citizens and foreigners as concerns both coverage and insurance services.

Articles 5 to 7 are completely covered by bilateral agreement with Bulgaria, Czechoslovakia, the German Democratic Republic, Poland, Romania, the USSR and Yugoslavia.

## EQUALITY OF TREATMENT (SOCIAL SECURITY)

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### INDIA

Coal Mines Provident Fund, Family Pension and Bonus Schemes Act, No. 46 of 3 September 1948 (Gazette of India (GI), 3 September 1948, Extraordinary, p. 20).

Employees' Provident Fund, Family Pension and Bonus Schemes Act, No. 19 of 4 March 1952 (GI, Part II, No. 13, 5 March 1952, Extraordinary) (LS 1952 - Ind. 2).

Assam Tea Plantations Provident Fund and Pension Fund Scheme Act, No. 10 of 15 June 1955 (Assam Gazette, Part IV, 16 June 1955).

Seamen's Provident Fund Act, No. 4 of 26 March 1966 (GI, Part II, Sec. 1, 28 March 1966).

Payment of Gratuity Act, No. 39 of 21 August 1972 (GI, Part II, Sec. 1, 21 August 1972).

Workmen's Compensation Act, No. 8 of 5 March 1923 (LS 1923 - Ind. 1), as amended.

Employees' State Insurance Act, No. 34 of 19 April 1948 (GI, Part IV, 19 April 1948, p. 161) (LS 1948 - Ind. 3), as amended.

India ratified the Convention in 1964 as regards medical care, sickness benefit and maternity benefit. The enactments listed above cover only old-age benefit, survivors' benefit and employment injury benefit. With regard to coverage and benefits there is no distinction between nationals and non-nationals. Under the Employees' Provident Fund and the Coal Mines Provident Fund schemes a non-national leaving India at least for a year is however permitted to withdraw the amount of his credit from the Fund subject to his forfeiting a part of the employer's contribution if his membership in the Fund was less than 15 years; he will be treated as a new member if he returns and takes up re-employment after withdrawal from the Fund. The amount to be forfeited depends upon the length of his membership in the Fund. This is actually a special privilege bestowed on the non-nationals, which is not enjoyed by the nationals, although it appears to be somewhat discriminatory.

No modifications have been made in the national legislation or practice with a view to giving effect to the provisions of the Convention. It is not possible to accept the obligation as regards old-age benefit, since the above-mentioned privilege bestowed on the non-national who can withdraw the amount of his credit for old-age benefit under some provident fund laws may be construed as discriminatory.

Equality of treatment for employment injury benefits and survivors' benefits is guaranteed under the laws, so that there should be no difficulty in accepting these branches. The Foreign Exchange Regulations may, however, not be conducive to the acceptance of these branches particularly in view of Article 5 of the Convention which provides for guaranteeing benefits to nationals and non-nationals when they are resident abroad. There is no bilateral agreement with other countries on the subject, since migration of workers into or out of India is negligible.

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### JAPAN

The Health Insurance Law, No. 70 of 22 April 1922 (LS 1922 - Jap. 3).

The National Health Insurance Law, No. 192 of 27 December 1958 (Official Gazette (OG), 27 December 1958, No. 102, p. 2).

The Employees' Pension Insurance Law, No. 115 of 19 May 1954.

The National Pension Law, No. 141 of 16 April 1959 (OG, 16 April 1959, No. 9692).

The Workmen's Accident Compensation Insurance Law, No. 50 of 5 April 1947 (OG, 7 April 1947, No. 303, p. 13) (LS 1947 - Jap. 6).

Employment Insurance Law, No. 116 of 28 December 1974.

Children's Allowance Law, No. 73 of 27 May 1971.

Under the above enactments all branches of social security provided for in Article 2, paragraph 1, are covered as follows.

#### Medical care, sickness and maternity benefits

The health insurance scheme covers all employees in private undertakings in Japan regularly employing five or more workers, irrespective of nationality. In principle, the national health insurance scheme covers all residents who are not insured by any schemes designed for employees. Under a bilateral treaty, equality of treatment is granted on a reciprocal basis to nationals of a country which grants equal treatment as regards the benefits to Japanese residents there; payment of those benefits is made without any requirement of residence of a given period.

#### Invalidity, old-age and survivors' benefits

The employees' pension insurance scheme covers all employees in private undertakings in Japan regularly employing five or more workers, irrespective of nationality. Payment of the benefits is made without any requirement of residence of a given period. The benefits are payable to the beneficiary who is resident abroad after contingency. Equal treatment with nationals as regards survivors' benefits is granted to the survivors of non-nationals.

The national pension scheme covers Japanese residents in the 20 to 60 age group other than those insured by other pension schemes.

#### Employment injury and unemployment benefits

The Workmen's Accident Compensation Insurance and Employment Insurance Schemes cover any employee in an undertaking in Japan which employs a worker, irrespective of nationality. The payment of benefits is made with no residence requirement of a given period. The employment injury benefit is payable to a beneficiary resident abroad.

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### Family benefit

Under the Children's Allowance Law, children's allowance is payable to those Japanese who bring up children and reside in Japan. Family allowances are usually given to workers employed in undertakings irrespective of their nationality.

No modifications in particular have been made in national legislation or practice with a view to giving effect to the provisions of the Convention.

Under the schemes for employees, equality of treatment is granted to non-nationals. Under the schemes for nationals, provisions exist which are not necessarily in conformity with the provisions of the Convention, however, since the benefits are in principle provided to a beneficiary subject to his being a Japanese national. At present it is not intended to take any particular measures to give full effect to the provisions of the Convention.

### KUWAIT

The Workers' (Private Sector) Act, No. 38 of 1964 (Kuwait Al Youm, No. 462, 19 January 1964).

The Petroleum Industry Workers' Act, No. 28 of 1969.

Under Act No. 38, a worker in the private sector is granted compensation for industrial injury and disease as well as a termination allowance according to seniority in employment. The Act applies to both nationals and non-nationals.

Under Act No. 28, an employer is obliged to provide free medical care to a worker in the petroleum industry and his dependants and provide workers' compensation for industrial injury and disease. A worker is also eligible to receive a termination grant proportional to his seniority in employment.

A Social Insurance Bill, now under consideration by the National Assembly, intends to provide pensions for old age, incapacity and death. The difficulties for application of the Convention at the present time are confined to Articles 3, 4 and 5 and other Articles dealing with equality of treatment between nationals and non-nationals who are citizens of countries which have ratified the Convention. Non-nationals in the labour force account for 75 per cent of the total, while labour turnover is very swift and disorderly. In these circumstances the extension of social security to non-nationals would be premature.

### LIBERIA

Handbook of Labour Law of the Republic of Liberia, First Edition, January 1965: Chapter 36. Workmen's Compensation (Monrovia, Bureau of Labour, 1965).



## CONVENTION No. 118

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Sections 3500 and 3501 of the labour legislation concerning workmen's compensation ensure equality of treatment in social security.

A new social security law to establish a national pension fund, an employment injury fund and a welfare fund, which was passed in July 1975, contains provisions relating to matters dealt with by the Convention. The preparatory work for its implementation is currently carried out by the Government.

Maternity, medical and other services are provided for employees in the private sector by collective agreements.

The Government is considering the ratification of the Convention in the near future as soon as the modified enactment is finalised and incorporated into the national law.

### LUXEMBOURG

Social Insurance Code instituted by the Act dated 17 December 1925 (Social Security Laws and Regulations, Compendium published by the Ministry of Labour and Social Security).

The original text of Article 5 of the Convention had limited the transfer of benefits to contributory benefits. This limitation was removed following the adoption of an amendment which Luxembourg had opposed because the national legislation did not permit the transfer of non-contributory pension components. There has been no change in the relevant national legislation in the intervening years. In fact, the transfer abroad of non-contributory benefits requires in each individual case over-all authorisation based on reciprocity between Luxembourg and the country concerned. In these circumstances, the Grand Duchy is unable in the present state of its legislation to ratify the Convention.

### MADAGASCAR

Act No. 68-023 of 17 December 1968 to institute a retirement scheme and establish a National Social Insurance Fund (Journal officiel, 21 December 1968) (LS 1969 - Mad. 1 B).

Decree No. 69-145 of 8 April 1969 to establish a social insurance code (JO, 26 April 1969) (LS 1969 - Mad. 1 A).

### MALAWI

Schemes of social security which would comply with the requirements of the Convention are not yet in operation and therefore the provisions of the Convention cannot be applied.

## EQUALITY OF TREATMENT (SOCIAL SECURITY)

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### MALAYSIA

The Employees' Social Security Act, No. 4 of 2 April 1969 (Government Gazette, Act Supplement No. 5, 10 April 1969, p. 1) (LS 1969 - Mal. 1).

The Act provides for medical care, invalidity benefits and employment injury benefits; with regard to coverage and payment of these benefits, nationals and non-nationals are accorded equality of treatment. There is no condition of residence prescribed with regard to non-nationals.

### MALI

Act No. 62-68 A.N. - R.M. of 19 August 1962 to promulgate a Social Welfare Code (Journal officiel, 15 October 1962).

Social security legislation covers branches (a), (c), (e), (f), (g) and (i) of Article 2 of the Convention. The Code applies to all workers irrespective of nationality (article 2 of the Code).

Foreign workers who have suffered employment injuries and who cease to reside in a country belonging to the same monetary zone as Mali receive a lump sum in compensation equal to three years' benefits, save where there is a reciprocal treaty or where the country of origin of the worker has ratified the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) (article 145 of the Code).

As to family allowances, the beneficiary and his children must reside in Mali (article 10 of the Code). A general social security agreement was signed with France on 11 March 1965.

No special measures are planned for the ratification of Convention No. 118.

### MALTA

The National Insurance Act, No. VI of 1956 (Government Gazette, No. 10791, 30 April 1956), amended by Act No. LIII of 1974 (Laws, Vol. CVII, Part I, 1974, p. A311).

The National Assistance Act, No. VIII of 1956 (Ordinances, Vol. LXXXVIII, 1956, p. 68).

Under the National Insurance Act, equality of treatment of nationals and non-nationals is guaranteed in respect of sickness, survivors' and employment injury benefits, and invalidity and old-age pensions.

Under the National Assistance Act, 1956, free hospitalisation and pharmaceutical benefits are available to nationals in government hospitals or institutions, subject to a means test. Nationals of the countries which take part in the Convention on Social and Medical Assistance of the Council of Europe are entitled to such medical care given to nationals.

## CONVENTION No. 118

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Under Act No. LIII of 1974, family allowances are granted to the parents who are Maltese in respect of their first three children.

### MAURITIUS

The Public Health Ordinance (Laws of Mauritius, rev. ed. 1945, Vol. III, Cap. 277).

The Old-Age Pensions Ordinance, No. 77 of 31 December 1951 (IS 1951 - Maur. 1), as amended by Ordinance No. 42 of 19 December 1960 (Government Gazette (GG), 24 December 1960, No. 73, Legal Supplement, p. 146).

The Workmen's Compensation Ordinance (Laws of Mauritius, rev. ed., 1945, Vol. III, Cap. 220), as amended by Ordinance No. 69 of 28 December 1961 (GG, 30 December 1961, No. 68, Extra., Legal Supplement, p. 190).

The Family Allowance Ordinance, No. 62 of 28 December 1961 (GG, 30 December 1961, No. 68, Extra., Legal Supplement, p. 168).

Under several enactments such as the Labour Act 1975, the Sugar Industry Retiring Benefits Act 1973 and Remuneration Orders, and in collective agreements, employers are obliged to provide various fringe benefits including paid sickness leave, paid maternity leave and maternity allowances. In the sugar industry, monthly pension is payable to retired labourers and artisans who do not receive any pension from the contributory pension scheme. The benefits which are provided by employers are generally payable equally to nationals and non-nationals.

There is no scheme of unemployment benefit.

The enactments which stipulate the benefits provided by the State do not specifically prescribe equality of treatment. Some of these benefits are generally extended to non-nationals subject to certain conditions. The old-age pension is payable to non-nationals provided that they meet residential conditions which are not the same for nationals. The family allowance is payable to non-nationals who are not born in Mauritius subject to at least two years' residence. These residential conditions are not applied to nationals.

No agreements have been concluded with any other member State as regards equality of treatment for social security.

Ratification of the Convention can only be considered when a general social security scheme involving the participation of the State, employees and employers is introduced.

### MEXICO

Constitution, 1917. 55th edition (Mexico, Porrua, 1974).

## EQUALITY OF TREATMENT (SOCIAL SECURITY)

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Social Insurance Act of 22 February 1973 (Diario Oficial, 12 March 1973, No. 8, p. 10) (LS 1973 - Mex. 1).

The provisions of the Convention correspond basically to national legislation and practice. Of the list of benefits referred to in Article 2 all except the last two - unemployment benefit and family benefit - could be accepted.

Although the Security Insurance Act in force refers to unemployment benefits, it does not conform exactly to the provisions of the Convention. Articles 143 to 148 of the Act include "ageing workers' unemployment insurance", which is designed to help insured persons over 60 years of age who become involuntarily unemployed: this is slightly different from the wording of the ILO instrument which refers to the granting of unemployment benefits irrespective of the age of the worker.

Articles 164 to 166 of the new Social Insurance Act refer to "family allowances and attendance benefits" and take into account the number of children for the payment of certain benefits, which are only granted to persons in receipt of a disability, old-age or ageing workers' unemployment pension.

There is at present no obstacle to the Convention's ratification, and it is therefore planned to ratify it in due course.

### MOROCCO

Dahir to promulgate Act No. 1-72-184 of 27 July 1972 respecting the social security scheme (Bulletin officiel (BO), 23 August 1972, No. 3121) (LS 1972 - Mor. 2).

Decree No. 2-72-541 of 30 December 1972 respecting the benefits payable by the National Social Security Fund (BO, 3 January 1973) (LS 1972 - Mor. 3).

Under national legislation, non-nationals receive equal treatment with Moroccan workers in respect of the right to benefits, without any condition of reciprocity or residence.

National legislation and practice do not present any obstacle to the ratification of the Convention. Morocco is currently in a position to accept the obligations of the Convention in respect of branches (b), (c), (d), (e), (f) and (i).

### NEW ZEALAND

The Social Security Act 1964 and Social Security Amendment Acts 1966-75 (NZ Statutes 1964/136) (LS 1964 - NZ 1).

The Accident Compensation Act 1972 and Accident Compensation Amendment Acts 1973-75 (NZ Statutes 1972/43) (LS 1972 - NZ 2).

## CONVENTION No. 118

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Article 1 of the Convention. The definitions of the terms in the Convention are generally acceptable, except that in the Social Security Act 1964 the term "residence" is sometimes defined as "ordinary residence" and sometimes as "continuous residence".

Article 2. The above-mentioned laws cover all branches of social security listed at paragraph 1 of this Article. The only one excluded from (a) of paragraph 6 would perhaps be accident compensation under the Earners' Scheme. There are no transitional schemes.

Article 3. More favourable treatment may be given to New Zealand citizens in the following cases:

- (a) medical benefit: available to nationals who, without satisfying the residential conditions, are for the time being in the country, if they once lived in New Zealand;
- (b) family benefit: payable if the child was born in the country;
- (c) maternity benefit: as for medical benefit;
- (d) widow's benefit: payable to a widowed mother whose child was born in the country, even where neither she nor the deceased husband satisfied the residential condition.

Under the reciprocal agreement, widow's benefit is payable to persons who are eligible under Australian or United Kingdom law, irrespective of nationality.

Article 4. Except as noted under Article 3 and as provided for under the reciprocal agreements, the following residential conditions apply equally to nationals and non-nationals: ordinary residence, for grant of medical care and maternity benefit; continuous residence for more than 12 months, for grant of sickness, unemployment and family benefits (family benefit is also payable if a child is likely to remain permanently); ordinary residence for nine of the ten years prior to application, for grant of invalid's benefit; ordinary residence on the date of application and completion of ten years' residence from a date no later than ten years before the date of application, for grant of age benefit; ordinary residence by both the widow and her husband for more than three years prior to his death, or either the widow or her husband were ordinarily resident in the country at the date of his death and had continuously resided for more than five years, for grant of widow's benefit.

Any benefit may be affected by benefit payment of the other countries.

Article 5. Benefits are generally not payable abroad. Invalid's benefit payable for total blindness may, however, be paid for up to two years when the beneficiary leaves the country for vocational training or treatment of the eyes. Death grants paid under the Accident Compensation Act may also be paid to survivors abroad if the fatally injured person was an earner defined in the Act.

Article 6. Family benefit may be payable during an absence of up to two years in respect of a child who leaves the country for further education and whose parents reside ordinarily in the country.

## EQUALITY OF TREATMENT (SOCIAL SECURITY)

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Article 7. There are only two reciprocal social security agreements with Australia and the United Kingdom. There is no proposal to enter into a further agreement with another country.

Article 8. New Zealand does not comply with Convention No. 48 and cannot therefore either ratify it or apply its provisions in agreements with another country. The only two countries with which New Zealand has concluded reciprocal agreements are not bound by the provisions of the Convention.

Article 10. There is no legal provision for refugees or stateless persons to receive treatment different from that given to other persons. The reciprocal agreements would also apply to those persons.

Apart from the lack of reciprocal agreements with countries which have ratified the Convention, the other major difficulties are definition of residence (Article 1), qualifying residential periods (Article 4) and maintenance of benefit payments during residence abroad (Article 5). It is not intended to adopt measures to give effect to those provisions of the Convention not yet covered by the national legislation or practice.

### NIGERIA

The National Provident Fund Act, No. 20 of 26 June 1961 (Official Gazette, 30 June 1961, No. 47, Extra., Suppl.) (LS 1961 - Nig. 1).

The Workmen's Compensation Act (Laws of the Federation of Nigeria and Lagos, 1958, Vol. 6, Ch. 222), as amended.

The National Provident Fund Act provides for old-age, invalidity and survivors' benefits as well as sickness, emigration and withdrawal benefits. The Provident Fund Scheme covers both nationals and non-nationals. Reciprocal agreements may be concluded with countries operating similar schemes, but no agreement has so far been concluded under section 47 of the Act. The Workmen's Compensation Act provides for employment injury benefits.

No modifications have yet been considered necessary because of equal coverage and possible reciprocal agreement under the National Provident Fund Act. Active consideration is being given to converting the existing workmen's compensation scheme into an insurance scheme with the National Provident Fund as the insurance carrier.

Inadequate demographic and allied data may delay the ratification of the Convention.

Measures to give effect to the provisions of the Convention are to a large extent already built into the legislation as the scheme provides lump-sum benefits to members of the Fund, subject to the prescribed qualifying conditions, disregarding nationals or non-nationals.

The provisions of the Convention are appropriate to the federal authority, but the constituent states are usually consulted through their representatives in the National Provident Fund Advisory Council.

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### NORWAY

The National Insurance Act No. 12 of 17 June 1966 (Norsk Lovtidend (NL), 26 July 1966, No. 22, p. 830) (LS 1966 - Nor. 3) as amended by Act No. 79 of 27 November 1970 (NL, 28 December 1970, No. 34, p. 1478) (LS 1970 - Nor. 1), No. 40 of 19 March 1971, No. 71 of 16 June 1971, No. 93 of 10 December 1971 and No. 118 of 17 December 1971 (NL, 13 May 1971, No. 11, p. 457; 19 July 1971, No. 20, p. 790; 29 December 1971, No. 40, p. 1569 and 30 December 1971, No. 41, p. 1718) (LS 1971 - Nor. 2 A-D).

Norway registered the ratification of the Convention on 25 April 1964, in respect of survivors' benefit and family benefit.

Article 2 of the Convention. All branches of social security are covered by the Act. Medical care, maternity benefit in kind, basic invalidity and old-age pensions are considered as non-contributory under Article 2, paragraph 6(a), of the Convention.

Article 3. Equality of treatment of nationals and non-nationals as regards coverage and right to benefits is secured in respect of medical care, maternity, sickness, invalidity and old-age benefits, with some exceptions. There is no inequality of treatment as regards employment injury benefit since the Convention is not considered to include foreign seafarers on board a Norwegian vessel in foreign trade.

Non-nationals working in a Norwegian border district but not resident in the country are not entitled to unemployment benefit (section 4-2, No. 3(h), of the Act).

Article 4. Equality of treatment as regards the grant of benefits is applied in principle without any condition of residence in respect of medical care, sickness benefit and maternity benefit. Dependants of non-nationals who are not themselves insured under the Act are, however, not entitled to medical care and maintenance supplement to daily sickness benefit, unless they are staying in the country.

As a rule, invalidity pension and rehabilitation assistance are not payable abroad. Nationals who are insured in the employment as defined in section 1-2, No. 1(b), (c) or (d), of the Act are however exempted from requirement of residence. Invalidity pension and rehabilitation grant are payable outside Norway to nationals (and also to non-nationals with acceptable links with the country) subject to the approval of the competent authorities (sections 1 and 3 of the Royal Decree of 28 October 1966).

There are no requirements of residence for the entitlement to old-age pension, with the exception that non-nationals must satisfy certain conditions for their entitlement to increased supplementary pension.

Employment injury benefit is granted without any condition of residence both to nationals and non-nationals. Residential requirement for disability benefit is not applicable in the case of employment injury (section 11-5, No. 1, of the Act), although the requirement must be satisfied for the entitlement to the increment for a dependent spouse even in the case of employment injury (section 11-5,

## EQUALITY OF TREATMENT (SOCIAL SECURITY)

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No. 6). As mentioned above, there are somewhat different provisions for nationals and non-nationals as regards payment of the supplementary benefit outside Norway.

Article 5. Reference is made to the statement in connection with Articles 4 and 8.

Article 7. Reference is made to the statement in connection with Article 8.

Article 8. Norway has not ratified the Maintenance of Migrants' Pension Rights Convention, 1935 (No. 48).

According to the multilateral convention, 1955, and the bilateral agreements with France (1954), the United Kingdom (1958) and Italy (1959), the entitlement to invalidity and employment injury benefits is maintained during the stay in one of the other countries concerned.

With regard to unemployment benefit, a new reciprocal agreement between Nordic countries, to be ratified shortly, will do away with discrimination implied by section 4-2, No. 3(h), as mentioned above. The agreement is not limited to nationals of those countries.

Article 10. The requirement of an insurance period is not applied to foreign refugees for basic pension in the case of disability and old age, nor to the rehabilitation benefit (Royal Decree of 28 October 1966 and regulations of 29 December 1971), but the residential requirement must be satisfied by them for entitlement to supplementary pension (section 7-5 and section 8-4, No. 5).

With regard to old-age benefit, there are no difficulties for the ratification of the Convention by the country if supplementary pension is regarded as a transitional provision under Article 4, paragraph 3.

Inequality of treatment in the granting of medical care and maintenance supplement and the limited rights of dependants of non-nationals employed on Norwegian vessels in coastal trade who are not residing in the country have very little significance from the practical point of view. Nevertheless, it is not possible to accept the obligation of the Convention in respect of medical care and sickness benefit as long as the present provisions are maintained.

It is presumed that the provisions of the National Insurance Act concerning daily cash maternity benefit do not constitute any obstacle to Norwegian acceptance of the obligations of the Convention in respect of maternity benefits. The question may arise, however, whether Article 2(1)(c) of the Convention covers benefit to unmarried mothers pursuant to Chapter 12 of the Act; this question requires further consideration before the obligations under the Convention in respect of maternity benefits are accepted.

The regulations of 28 October 1966 prevent the Government from accepting the obligation of the Convention in respect of invalidity benefit, but new regulations will supersede the present regulations. The new regulations will aim at full equality of treatment between Norwegian and foreign nationals.



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The National Insurance Institution is considering the possibility of making a general exemption from the provisions of section 3(3), No. 3, and 3(3), No. 4, so that daily cash sickness benefit in the event of disability for work due to employment injury may be paid abroad.

An important obstacle to accepting the obligations of the Convention in respect of unemployment benefit is the provision of section 4(2), No. 3(h), of the National Insurance Act stating that foreign nationals employed in Norwegian border districts but who are resident in the Realm are not entitled to daily cash benefits during unemployment. The proposal for a new reciprocal agreement between the Nordic countries which probably will be ratified shortly will do away with the discrimination implied by this provision, thus removing this obstacle.

Nevertheless there are still other difficulties: firstly, the agreement as referred to above will be limited to employees in border districts of the Nordic countries; secondly, there exists a certain limitation of rights for non-nationals in certain territories under section 2 of the regulations where non-nationals are insured only if they are employed by Norwegian employers. The Act however provides for the possibility of enacting further regulations so as to remove the difficulties in the application of equality of treatment in such territories, and the Government is working on a proposal for new regulations under the provisions of the Act. However, the Government considers that until the content of the new regulations in this regard is clarified, the acceptance of the obligations under the Convention in respect of unemployment ought not to take place.

### PAKISTAN

The West Pakistan Social Security Ordinance, X/1965 (Gazette of West Pakistan, 17 May 1965, Extra.).

The Employees' Old Age Benefits Act, XIV/1976 (Gazette of Pakistan, Extra., 19 April 1976, p. 216).

The Ordinance provides for medical care, sickness benefit, maternity benefit, invalidity benefit, survivors' benefit and employment injury benefit. The Act provides for old-age benefit.

There is no legislation which provides for unemployment and family benefits.

Under the social security scheme, there is no discrimination between nationals and non-nationals since the benefits are equally available to both of them.

Social security is promoted by joint action of federal and provincial governments.

## EQUALITY OF TREATMENT (SOCIAL SECURITY)

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### PANAMA

Legislative Decree No. 14 of 27 August 1954 to modify Act No. 134 of 27 April 1943, respecting the Social Insurance Fund (Gaceta Oficial (GO), 10 September 1954, No. 12467) (LS 1954 - Pan. 1).

Decree of the Council of Ministers, No. 68 of 31 March 1970 respecting the centralisation by the Social Insurance Fund of compulsory coverage of the risk of unemployment injury for all workers employed by the State and private undertakings operating in the Republic (GO, 3 April 1970) (LS 1970 - Pan. 1).

Act No. 15 of 31 March 1975 to modify Act No. 134 of 27 April 1943 respecting the Social Insurance Fund.

Act No. 72 of 15 December 1975 containing provisions respecting contracts of employment in the construction sector, governed by article 279 of the Labour Code.

The legislation referred to above provides for the granting of the following benefits to nationals and non-nationals working in the country, provided they meet the contribution and other requirements stipulated therein: medical care, sickness and maternity benefits, invalidity, old-age and survivors' benefits, employment injury benefit, family benefit.

Ratification of the Convention is being held up due to the need to revise the following laws: Act No. 14 of 1954, Decree of the Council of Ministers, No. 68 of 1970, Act No. 15 of 1975. For a developing country such as Panama, it is difficult to change the existing social security scheme in order to conform to the provisions of the Convention. Future legislation will be designed to bring the Panamanian social security scheme increasingly in line with the provisions of the Convention.

### PERU

Act No. 8433 of 12 August 1936 respecting compulsory social insurance (LS 1936 - Per. 2).

Act No. 13724 of 18 November 1961 to institute a social insurance scheme for salaried employees (El Peruano (EP), 20 November 1961) (LS 1961 - Per. 3 A).

Legislative Decree No. 19990 of 24 April 1973 to establish the national social security pension scheme (EP, 30 April 1973, No. 9617).

Legislative Decree No. 18846 of 28 April 1971 respecting employment accidents and occupational diseases (EP, 29 April 1971, No. 9013) (LS 1972 - Per. 1 B).

Social Security Agreement between Spain and Peru concluded in Lima on 24 July 1964 (approved by Legislative Resolution No. 17015 of 23 May 1968).

## CONVENTION No. 118

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"Simón Rodríguez" Agreement on socio-labour integration, signed in Caracas on 27 October 1973, and Andean Social Security Instrument which provides for the adoption of basic social security standards by Bolivia, Chile, Colombia, Ecuador, Peru and Venezuela, signed on 18 April 1975.

Acts Nos. 8433 and 13724, and their supplements, provide for the granting of social security benefits to all national and non-national workers, irrespective of their country of origin. Legislative Decree No. 19990 of 1973 provides for the granting of invalidity, old-age and survivors' benefits to all workers, irrespective of nationality.

Legislative Decree No. 18846 of 1971 provides for the compulsory insurance of wage earners employed in the private sector and in undertakings under social ownership, fishermen and workers in domestic service, and wage earners employed in the public sector, irrespective of nationality. There are not yet any unemployment provisions in Peru. Family benefits are provided for under Legislative Decree No. 19847 of 26 December 1972 (article 15) in respect of public service employees. They are also provided for, in very limited terms, in collective agreements between trade unions and employers in the private sector. No distinction is made on the basis of nationality.

The main obstacles to the ratification of the Convention are the lack of agreement and of genuine willingness among the governments of the countries concerned and certain social, economic and political factors in various countries, which the seven signatories of the Andean Pact hope shortly to overcome.

### PHILIPPINES

Act No. 1161 of 20 May 1954 to create a social security system providing sickness, unemployment, retirement, disability and death benefits for employees (LS 1954 - Phi. 1), as amended by Presidential Decree No. 24 of 19 October 1972, No. 177 of 23 April 1973, No. 347 of 23 December 1973 and No. 735 of 27 June 1975, respectively.

Presidential Decree No. 626 of 27 December 1974 (Official Gazette, No. 4, 27 January 1975).

The report refers to this legislation as applying the provisions of the Convention.

### POLAND

Act respecting universal pension security for workers and their families, dated 23 January 1968 (Dziennik Ustaw (DU), 27 January 1968, No. 3, Text 6) (LS 1968 - Pol. 1 A).

Decree of the President of the Committee on Labour and Wages respecting periods of employment on the territory of the Polish State, dated 8 August 1968 (DU, 1968, No. 32, Text 220).

## EQUALITY OF TREATMENT (SOCIAL SECURITY)

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Decree of the Minister of Health and Social Welfare respecting charges for some benefits of the social health service given to non-nationals, dated 28 February 1973 (Dziennik Urzędowy Ministerstwa Zdrowia i Opieki Społecznej, 1973, No. 7, Text 31, and 1975, No. 8, Text 27).

Decree of the Council of Ministers, No. 44, respecting the occupational activities fund, dated 8 February 1974 (Monitor Polski, 11 March 1974, No. 8, Text 55).

Decree of the Minister of Labour, Wages and Social Affairs respecting family benefits, dated 31 May 1974 (DU, 4 June 1974, No. 21, Text 127).

Act respecting accidents at work and occupational diseases, dated 12 June 1975 (DU, 18 June 1975, No. 20, Text 105) (LS 1975 - Pol. 1).

Act respecting the cash social insurance benefits payable in the event of sickness and maternity, dated 17 December 1974 (DU, 20 December 1974, No. 47, Text 280) (LS 1974 - Pol. 6).

Under the legislation listed above sickness benefit, maternity benefit, invalidity benefit, old-age benefit, survivors' benefit, employment injury benefit and family benefit are granted to non-nationals at the same conditions and rate as to Polish citizens if they are employed in the territory of the Polish People's Republic. Non-nationals residing in Poland have the same right to medical care as Polish citizens. Benefits in cash are not transferable abroad unless the contrary is provided for by international agreement.

The ratification of Convention No. 118 has been postponed by the decision of the State's Council of 6 February 1976.

## PORTUGAL

Act No. 2115 of 18 June 1962 to provide the bases for the reform of social welfare (Diário do Governo (DG), 18 June 1962, No. 138, p. 829) (LS 1962 - Por. 4).

Act No. 2144 of 1969 to provide for social security in rural areas (DG, 29 May 1969).

Act No. 2127 of 3 August 1965 to promulgate the basic legal provisions respecting industrial accidents and occupational diseases (DG, 3 August 1965, Series I, No. 172, p. 1071) (LS 1965 - Por. 1).

Legislative Decree No. 759 of 1974 to provide for involuntary unemployment benefit (DG, 30 December 1974, No. 302, Suppl., p. 1646-(1)).

The social security legislation provides for medical care, sickness, maternity, invalidity, old-age, survivors', employment injury, unemployment and family benefits.

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Rural workers, if considered to be non-permanent, come under a special scheme operated by the Homes of the People Provident Fund. The whole system of rural social security for non-permanent workers is, however, now under review, with a view to bringing the existing system into line with that for workers in commerce, industry and services.

Modifications have been embodied in national legislation with a view to giving effect to provisions of the Convention. Therefore, the procedure for the ratification of the Convention has been set in motion.

### ROMANIA

Decree No. 246 of 29 May 1958 respecting medical care regulations.

Decree No. 285 of 6 August 1960 respecting the grant of a children's allowance by the State (Boletinul Oficial (BO), Part I, 10 August 1960).

Resolution No. 880 of 20 August 1965 respecting the grant of benefits under the state social insurance scheme (Colectia, 21 August 1965, No. 3) (LS 1965 - Rum. 1).

Act No. 27 of 28 December 1966 respecting state social insurance pensions and supplementary pensions (BO, 28 December 1966) (LS 1966 - Rum. 2).

In accordance with article 63 of Act No. 27 of 1966 on pensions, citizens of a foreign State and their dependants who are resident in Romania may claim a pension or social assistance allowance in respect of any period they have spent in employment abroad if there is provision to this effect in agreements concluded between Romania and the State in question. In the case of citizens of a foreign State resident in Romania, the payment of the pension is dependent on the place of residence. In the event of their moving their residence to another country, payment of the pension is suspended.

Article 2 of Decision No. 880 of 20 August 1965 stipulates that a person with a contract of employment of unspecified duration is entitled to receive benefits under the state social insurance scheme.

Under Decree No. 246 of 1958, medical care is granted to the entire population free of charge.

Decree No. 285 of 1960 provides for the granting of allowances for all children up to 16 years of age, and up to 18 years of age in cases of invalidity. Decree No. 954 of 1966 further provides for the granting of a maternity benefit from the birth of the third child. Other family allowances are also granted.

## EQUALITY OF TREATMENT (SOCIAL SECURITY)

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### RWANDA

Legislative Decree of 22 August 1974 to organise a social security scheme.

Act of 28 February 1967 to establish a Labour Code (Journal officiel, 1 March 1967, No. 5, p. 107) (LS 1967 - Rwa. 1).

The Legislative Decree to organise a social security scheme deals with the risks of invalidity, old age, death and employment injury and does not establish any discrimination on the basis of nationality. The Labour Code establishes that the employer shall provide free treatment and two-thirds of the wage in the case of a woman's confinement (article 128). It further stipulates that all employers must provide their workers and families with first aid in the event of an accident or sudden indisposition; however, pending the adoption of measures for the implementation of this article, Ordinance No. 22/43 of 23 January 1949 continues to apply. Equality of treatment is granted unconditionally.

Rwanda's economic situation does not permit it to guarantee the effective application of this Convention, particularly as regards unemployment. Although equality of treatment is guaranteed to non-nationals within the country, monetary problems arise when the worker returns to his country of origin. However, an attempt will be made to conclude reciprocal agreements with States in which Rwandan workers are employed or whose nationals are employed in Rwanda. The international standardisation of social security schemes also poses some difficulty with respect to the coverage of certain risks.

As the socio-economic situation of the country evolves, steps will be taken to comply with the provisions of the Convention that are not covered by national legislation or practice.

### SENEGAL

Act No. 73-37 of 31 July 1973 to promulgate a Social Security Code (Journal officiel, 4 August 1973, No. 4308) (LS 1973 - Sen. 1).

The right to social security benefits in respect of the branches on which Senegal has legislation is subject to a condition of residence. However, foreign workers and their legal representatives enjoy the same rights to these benefits if their country of origin has a social security agreement with Senegal or if its legislation accords Senegalese nationals the same rights.

Convention No. 118, if ratified, would oblige Senegal to continue paying benefits to non-nationals when they reside abroad.

## CONVENTION No. 118

### SIERRA LEONE

Workmen's Compensation Act (Laws of Sierra Leone, 1960 ed., Vol. IV, Cap. 219) (LS 1954 - SL 1), as amended by Act No. 18 of 1969 and Act No. 2 of 1971.

Non-statutory schemes such as those of retirement benefit or pension, redundancy compensation and long-service gratuity are operated in the private sector.

Under the Workmen's Compensation Act, an injured workman is paid a lump sum for permanent total incapacity, and a reduced benefit proportionate to the loss of earning capacity for permanent partial incapacity. Dependants of a deceased worker are paid a lump sum in the case of fatal accidents. Employers normally insure liability with private insurance companies.

No modifications have been made in the national legislation or practice with a view to giving effect to the provisions of the Convention. Social security experts have made a feasibility study for the establishment of a national social security scheme covering every industry and sector.

### SINGAPORE

Employment Act (Revised Edition of the Laws, 1970, Ch. 122) (LS 1968 - Sin. 1).

Central Provident Fund Act (*ibid.*, Ch. 121).

Pensions Act (*ibid.*, Ch. 55).

Workmen's Compensation Act, No. 25 of 25 August 1975 (Government Gazette, Acts Supplement, 5 September 1975, No. 30, p. 211).

The national legislation provides for medical care, sickness, maternity, old-age and employment injury benefits. Equality of treatment is granted to nationals and non-nationals under the national legislation.

Medical care, sickness and maternity benefits are provided for under the Employment Act. The medical and hospital fees levied by government and out-patient clinics are presently heavily subsidised, but non-nationals have to pay for medical and hospital fees at non-subsidised rates.

Old-age and employment injury benefits are provided for under the Central Provident Fund Act and the Workmen's Compensation Act, respectively.

No modifications are being proposed to give further effect to all or some of the provisions of the Convention. It is not intended to adopt measures to give further effect to those provisions of the Convention which are not yet covered by the present legislation or practice.

## EQUALITY OF TREATMENT (SOCIAL SECURITY)

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### SOMALIA

Labour Code, Law No. 65 of 1972 (Bolletino Ufficiale (BU), 25 October 1972, No. 10, Supplement No. 3, p. 1114) (LS 1972 - Som. 1).

Act No. 76 of 1972 concerning compulsory insurance against industrial accidents and occupational disease (BU, 27 December 1972, Supplement No. 1).

The local Somali Social Insurance Fund (CASS) does not yet cover all the compulsory insurance objectives stated in article 3 of Law No. 49 (18 August 1970).

The national legislation and practice as well as collective agreements cover medical care, sickness, maternity, old-age and employment injury benefits. The old-age benefit is provided to personnel in civil service and autonomous agencies. There are no schemes of unemployment and family benefits.

No agreement has been concluded with another country as regards social security and mutual benefits.

The whole social security system is under process of consideration with a view to ensuring better conformity with the ILO Conventions and Recommendations concerned.

### SPAIN

Decree No. 2065 of 30 May 1974 to approve the consolidated text of the General Social Security Act (Boletín Oficial (BO), 20 July 1974) (LS 1974 - Sp. 2).

Resolution of the General Department of Welfare of 15 April 1968 concerning equal treatment for nationals and non-nationals (BO, 6 May 1968).

Multilateral Agreement of Quito of 29 November 1958; Bogotá Agreement of 21 April 1964 and bilateral social security agreements.

Article 3 of the Convention. The following legislative provisions refer to the situation of aliens with respect to social security: article 7(4) of Decree No. 2065 of 1974; and resolution of the General Department of Welfare of 1968, adopted with a view to the better application of ILO Convention No. 97, which provides for equal treatment of Spanish and foreign workers, except for own-account workers, frontier workers, artists on short-term contracts in the country and seafarers. These exceptions do not concern the nationals of Latin American countries, Portugal, Brazil, Andorra and the Philippines. The status of nationals of other countries is governed by agreements concluded for the purpose or according to the standards applying to them by virtue of rules of reciprocity, passively or expressly recognised. Reciprocity is recognised in all cases of employment injury and occupational disease; the equal treatment referred to in the resolution of 15 April 1968 applies to all foreigners, whether or not their country of origin has ratified Convention No. 118 or applies the same principle.



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The principle of equal treatment is also included in the Multilateral Agreement of Quito of 29 November 1958 and in the Bogotá Agreement of 21 April 1964, as well as in bilateral agreements with other countries.

Article 6. The granting of family benefits to foreigners whose families reside in another country is subject to the adoption of bilateral agreements on the subject.

Article 7, paragraphs 1 and 2. The provisions of this Article are covered by bilateral agreements.

Article 10, paragraph 1. Although Spain has ratified neither the convention relating to the status of refugees nor the convention relating to the status of stateless persons, the resolution of 15 April 1968 and the provisions of the revised agreement of 1974 between Spain and the Federal Republic of Germany (not yet in force) are applicable to both.

### SRI LANKA

The Medical Wants Ordinance, 1912 (Legislative Enactments of Ceylon, rev. ed., 1956, Vol. VIII, Ch. 226).

The Maternity Benefits Ordinance, 1939 (ibid., Vol. V, Ch. 140).

The Workmen's Compensation Ordinance, 1934 (ibid., Vol. V, Ch. 139).

The Employees' Provident Fund Act, No. 15 of 1958 (The Acts of Ceylon, 1958).

Medical care and sickness benefit: under the Medical Wants Ordinance, hospitals and dispensaries have been established in every district of the country where plantation estates are situated and used by those workers and their dependants. TB allowance is payable to indigent tuberculosis patients and their dependants irrespective of their nationality, for compensation for loss of earnings during treatment and convalescence.

Stateless persons enjoy the same benefits as those of nationals. Leading mercantile firms provide certain facilities for medical care, paid sick leave and reimbursement of medical fee voluntarily or by collective agreements, although there is no statutory protection of mercantile workers.

Maternity benefit: under the Maternity Benefits Ordinance, women workers on plantations are entitled to paid leave for two weeks prior to confinement and four weeks after confinement, together with a cash payment for each confinement. This has been extended to women employees of the city mercantile sector since 1957.

Invalidity, old-age and survivors' benefits: under the Employees' Provident Fund Act, employees who are members of a contributory provident fund are entitled to a lump-sum old-age, invalidity or survivors' benefit. As for the coverage by the scheme there is no distinction between nationals and non-nationals.

## EQUALITY OF TREATMENT (SOCIAL SECURITY)

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Employment injury benefit: under the Workmen's Compensation Ordinance, compensation is payable to workmen or to their dependants irrespective of their nationality in the case of employment injury.

Unemployment and family benefits: there are no schemes concerning unemployment and family benefits.

The essential principles in the Convention are followed in national legislation and practice. It is not however considered possible to ratify the Convention since the country has a large number of immigrants, and the wide coverage of the Convention will impose heavy financial burdens on the Government which now gives urgent priority to economic development.

### SWEDEN

The National Insurance Act (Svensk Författningssamling (SF), 1962: 381) (LS 1962 - Swe. 1, Consolidation: LS 1973 - Swe. 5).

The Family Allowances Act (SF, 1947: 529) (LS 1947 - Swe. 4 A).

Basic retirement pension (old-age, early retirement or survivors' pension) is paid out of public funds to Swedish nationals subject to residence in Sweden. However, a Swede domiciled abroad is entitled to basic retirement pension if he was registered as a Swedish resident between the age of 59 and 62. Non-nationals can only qualify for basic retirement pension under international conventions. Supplementary retirement pension financed by contributions is paid irrespective of nationality and country of domicile. Under a special convention, supplementary pension benefits are computed on more generous terms for insured Swedish and Nordic citizens born before 1924 than for other non-nationals.

Family allowances financed entirely out of the national budget are payable for Swedish children subject to residence in the country. Non-national children qualify for family allowances, subject to residence in the country under guardianship of a person domiciled and registered in the country, or subject to the child being resident with one of his/her parents in the country for at least six months.

The National Social Insurance Board is entrusted with the supervision of public insurance and examination of administrative appeals addressed to it. The National Social Insurance Court deals with appeals against decisions of the Board and is the supreme instance of administrative appeal. The Board of Directors of the National Social Insurance Board includes representatives of workers' and employers' organisations.

No modifications have been made relating to the provisions of the Convention. It is not possible to accept the obligations of the Convention in respect of social security branches of the Convention referring to pension benefits, since a basic retirement pension requires Swedish citizenship and domicile in the country, and exporting such pension and accumulating insurance periods is quite difficult. The Government is therefore endeavouring to give effect to the necessary measures through special social security agreements. Two conventions concluded with Austria and the Federal

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Republic of Germany stipulate qualifying periods which are in accord with the provisions of ILO Convention No. 118. Negotiations for similar conventions are now in progress with several countries including the countries which have ratified the Convention.

### SWITZERLAND

Federal Act of 20 December 1946 respecting old-age and survivors' insurance (Recueil des lois fédérales (RLF), 31 July 1947) (LS 1946 - Swi. 1; LS 1950 - Swi. 1; LS 1953 - Swi. 1; LS 1959 - Swi. 1; LS 1961 - Swi. 1).

Administrative Order of 31 October 1947 under the Federal Act respecting old-age and survivors' insurance (RLF, 1947, p. 1183).

Ordinance of the Federal Council of 14 March 1962 respecting the reimbursement to non-nationals of contributions paid (Recueil systématique du droit fédéral).

Federal Act respecting disability insurance (RLF, 1 October 1959) (LS 1959 - Swi. 1; LS 1967 - Swi. 1).

Regulations of 17 January 1961 under the Act (of 19 June 1959) respecting disability insurance (RLF, 19 January 1961).

Federal Act of 19 March 1965 respecting supplementary old-age, survivors' and disability insurance benefits (RLF, 29 July 1965).

Ordinance of the Federal Council of 15 January 1971 respecting supplementary benefits (RLF, 15 January 1971).

Federal Act of 13 June 1911 respecting sickness and accident insurance (Recueil systématique du droit fédéral).

Federal Act of 13 March 1964 to amend the first Title of the foregoing Act (RLF, 26 November 1964).

Ordinance of 9 March 1954 respecting insurance against occupational accidents and the prevention of accidents in agriculture (RLF, 11 March 1954) (LS 1954 - Swi. 1).

Federal Act of 20 June 1952 to prescribe a scheme of family allowances for agricultural workers and mountain peasants (RLF, 16 October 1952) (LS 1952 - Swi. 1).

Regulations of 11 November 1952 under the aforementioned Federal Act (RLF, 13 November 1952).

Federal Act of 22 June 1951 respecting unemployment insurance (RLF, 22 December 1951) (LS 1951 - Swi. 1).

Switzerland has endeavoured to lift restrictions regarding social insurance in respect of foreign workers by signing multi-lateral or bilateral agreements.

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As regards old-age, survivors' and invalidity insurance, the ratification of Convention No. 118 would entail the virtual elimination of legal provisions regarding foreigners. The only requirement that could still be made of them would be a period of residence in Switzerland in order to receive the special benefits and benefits that are supplementary to the federal old-age and survivors' insurance and invalidity insurance. If it ratified the Convention, Switzerland would moreover undertake to pay special and supplementary benefits not only to Swiss nationals domiciled on the territory of contracting States but also to the nationals of those States. An undertaking such as this would jeopardise the financial balance of these schemes and render the pro-rated benefits system introduced in 1960 meaningless. A general reservation must also be made with respect to compulsory occupational insurance until the federal Bill on occupational insurance has received its final form.

Switzerland could accept the obligations of the Convention with respect to employment injury benefit, since the standards indicated are virtually the same as those of the Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18), and the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19).

The Confederation is not authorised to prohibit sickness insurance funds from discriminating in certain ways against foreign workers, particularly in the vast domain of collective contracts. As a result, it is impossible for Switzerland to ratify the Convention with respect to this branch of social security, although in practice foreign workers are treated on an equal footing with nationals.

The federal family allowance scheme for agriculture does not discriminate in any way on the basis of the nationality of the children and grants allowances to children residing abroad. This scheme conforms entirely to the requirements of Convention No. 118. However, certain cantonal family allowance schemes, also covered by the Convention, include minor restrictions with respect to the children of foreign workers when residing outside Switzerland. Although all cantonal schemes recognise the right of children residing abroad to family allowances, irrespective of their nationality, certain restrictions exist with respect, inter alia, to the age of the beneficiaries and the amount of the benefits.

Under unemployment insurance legislation currently in force, foreign workers with a yearly work permit who are qualified for work and who have lived for at least a year without interruption in Switzerland are entitled to take out unemployment insurance, which means that they are not treated altogether on an equal footing with nationals.

Switzerland is not in a position to accept the obligations of Convention No. 118 with respect to the branches of social security as a whole. It could only do so in respect of employment injury benefit. However, it would not seem desirable for it to ratify this international instrument for a single branch, especially since two ILO Conventions which are virtually equivalent in this respect and have been ratified by Switzerland already guarantee equality of treatment in respect of employment injury benefits. Unlike Convention No. 118, the two other ILO instruments do not have the disadvantage of embodying certain restrictions on the principle of reciprocity. Switzerland therefore prefers to develop its network of bilateral or multilateral agreements which enable it to settle

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directly with each State problems of equality of treatment, reciprocity, maintenance of rights in course of acquisition, right to benefits and the payment of benefits outside the country. With regard to family allowances, the Confederation has requested the cantons to eliminate the few cases of discrimination that still exist against children of non-nationals residing outside the country and asked for authorisation to include cantonal schemes in bilateral social security agreements. However, such steps have not received the unanimous approval of the cantonal authorities.

### TRINIDAD AND TOBAGO

Act No. 35 of 10 November 1971 respecting national insurance.

The Act provides for payment of benefits for sickness, maternity, invalidity, funeral, retirement, survivorship and employment injury.

The social insurance system has been in operation for nearly four years, but due to the fact that the final stage of its development has not taken place, the ratification of the Convention is delayed.

The adoption of measures for giving effect to the provisions in the Convention that are not yet covered by the national legislation are not contemplated at the moment.

### TUNISIA

Act No. 57/73 of 11 December 1957 respecting the system of compensation for industrial accidents and occupational diseases (Journal officiel (JO), 20 December 1957, No. 43) (LS 1957 - Tun. 1).

Act No. 60/30 of 14 December 1960 respecting the organisation of social security schemes (JO, 13-16 December 1960, No. 57) (LS 1960 - Tun. 1 A).

Act No. 60/33 of 14 December 1960 to establish an invalidity, old-age and survivors' pensions scheme in the non-agricultural sector (JO, 13-16 December 1960, No. 57) (LS 1960 - Tun. 1 B).

Decree No. 74-499 of 27 April 1974 respecting the invalidity, old-age and survivors' pensions scheme in the non-agricultural sector (JO, 30 April-3 May 1974, No. 30).

National legislation applies to all workers benefiting from social security in Tunisia, irrespective of nationality.

With regard to foreign beneficiaries of pensions, the condition of residence in Tunisia imposed by the pension scheme is waived for nationals of countries which have signed a reciprocal treaty with Tunisia by virtue of their ratification of an international convention along similar lines (article 49 of Decree No. 74-499). Where

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the alien beneficiary of a pension in respect of industrial accidents ceases to be resident in Tunisia, he receives a lump sum in full settlement equal to three times the pension awarded to him (article 32 of the Act of 11 December 1957).

Act No. 60/30 of 14 December 1960 does not specifically provide for the payment of death grants in the event of residence abroad. In the case of old-age, invalidity and survivors' benefits, residence in Tunisia at the time of the request is required from all persons benefiting from social insurance, including Tunisians, save in the case of a bilateral reciprocal agreement. Family allowances may be paid in respect of children residing abroad if the foreign wage earner is a national of a State which has concluded a corresponding reciprocal agreement with Tunisia (article 52 of Act No. 60/30 of 14 December 1960).

Under present economic conditions, it is not possible to introduce unemployment insurance, since full employment is not guaranteed in all sectors of the Tunisian economy.

### UGANDA

The Social Security Fund Act, No. 21 of 21 October 1967 (Uganda Gazette, 27 October 1967, No. 43, Supplement, p. 211) (LS 1967 - Ug. 1).

In order to be covered by the social security scheme, workers must be in paid employment, reside in the country and belong to a specified age group. Non-national workers must have been in the country for at least three years before they can be covered by the scheme. This requirement is intended to avoid administrative difficulties, including the frequent payment of emigration benefits in respect of short duration of employment of non-nationals.

The provision of the Act empowering the Minister of Labour to admit non-national employees to the Fund, and those concerning the possibility of concluding reciprocal arrangements for social security coverage, envisage that non-nationals employed in Uganda may eventually obtain membership of the Fund.

No modifications have been made in the national legislation to give effect to all or some of the provisions of the Convention.

There are some problems which delay the ratification of the Convention. The Government will consider the ratification of the Convention when the present scheme, a provident fund scheme, is converted into social insurance, which will enable it to cover non-nationals according to the requirement of the Convention. It will then consider the possibility of establishing reciprocal arrangements with neighbouring countries whose nationals work in Uganda. At the appropriate time, the Government will adopt in stages the measures necessary to give effect to the provisions of the Convention.

UKRAINIAN SSR

The Constitution of the Ukrainian SSR.

Labour Code of the Ukrainian SSR of 10 December 1971.

Public Health Act of 15 July 1971.

National Pension Act of 14 July 1956 (Vedomosty Verkhovnogo Soveta SSSR, 28 July 1956, Text 313) (LS 1956 - USSR 4).

Act respecting pensions and allowances for members of collective farms of 15 July 1964 (Vedomosty, 18 July 1964, No. 29, Text 340) (LS 1964 - USSR 1).

Regulations respecting the granting and payment of benefits on state social insurance of 5 February 1955 (Sotsialnoe obespechenie i strakhovanie v SSSR, 1972, p. 54).

Regulations respecting the granting and payment of social insurance benefits to members of collective farms. Confirmed by Ordinances of the Union Council of Collective Farms, 4 March 1970, and All-Union Central Council of Trade Unions, 15 April 1970 (Sotsialnoe obespechenie i strakhovanie v SSSR, 1972, p. 106).

Regulations respecting the granting and payment of allowances to pregnant women, single mothers and mothers with large families of 12 August 1970 (Sobranie Postanovleniy SSSR, 1970, No. 15, Text 123).

Regulations respecting the granting and payment of the state pensions of 3 August 1972 (Sobranie Postanovleniy SSSR, 1972, No. 17, Text 86).

Fundamental principles governing the labour legislation of the USSR and the Union Republics of 15 July 1970 (Vedomosty, 22 July 1970, No. 29, Text 265) (LS 1970 - USSR 1).

Under the legislation listed above, medical care, old-age benefit, sickness benefit, maternity benefit, invalidity benefit, survivors' benefit, employment injury benefit and family benefit are granted to non-nationals at the same conditions and rates as to nationals.

Legislation does not provide any regulations for unemployment benefits because unemployment has been abolished.

The payment of pensions to citizens of the USSR who move to capitalist countries either permanently or temporarily is suspended during the period when they are abroad. Before departure from the USSR they receive a pension in advance in Soviet currency which is equal to six months of benefit.

The invalidity pension granted in case of work injury or occupational disease is paid, however, without interruption. Other kinds of pensions to eligible persons who left the country before 1 October 1958 are also paid.

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According to section 181 of the Regulations respecting the payment of state pensions, non-nationals who move abroad either permanently or temporarily get their pensions in exactly the same way as pensioners who are citizens of the USSR and go to live abroad.

Articles 5 to 13 are covered by the bilateral agreements of the USSR with Bulgaria, Czechoslovakia, Hungary and Romania, and the pact with the German Democratic Republic.

### USSR

The Constitution of the USSR and the Constitution of the Union and Autonomous Republics.

Fundamental principles governing the labour legislation of the USSR and the Union Republics of 15 July 1970 (Vedomosty Verkhovnogo Soveta SSSR, 22 July 1970, No. 29, Text 265) (LS 1970 - USSR 1).

Fundamental principles governing the health legislation of the USSR and the Union Republics of 19 December 1969 (Vedomosty, 1969, No. 15, Text 313).

Act respecting pensions and allowances for members of collective farms of 15 July 1964 (Vedomosty, 18 July 1964, No. 29, Text 340) (LS 1964 - USSR 1).

Regulations respecting the granting and payment of allowances to pregnant women, single mothers and mothers with large families of 12 August 1970 (Sobranie Postanovleniy SSSR, 1970, No. 15, Text 123).

Regulations respecting the granting and payment of the state pensions of 3 August 1972 (Sobranie Postanovleniy SSSR, 1972, No. 17, Text 86).

Articles 1 to 4 of the Convention. The legislation listed above does not make any distinction between citizens of the USSR and foreigners and applies equally to both.

Article 2, section 1. (a) Medical care. Under section 32 of the Fundamental principles governing the health legislation of the USSR and the Union Republics, non-nationals permanently resident in the USSR have the same right to medical care as citizens of the USSR.

(b) Sickness benefit. Under sections 100 to 102 of the Fundamental principles governing the labour legislation of the USSR and the Union Republics, all wage earners and salaried employees are covered by compulsory state social insurance.

(c) Maternity benefit. Under section 70 of the Regulations respecting the granting and payment of benefits on state social insurance, maternity benefits are paid at rate of full wage to all women irrespective of length of service. Non-nationals have the same rights.

(d) Invalidity benefit; (e) Old-age benefit; and (f) survivors' benefit. Under section 1 of the state pension law these kinds



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of benefits are granted to non-nationals at the same conditions and rates as to citizens of the USSR.

(g) Employment injury benefit. See under branch "sickness benefit" above.

(h) Unemployment benefit. Because unemployment has been abolished there is no base for the unemployment allowance envisaged in Article 2.

(i) Family benefit. Non-nationals have the same rights as citizens of the USSR.

According to section 181 of the Regulations respecting the granting and payment of state pensions, non-nationals who move abroad either permanently or temporarily get their pension in exactly the same way as pensioners who are citizens of the USSR and go to live abroad.

The payment of the pensions to citizens of the USSR who move to capitalist countries either permanently or temporarily is suspended during the period when they are abroad. Before departure from the USSR they receive a pension in advance in Soviet currency which is equal to six months of benefit.

The invalidity pension granted in case of work injury or occupational disease is paid, however, without interruption. Other kinds of pensions to eligible persons who left the country before 1 October 1958 are also paid.

Articles 5 to 13 are covered by the bilateral agreements with Bulgaria, Czechoslovakia, Hungary and Romania, and the pact with the German Democratic Republic.

### UNITED KINGDOM

In the United Kingdom the matters dealt with in the Convention are covered by EEC Regulations Nos. 1408/71 and 574/72, which implement multinational agreements between the EEC member States, and bilateral agreements which exist between the United Kingdom and a number of non-Community countries (Journal officiel des Communautés européennes, Législation, No. L 149, 5 July 1971; *ibid.*, No. L 74, 27 March 1972).

Article 2.1 of the Convention. All the benefits listed at (a) to (i) are covered by the EEC Regulations. Bilateral agreements, on the whole, cover the majority of benefits but with individual limitations and exclusions which have been found necessary.

Article 2.6(a). Of those benefits listed, medical care and family benefits do not depend on the payment of contributions by either employee or employer nor on a qualifying period of work.

Article 3. The EEC Regulations provide for equality of treatment and protection of benefit rights for nationals of the EEC member States and also provide for periods of insurance, employment, or residence in one member State to be taken into account for the

## EQUALITY OF TREATMENT (SOCIAL SECURITY)

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purpose of benefit claimed in another. Many of the bilateral agreements do actually contain an article specifically granting equality of treatment under the legislation of each country for the nationals of either country. However, since the fundamental object of these agreements is to give equality of treatment, those which do not have nationality clauses do in fact provide wider cover since they also provide cover for non-nationals.

Article 4. The legislation of the United Kingdom contains provisions for the granting of benefits based only on actual insurance periods. There are therefore no residence conditions. The reciprocal agreements with countries having a residence-based scheme enable residence in the United Kingdom to count as residence in the other country for the purpose of a claim to benefit. Most of the other agreements have contribution rather than residence conditions and again current practice is in line with the provisions of the Convention.

Article 5. The EEC Regulations allow invalidity, old-age, survivors', death and employment injury benefits to be paid abroad subject to the satisfaction of conditions which vary with each benefit. Under the bilateral agreements the United Kingdom can be said to be paying only survivors' benefit without restriction. Old-age benefit is very often restricted by the "frozen" pension policy whilst various conditions can apply before payment of invalidity and employment injury benefits can be made abroad, added to which employment injury is often not included at all.

Article 6. The EEC Regulations allow the payment of family benefit in one member State for children resident in the territory of another member State on condition that the mother is resident with the children.

Article 7. The stated objects are both accepted and practised by the EEC member States.

The United Kingdom continues to encourage the implementation of bilateral agreements with other States covering as far as possible the provisions of the Convention. There has been no change in the United Kingdom's position on this Convention since the publication of the White Paper on it in 1963 which stated that the Government supported the principle of safeguarding the social security rights of migrant workers but considered that the right way of doing this is to conclude bilateral and small multilateral reciprocal agreements with the various countries concerned.

The difficulties that have been encountered and envisaged in consideration of the possibility of ratifying the European Convention on Social Security of the Council of Europe although the social security schemes of the countries concerned are quite similar in their coverage, lead the United Kingdom Government to hold the view that this Convention, which can embrace a great number of social security schemes at various stages of development, is fundamentally too wide in approach to be acceptable.

### Antigua

The Social Security Act, No. 3 of 11 July 1972, and Regulations Nos. 40, 41, 42 and 43 of 1973.

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Social Security (Sickness Benefits) Regulations, 1973 [Statutory Rules and Orders, No. 42].

Social Security (Maternity Benefits) Regulations, 1973 [Statutory Rules and Orders, No. 43].

Social Security (Age Pensions and Grants) Regulations, 1973 [Statutory Rules and Orders, No. 40].

Social Security (Survivors' Benefits) Regulations, 1973 [Statutory Rules and Orders, No. 41].

The above legislation covers sickness, maternity, old-age and survivors' benefits. All persons who are gainfully employed in insurable employment must be insured under the Act and they are eligible for benefits. These benefits are payable to the insured who satisfy the qualifying conditions prescribed in the above Regulations.

No modifications have been made in national legislation or practice with a view to giving effect to the provisions of the Convention. There are no difficulties or reasons to prevent or delay the ratification of the Convention. It is intended to adopt missing measures to give effect to the provisions of the Convention. In fact, Social Security (Invalidity Benefits) Regulations are now being drafted and are expected to come into effect shortly.

### Bermuda

The Hospital Insurance Act, No. 523 of 24 December 1970 (Public Acts, 1970, p. 443).

The Contributory Pension Act, No. 283 of 18 December 1967 (*idem*, 1967, p. 321).

The Workmen's Compensation Act, No. 25 of 1 May 1965 (*idem*, 1965, p. 45).

The Hospital Insurance Plan provides health insurance for all residents in Bermuda. The Government provides free standard hospital benefit for any child up to age 16 and at 20 per cent of the total cost for anyone over 65 who has been resident for a continuous period of not less than five years. Employers with three or more employees must contract hospital insurance for every such employee and their non-employed wives, and should pay at least half of the premium.

The contributory pension scheme covers everyone over the age of 16 who is gainfully occupied in Bermuda for more than four hours a week. Under the above Act, a contributory old-age pension or a contributory widow's allowance is payable to an insured person or a widow if conditions as regards contributions are satisfied (and, as regards widows, as to marriage) - otherwise, an old-age gratuity or a widow's gratuity is payable. A non-contributory old-age pension is also payable under the Act to anyone living in Bermuda who has reached the age of 65 and holds Bermudian status, or has been ordinarily resident for at least ten years before his application for a pension.

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Under the Workmen's Compensation Act, compensation is paid to all manual workers and non-manual workers (earning a salary of not more than \$7,000 a year) for employment injury by the liability of employers.

It is not possible to ratify the Convention since it covers certain areas of social security that go beyond the scope of national legislation and practice, and it is not intended to adopt necessary measures to give effect to the provisions of the Convention at present.

### British Virgin Islands

The Workmen's Compensation Ordinance, No. 1 of 1962.

Under the Ordinance, compensation to workmen for employment injury is payable for partial total incapacity and death by the liability of the employer.

No modifications have been made in the legislation with a view to giving effect to the provisions of the Convention. It is, however, intended to adopt measures to provide for some of the provisions of the Convention.

### Brunei

The Workmen's Compensation Enactment, No. 5 of 21 February 1957.

The Labour Enactment, No. 11 of 1954.

The Labour (Maternity Benefit) Rules, 1955.

The State Pensions Enactment, No. 10 of 1954.

The majority of employers who employ the many non-national immigrants are required to provide free medical care and attention coupled with full sickness wages during their period of employment in the State under their contracts. Medical care and sickness benefits are also provided to workers in the event of employment injury without discrimination between nationals and non-nationals.

There is no compulsory sickness benefit scheme. The Government and the oil company, however, pay sickness wages to their employees for a specified period depending upon their length of service.

Maternity benefit is paid to a female "worker" as defined in the Labour Enactment, irrespective of nationality. All necessary charges for confinement are free in the public wards of Brunei's National Hospital for nationals and non-nationals resident in the State.

Invalidity benefit is paid without any discrimination between nationals and non-nationals in the event of employment invalidity. Under the State Pensions Enactment, a non-contributory invalidity pension scheme provides various pensions and allowances such as disability pensions and allowances for special diseases. Such benefits are payable to the invalid and/or his dependants on their needs, subject to age and residential qualifications.

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The State Pension Enactment provides for a non-contributory old-age pension scheme. Under the scheme, all persons at age 60 are entitled to receive a pension, provided that they were either born in the State and have resided there for 10 years, or were born outside of the State but have resided there for 30 years.

Survivors' benefit is provided in the form of a lump sum under the workmen's compensation scheme, subject to age and residential qualifications, although there is no compulsory widow's and orphan's benefit scheme.

There is no compulsory employment injury benefit scheme other than workmen's compensation schemes which apply to both nationals and non-nationals. The Social Welfare Department can provide benefits to injured workers who may fail to come within the scope of the employment injury benefit on their needs, subject to age and residential qualifications.

There is no unemployment benefit scheme or family benefit scheme.

The Government intends to conform gradually with some branches of the Convention, although it reserves its decision on the application of the Convention. No further measures are contemplated to conform with the Convention at present.

### Dominica

The National Provident Fund Act, No. 18 of 1970 (Official Gazette, 1 October 1970, Suppl.), amended by Act No. 11 of 1971.

It is intended to adopt measures to give effect to those provisions of the Convention not yet covered by national legislation or practice.

### Falkland Islands

Old Age Pensions Ordinance, No. 3 of 14 March 1952 [as amended since] (LS 1952 - Fal. 1).

Non-Contributory Old Age Pensions Ordinance, No. 3 of 28 June 1961 [as amended since].

Family Allowances Ordinance, No. 9 of 6 October 1960 [as amended in 1968].

Workmen's Compensation Ordinance, No. 1 of 25 May 1960 [as amended since].

A non-contributory old-age pension scheme provides pensions for old people excluded from the compulsory contribution old-age pension scheme, which covers all employers and employees.

Workmen's compensation, old-age pensions, family allowances and public assistance are adequate provided for, but payment of these benefits - except public assistance - depends upon qualifying conditions such as contribution and a period of residence in the territory. It is impossible to provide all the branches of social

## EQUALITY OF TREATMENT (SOCIAL SECURITY)

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security listed at paragraph 1 of Article 2 since the population of the territory is fewer than 1,800. However, the Government will examine the possibility of affording a wider range of benefits shortly.

No modifications have been made in the legislation of the territory with a view to giving effect to all or some of the provisions of the Convention. The adoption of such measures is not intended at the present stage.

### Gibraltar

The Social Insurance Ordinance (Cap. 145).

The Employment Injuries Insurance Ordinance (Cap. 49).

The Non-Contributory Social Insurance Benefit and Unemployment Insurance Ordinance (Cap. 113).

The Family Allowances Ordinance (Cap. 58).

The Elderly Persons (Non-Contributory) Pensions Ordinance, No. 27 of 1973 (Gibraltar Gazette, 16 November 1973, No. 1472, First Suppl.).

The Group Practice Medical Scheme Ordinance, No. 14 of 23 May 1973.

The above ordinances apply to both nationals and non-nationals with no distinction in respect of such conditions as coverage, contribution and residence, prescribed in order to be entitled to all benefits except sickness and invalidity benefits listed at paragraph 1 of Article 2 of the Convention.

No modifications have been made in the national legislation or practice specifically with a view to giving effect to all or some of the provisions of the Convention.

There would appear to be no difficulty in accepting the obligations of the Convention in respect of (a), (c), (e), (f), (g) and (h) of the social security branches listed at Article 2 of the Convention. However, serious obstacles would arise mainly of an administrative nature for unqualified guarantee to the implementation of Article 5.1 of the Convention. It is not possible to accept the obligations of the Convention in respect of family benefit, which is financed from government revenue, since Article 6 of the Convention would place an intolerable burden on Gibraltar. Article 7 will be studied carefully before acceptance, but serious difficulties are not envisaged. Such arrangements largely apply under a bilateral agreement with the United Kingdom and under EEC Social Security Regulations with the other EEC member States.

It is not intended to adopt necessary measures in the foreseeable future to give effect to those provisions of the Convention not yet covered by the national legislation or practice.

### Guernsey

Social Insurance (Guernsey) Law, 1964, as amended (Orders in Council, Vol. XIX, 1962-64, p. 288).

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Social Insurance (Residence and Persons Abroad) (Guernsey) Regulations, 1964 (Guernsey Statutory Instruments, 1964, No. 24).

Family Allowances (Guernsey) Law, 1950 (Orders in Council, No. XI, 1950).

Article 2 of the Convention. Maternity benefit and death grant are included in the social security legislation. A pharmaceutical scheme is introduced whereby all residents in Guernsey are entitled to the supply of drugs on payment of a prescription fee of 25p per item dispensed.

Articles 3 and 4. The authority will submit a report to the States which will include recommendations that the same residence test be imposed on all persons claiming family allowances regardless of their nationality.

Article 7. The States of Guernsey are at all times prepared to enter into reciprocal agreements on social security.

### Hong Kong

The Employment Ordinance (Laws of Hong Kong, revised edition, 1970, Ch. 57) (LS 1968 - HK 1).

The Workmen's Compensation Ordinance (*ibid.*, Ch. 282).

The benefits and medical services are provided to both nationals and non-nationals alike. Certain welfare benefits are provided subject to residential qualifications, but there is no discrimination as regards nationality.

Under the Employment Ordinance, paid sickness leave is provided to all manual and non-manual workers earning not more than a certain amount, and maternity leave is provided to female employees subject to certain conditions.

Under the Workmen's Compensation Ordinance, compensation for employment injury or death is provided to all manual workers and non-manual workers with average earnings not exceeding a certain amount.

### Jersey

Health Insurance (Jersey) Law, No. 12 of 8 June 1967.

Social Security (Jersey) Law, No. 22 of 20 September 1974.

Jersey has not ratified the Convention for reasons similar to those of the United Kingdom, and prefers to give effect to the provisions of the Convention through bilateral and multilateral conventions more suited to its particular circumstances.

### The Isle of Man

United Kingdom social security legislation and regulations have been applied to the Isle of Man. The rate of benefits and qualifying conditions are therefore the same as those in the United Kingdom.

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As regards questions III(a), (b) and (c) the United Kingdom practice is followed in the Isle of Man.

### Montserrat

The Workmen's Compensation Ordinance (Revised Laws, 1959 ed., Cap. 323).

The National Provident Fund Ordinance, No. 14 of 1972.

Old-age, invalidity and survivors' benefits and employment injury benefit are provided. Some of the other benefits listed at paragraph 1 of Article 2 of the Convention are dealt with by regulations arising out of local standards and practice at the administrative level.

No modifications have been made in the legislation with a view to giving effect to the provisions of the Convention.

It is not possible to afford some of the benefits listed at paragraph 1 of Article 2 of the Convention under the present economic development stage, even for nationals. Where, however, benefits do exist, they extend to both nationals and non-nationals alike.

### St. Helena

Workmen's Compensation Ordinance, No. 3 of 26 June 1946, as amended.

No question can arise about equality of treatment since the benefits referred to in the Convention are not available except for those provided by the Workmen's Compensation Ordinance, and since there is no imported labour.

### Seychelles

The Employment of Servants Ordinance, No. 25 of 1945, as amended.

The Employment Benefits Ordinance, No. 20 of 1965 and No. 34 of 1965 (Government Gazette (GG), 26 July 1965, Suppl.; 1 January 1966, No. 1, Suppl.).

The Workmen's Compensation Ordinance, No. 12 of 1970 (GG, 9 October 1970, Suppl.).

The National Provident Fund Ordinance, No. 4 of 1971 (GG, 22 March 1971, No. 15).

Under the above ordinances, all branches of social security except unemployment and family benefits (these two benefits have not been introduced yet) listed at paragraph 1 of Article 2 of the Convention are provided to both nationals and non-nationals.

No modifications have been made in the national legislation or practice to give effect to the provisions of the Convention. It is difficult to state the sort of difficulties which might prevent or delay the ratification of the Convention as social security benefits are still at an early stage of development. There is no proposal to adopt necessary measures specifically to give effect to the provisions of the Convention.



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### Solomon Islands

Workmen's Compensation Ordinance (Cap. 77).

Solomon Islands National Provident Fund Ordinance, No. 3 of 1973.

Labour Ordinance (Cap. 75), section 80(2).

Pension Ordinance (Cap. 110).

Free medical care is provided by the Government, churches and one private employer. Medical aid is also provided by other establishments.

Many employers allow paid sick leave although there is no statutory provision for sickness benefit.

Section 80(1) and (2) of the Labour Ordinance provides that an employed woman is entitled to be paid maternity benefit by her employer at not less than 25 per cent of the wages which she would have earned, during her absence from work. However, there has been some controversy over this section.

No benefit is provided for invalidity, old age or survivorship - except in so far as payments may be made from the Provident Fund.

The limited benefits of the Workmen's Compensation Ordinance are applicable to employment injuries.

The principle of redundancy or severance allowances is becoming general practice, although there is no statutory unemployment benefit.

Apart from the provisions of the Provident Fund, there is no family benefit.

There are many difficulties related to the society or economy which prevent or delay the ratification of the Convention. In the context of present developments it is not possible to say whether it is intended to adopt measures to give effect to those provisions of the Convention not yet covered by national legislation or practice.

### UNITED STATES

The Social Security Act (United States Senate, Committee on Finance, US Government Printing Office, 1976).

Articles 2 and 3 of the Convention. Medical care. All persons covered by the national old-age, survivors', disability and health insurance (OASDHI) programme who have attained age 65 are compulsorily covered in respect of hospital, convalescent and related benefits. Medical protection may also cover all citizens; non-nationals permanently resident who are 65 years or over but are not eligible for compulsory protection may voluntarily insure. In addition, a supplementary medical insurance benefits programme is available to all citizens and permanently resident non-nationals on a

## EQUALITY OF TREATMENT (SOCIAL SECURITY)

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subscription basis, for five years or more, on attaining the age of 65. The five-year residence requirement for them has however been successfully challenged on constitutional grounds in lower federal courts and a final decision by the Supreme Court is pending.

Sickness benefit. There are compulsory programmes in five states and in Puerto Rico, and a federal programme for railroad workers. These programmes normally provide benefits irrespective of nationality.

Invalidity, old-age and survivors' benefits. Under the OASDHI programme, more than 90 per cent of the economically active population and their dependants are ordinarily covered irrespective of nationality with regard to coverage and benefits. Certain conditions may apply to the payment of benefit to non-nationals living outside the United States.

Employment injury benefit. Legislation exists in the 50 states, the District of Columbia and in Puerto Rico. Coverage extends to all employment covered by the various laws, and payments to workers in respect of claims are ordinarily made irrespective of nationality in the United States; but residence outside the United States may affect the entitlement of non-nationals.

Unemployment insurance. Legislation exists in the 50 states, the District of Columbia and in Puerto Rico. Coverage under the federal law and the several state laws depends primarily on the number of employees and type of services provided. Nationality and residence do not ordinarily influence coverage of an employer or employee's entitlement to benefits.

The exclusion from coverage of workers aboard foreign vessels and aircraft applies equally to US citizens.

Article 4. The benefits under the compulsory governmental programme of social security is normally granted without any condition of residence. A condition of five years' residence for non-nationals is applied to gratuitous benefits and the voluntary supplementary medical insurance programme (see under "medical care", in fine).

Article 5. Old-age, survivors' and invalidity benefits are payable abroad without restriction to nationals and non-nationals alike whose countries pay benefits to US nationals outside their territories without restriction. Under the state employment injury benefit programmes, payments of death benefits for non-nationals vary between states; some states pay death benefits to non-resident dependants on a reduced basis or in a reduced amount; some exclude payments to them or pay the benefits to them on an equal basis with resident dependants. There are treaties with 19 countries mutually guaranteeing non-resident alien workers the same rights and privileges under employment injury schemes.

Article 6. No family benefit under social insurance.

Article 7. There is no international scheme in force for the maintenance of acquired rights and rights in the course of acquisition. Two signed bilateral agreements which provide for limited co-ordination in the field of old-age, survivors' and disability insurance are pending approval by Congress.

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Article 8. Convention No. 48 not yet ratified.

Article 9. Eight bilateral treaties providing for national treatment of other contracting parties apply only to indemnity for employment injury, while 11 apply to all types of social security measures. Under the constitutional systems, the subject-matter of the Convention is appropriate for action partly by the Federal Government and partly by states. On 13 December 1963, the Secretary of State referred Convention No. 118 to the Congress of the USA with a statement of the position of the Federal Government. The position was that federal legislation in respect of the provisions of the Convention appropriated for federal action were not in conformity with several provisions, and the legislation would require amendment to accord with them; but the Federal Government was not prepared to recommend the necessary amendments at that time.

### UPPER VOLTA

Act No. 13/72/AN of 28 December 1972 to establish a social security code for employees (Journal officiel, 13 February 1973, No. 7, Extraordinary) (LS 1972 - Vol. 1).

To a large extent, national legislation and practice conform to the provisions of the Convention. However, its ratification would require minor amendments to legislation which the Government does not consider opportune at present.

### URUGUAY

Constitution of the Republic.

Act No. 14407 to establish the Invalidity Social Security Administration, dated 15 July 1975 (Diario Oficial (DO) of 31 July 1975).

Act No. 12572 to institute maternity aid, dated 23 October 1958.

Act No. 12138 to extend the Retirement and Survivors' Pension Fund Scheme for Industry and Commerce to all persons exercising lawful remunerated activities, dated 13 October 1954 (Revista de la Caja de Jubilaciones y Pensiones de la Industria y Comercio, October-December 1954, pp. 22-23).

Act No. 11617 respecting retirement and survivors' pensions of rural and domestic workers, dated 20 October 1950 (DO, 21 November 1950) (LS 1950 - Ur. 2).

Act No. 10004 respecting industrial accidents and occupational diseases, dated 28 February 1941 (DO, 17 March 1941) (LS 1941 - Ur. 1).

Act No. 12570 to establish the Unemployment Insurance Scheme, dated 15 October 1958 (DO, No. 15541 of 5 November 1958).

The general principle underlying the whole juridical system is non-discrimination between nationals and aliens (article 67 of the Constitution).

## EQUALITY OF TREATMENT (SOCIAL SECURITY)

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Acts Nos. 12138, dated 13 October 1954, 2910, dated 14 October 1904, 2436, dated 28 May 1896 and 11617, dated 20 October 1950, dealing, respectively, with industry and commerce, civil pensions, the teaching profession and rural and domestic workers, do not contain any provisions discriminating against beneficiaries on the grounds of nationality.

However, as far as survivors' pensions for aliens are concerned, s. 13(1) of Act No. 13426 requires a minimum of ten years' residence in the country, for both the worker and his survivors.

As far as the entitlement to retirement pensions is concerned there are some limitations as regards absence from the country which apply to nationals as well as to aliens (ss. 113, 114 and 115 of Act No. 9940, dated 2 June 1940, concerning civil and retirement pensions; as regards the Industry and Commerce Fund, s. 36 of Act No. 6962, dated 6 October 1919, as amended by s. 134 in the final part of Act No. 12761, dated 23 August 1960).

This latter scheme excludes specialised technicians and officials contracted by national undertakings, persons exercising honorary functions of an official nature in consulates, delegations, etc., and persons who for duly attested reasons of health have to establish their residence permanently or temporarily outside the territory of the Republic (section 3 of Legislative Decree No. 9401, dated 15 May 1934). In addition, there is a general rule regarding leave of absence to go abroad which is regulated by a Decree dated 18 March 1935.

The agreements concluded with the Argentine Republic and the Republic of Paraguay stipulate that the financial social security benefits granted under the legislative provisions of one or both of the contracting parties will not be subject to reduction, suppression or cancellation based on the fact that the beneficiary is residing in the other country that is party to the agreement.

The Organic Law of the Invalidity Social Security Administration (ASSE), Act No. 14407, dated 22 July 1975, makes no distinction between nationals and aliens.

Payment of family benefits is conditional upon the residence in the country of the respective recipients and beneficiaries without a requirement as to a minimum period of residence prior to the application. There is no discrimination whatsoever on the basis of the nationality of the beneficiaries.

### ZAMBIA

The Zambia National Provident Fund Act (The Laws of the Republic of Zambia, rev. ed., Ch. 513) (Lusaka, Government Printer, 1972).

The Employment Act (*ibid.*, Ch. 512).

The Workmen's Compensation Act (*ibid.*, Ch. 509).

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There is no discrimination between nationals and non-nationals in the application of social security under the above legislation which provides benefits for maternity, old age, survivors, employment injury and sickness. Despite the fact that the national legislation fully complies with the Convention, the Government wishes to delay the ratification of it for a while.

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**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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## 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. The present summary contains information relating to the submission to the competent authorities of the Conventions and Recommendations adopted by the Conference at its 60th Session, held in Geneva from 4 to 25 June 1975.

The period of one year provided for the submission to the competent authorities of the instruments in question expired on 25 June 1976, and the period of 18 months on 25 December 1976.

The present report also 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 59th Sessions (1948 to 1974). The information summarised in this report consists of communications which were forwarded to the Director-General of the International Labour Office after the close of the 60th Session of the Conference and which could not, therefore, be laid before the Conference at that session.

The report contains a summary of the 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 17 to 30 March 1977, the information received from the governments, as stated in its report.

### List of texts adopted by the Conference at its 31st to 60th 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).

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### 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).

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#### 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. 107).  
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).

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#### 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).

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#### 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).

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57th Session (1972)<sup>1</sup>

58th Session (1973)

Dock Work Convention (No. 137).  
Minimum Age Convention (No. 138).  
Dock Work Recommendation (No. 145).  
Minimum Age Recommendation (No. 146).

59th Session (1974)

Occupational Cancer Convention (No. 139).  
Paid Educational Leave Convention (No. 140).  
Occupational Cancer Recommendation (No. 147).  
Paid Educational Leave Recommendation (No. 148).

60th Session (1975)

Rural Workers' Organisations Convention (No. 141).  
Human Resources Development Convention (No. 142).  
Rural Workers' Organisations Recommendation (No. 149).  
Human Resources Development Recommendation (No. 150).

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<sup>1</sup> At this session, the Conference did not adopt any Conventions or Recommendations.

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Summary of information relating to the submission  
to the competent authorities of the Conventions  
and Recommendations adopted by the International  
Labour Conference at its 60th Session (Geneva, 1975)  
and supplementary information on the texts adopted  
at its 31st to 59th Sessions (1948 to 1974)

ARGENTINA

The instruments adopted at the 58th and 60th Sessions of the Conference have been submitted to the President of the Republic.

AUSTRALIA

The instruments adopted at the 60th Session of the Conference were submitted to Parliament on 16 September 1976.

BARBADOS

The instruments adopted at the 60th Session of the Conference were submitted to both Chambers of Parliament on 27 and 29 April 1976.

BOLIVIA

Conventions Nos. 88, 95, 102, 117, 118, 120, 121, 122, 123, 124, 128, 129, 130, 131 and 136 have been ratified.

The following instruments have been submitted to the President of the Republic: Conventions Nos. 94, 97, 99, 101, 104, 105, 108, 109, 110, 112 to 116, 119, 125, 126, 127, 132 to 135, 137 to 143 and Recommendations Nos. 83 to 89, 91 to 102, 104, 105, 106 and 110 to 150.

BULGARIA

The instruments adopted at the 60th Session of the Conference were submitted to the Council of State on 12 August 1976.

BYELORUSSIAN SSR

The instruments adopted at the 60th Session of the Conference have been submitted to the Presidium of the Supreme Soviet of the Byelorussian SSR.



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UNITED REPUBLIC OF CAMEROON

The instruments adopted at the 59th and 60th Sessions of the Conference were submitted to the National Assembly on 6 December 1976.

COSTA RICA

The instruments adopted at the 60th Session of the Conference were submitted to the Legislative Assembly on 9 December 1976.

CUBA

Conventions Nos. 141 and 143, and Recommendations Nos. 147, 149 and 151 have been submitted to the Council of Ministers. Ratification of Convention No. 141 has been proposed.

CZECHOSLOVAKIA

The instruments adopted at the 59th Session of the Conference were submitted to the Federal Assembly on 10 March 1976. Convention No. 140 has been ratified.

DEMOCRATIC YEMEN

The instruments adopted at the 60th Session of the Conference were submitted to the Council of Ministers on 5 April 1976.

DENMARK

The instruments adopted at the 60th Session of the Conference were submitted to Parliament on 7 January 1976.

DOMINICAN REPUBLIC

The instruments adopted at the 52nd, 53rd, 56th, 58th, 59th and 60th Sessions of the Conference have been submitted to Congress. Ratification of Conventions Nos. 129, 131, 136, 138 and 142 has been proposed.

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## EGYPT

The instruments adopted at the 59th and 60th Sessions of the Conference have been submitted to the National Assembly.

## FINLAND

The instruments adopted at the 60th Session of the Conference were submitted to Parliament on 15 October 1976. Ratification of Conventions Nos. 141 and 142 has been proposed.

## FRANCE

The instruments adopted at the 60th Session of the Conference were submitted to Parliament on 31 March 1976 and the ratification of Convention No. 141 has been proposed.

## GERMAN DEMOCRATIC REPUBLIC

The instruments adopted at the 60th Session of the Conference have been submitted to the People's Chamber.

## GERMANY, FEDERAL REPUBLIC OF

The instruments adopted at the 60th Session of the Conference have been submitted to the Legislative Chambers. Ratification of Convention No. 141 has been proposed.

## HAITI

The instruments adopted at the 60th Session of the Conference were submitted to the Legislative Chamber on 12 November 1976.

## HUNGARY

The instruments adopted at the 60th Session of the Conference were submitted to the Council of the Presidency of the Republic on 21 May 1976. Convention No. 142 has been ratified.

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## INDONESIA

The instruments adopted at the 59th and 60th Sessions of the Conference were submitted to Parliament on 2 December 1975 and 7 January 1977, respectively.

## IRAN

The instruments adopted at the 59th and 60th Sessions of the Conference were submitted to the Chamber of Deputies on 1 November 1975 and 27 December 1976, respectively.

## IVORY COAST

The instruments adopted at the 50th to 54th Sessions of the Conference, those outstanding from the 55th and 56th Sessions and those adopted at the 58th, 59th and 60th Sessions were submitted to the National Assembly on 19 July 1976.

## JAMAICA

Conventions Nos. 120, 121, 125, 126 and Recommendations Nos. 120, 121, 122, 123 and 126, and all the instruments adopted at the 55th to 60th Sessions of the Conference have been submitted to Parliament.

## JAPAN

The instruments adopted at the 60th Session of the Conference were submitted to the Diet on 19 May 1976.

## KENYA

Convention No. 137 and Recommendation No. 145, adopted at the 58th Session of the Conference, have been submitted to the National Assembly.

## KUWAIT

Recommendations Nos. 147 and 148, adopted at the 59th Session of the Conference, and the instruments adopted at the 60th Session have been submitted to the National Assembly.

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## LUXEMBOURG

The instruments adopted at the 60th Session of the Conference were submitted to the Chamber of Deputies on 19 October 1976.

## MALI

The instruments adopted at the 60th Session of the Conference were submitted to the Military Committee of National Liberation on 31 August 1976. Ratification of Convention No. 143 has been proposed.

## MEXICO

Conventions Nos. 132, 133 and 136 have been submitted to the Senate and Recommendations Nos. 149, 150 and 151 to Congress. Ratification of Conventions Nos. 141 and 142 will be proposed when they are submitted.

## MOROCCO

The instruments adopted at the 60th Session of the Conference were submitted to the Prime Minister on 14 November 1975. Ratification of Conventions Nos. 141, 142 and 143 is under consideration.

## NETHERLANDS

Conventions Nos. 137, 138, 140 and 141 have been ratified. Conventions Nos. 109, 132 and 143 and Recommendations Nos. 109, 145, 146, 148 and 151 have been submitted to Parliament.

## NEW ZEALAND

The instruments adopted at the 60th Session of the Conference were submitted to the Chamber of Representatives on 28 July 1976.

## NIGERIA

The instruments adopted at the 60th Session of the Conference have been submitted to the Federal Executive Council.

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#### NORWAY

The instruments adopted at the 60th Session of the Conference have been submitted to Parliament. Conventions Nos. 141 and 142 have been ratified.

#### PAKISTAN

The instruments adopted at the 58th and 59th Sessions of the Conference were submitted to the Federal Cabinet on 17 April 1976.

#### PANAMA

The instruments adopted at the 60th Session of the Conference were submitted to the National Assembly on 1 December 1975.

#### PARAGUAY

Conventions Nos. 108 to 110, 112 to 114, 118, 121 and 125 to 128, and all the instruments adopted at the 53rd to 60th Sessions of the Conference have been submitted to Congress. Ratification of Conventions Nos. 127, 129, 136, 139 and 144 has been proposed.

#### PERU

Convention No. 139 has been ratified.

#### POLAND

Convention No. 139 has been submitted to the Sejm. The Government has communicated information concerning the decisions taken on Conventions Nos. 136 and 139 and Recommendations Nos. 89 and 95.

#### ROMANIA

The instruments adopted at the 60th Session of the Conference were submitted to the competent authorities on 28 June 1976.

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## SIERRA LEONE

The instruments adopted at the 59th and 60th Sessions of the Conference were submitted to Parliament on 22 February 1977.

## SPAIN

Conventions Nos. 118, 121, 133 and 138 to 143, and Recommendations Nos. 145 to 151 have been submitted to the Cortés. Ratification of Conventions Nos. 138 and 142 has been proposed.

## SRI LANKA

The instruments adopted at the 56th and 58th Sessions of the Conference were submitted to the National State Assembly on 6 July 1976. Convention No. 135 has been ratified.

## SUDAN

The instruments adopted at the 60th Session of the Conference have been submitted to the appropriate authorities.

## SWEDEN

The instruments adopted at the 60th Session of the Conference were submitted to Parliament on 11 March 1976. Conventions Nos. 141 and 142 have been ratified.

## SWITZERLAND

The instruments adopted at the 60th Session of the Conference were submitted to the Federal Assembly on 1 September 1976. Ratification of Conventions Nos. 141 and 142 has been proposed.

## SYRIAN ARAB REPUBLIC

Recommendation No. 144, adopted at the 56th Session of the Conference, was submitted to the Council of Ministers on 10 May 1976.

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#### THAILAND

The instruments adopted at the 58th, 59th and 60th Sessions of the Conference were submitted to the Chamber of Representatives on 1 July 1976, and to the Senate on 7 July 1976.

#### TRINIDAD AND TOBAGO

The instruments adopted at the 60th Session of the Conference have been submitted to Parliament. Recommendations Nos. 149, 150 and 151 have been accepted.

#### TUNISIA

The instruments adopted at the 60th Session of the Conference were submitted to the National Assembly on 23 October 1975.

#### UKRAINIAN SSR

The instruments adopted at the 60th Session of the Conference have been submitted to the Presidium of the Supreme Soviet of the Ukrainian SSR.

#### USSR

The instruments adopted at the 60th Session of the Conference were submitted to the Presidium of the Supreme Soviet of the USSR on 14 May 1976.

#### UNITED KINGDOM

The instruments adopted at the 60th Session of the Conference have been submitted to Parliament in December 1976. Conventions Nos. 141 and 142 have been ratified.

#### UNITED STATES

The instruments adopted at the 60th Session of the Conference have been submitted to Congress on 8 November 1976.

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VENEZUELA

Recommendation No. 131 adopted at the 51st Session of the Conference and the instruments adopted at the 53rd, 59th and 60th Sessions have been submitted to Congress. Ratification of Convention No. 141 has been proposed.

YEMEN

Conventions Nos. 131, 132 and 135 have been ratified.

ZAIRE

The instruments adopted at the 54th, 55th, 56th and 59th Sessions of the Conference were submitted to the President of the Republic on 12 May 1976. Ratification of Conventions Nos. 132 and 135 has been proposed.



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International Labour Conference  
63rd Session 1977



Report III  
(Part 4A)

# **Report of the Committee of Experts on the Application of Conventions and Recommendations**

**General Report  
and Observations concerning Particular Countries**

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International Labour Office Geneva

096616



International Labour Conference  
63rd Session 1977

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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

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

<sup>2</sup> The abbreviations used in respect of direct requests 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.

The numbers refer to Conventions.

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Sri Lanka . . . . .	I B, No. 8. III.	Art. 22, Nos. 7, 8, 58, 98.
Sudan . . . . .		Art. 22, Nos. 26, 100, 111, 122. Subm.
Surinam . . . . .	I B, Nos. 17, 19, 42, 81, 87, 101, 112, 118.	Art. 22, Nos. 17, 29, 42, 62, 88, 94, 95, 105, 122.
Swaziland . . . . .		Subm.
Sweden . . . . .	I B, Nos. 87, 98, 100, 108.	Art. 22, Nos. 9, 27, 128.
Switzerland . . . . .	I B, Nos. 44, 100, 111, 120.	Art. 22, No. 29.
Syrian Arab Republic	I B, Nos. 1, 30, 87, 118.	Art. 22, general. Art. 22, Nos. 26, 29, 94, 99, 107. Subm.
Tanzania . . . . .	General Report, para. 102. I A and B, Nos. 17, 29, 50, 88, 98, 105. III.	Art. 22, Nos. 29, 105, 108.
Thailand . . . . .	General Report, paras. 99, 102. I A. III.	General Report, para. 85. Art. 22, Nos. 29, 88, 105, 122, 123, 127.
Togo . . . . .	General Report, para. 99. I A. III.	Art. 22, No. 26.
Trinidad and Tobago .	I B, No. 87.	Art. 22, Nos. 87, 98, 111.



Country	Observations made by the Committee (published in the present Report)	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report)
Tunisia . . . . .	General Report, para. 102. I A and B, Nos. 18, 29, 98, 105, 119.	Art. 22, general. Art. 22, Nos. 8, 58, 59, 81, 87, 88, 91, 100, 105, 112, 117, 122, 127. Subm.
Turkey . . . . .	General Report, paras. 99, 102. I A and B, Nos. 81, 94, 95, 96, 98, 119.	Art. 22, Nos. 81, 99, 111, 115. Subm.
Uganda . . . . .	General Report, para. 124. I B, No. 105. III.	Art. 22, general. Art. 22, Nos. 5, 50, 64, 94, 98, 122, 123.
Ukrainian SSR . . . . .	General Report, para. 123. I B, Nos. 11, 87, 108. III.	Art. 22, general Art. 22, No. 122.
USSR . . . . .	General Report, para. 123. I B Nos. 11, 29, 52, 87, 108. III.	Art. 22, general. Art. 22, Nos. 111, 122.
United Arab Emirates . . . . .	III.	
United Kingdom . . . . .	I B, No. 8. II A and B, Nos. 5, 42, 63, 82, 98, 105, 108.	Art. 22, Nos. 26, 97, 100, 122. Art. 35, Nos. 3, 8, 11, 14, 16, 17, 19, 26, 32, 50, 58, 59, 63, 64, 81, 84, 87, 95, 98, 99, 105, 108.
Upper Volta . . . . .	General Report, paras. 99, 102. I A and B, No. 18.	Art. 22, Nos. 3, 6, 19, 97, 100. Subm.
Uruguay . . . . .	I B, Nos. 9, 24, 25, 87, 94, 98, 103, 128. III.	Art. 22, Nos. 26, 67, 81, 97, 99, 108, 112, 114, 128, 129, 130. Subm.
Venezuela . . . . .	I B, Nos. 3, 22.	Art. 22, general. Art. 22, Nos. 22, 120. Subm.
Viet-Nam . . . . .	I A.	Subm.
Western Samoa . . . . .		Art. 22, Nos. 50, 64.
Yemen . . . . .	III.	Art. 22, No. 111.
Yugoslavia . . . . .	I B, Nos. 18, 81. III.	Art. 22, general. Art. 22, Nos. 19, 29, 81, 88, 89, 92, 102, 111, 113, 121, 122, 126.
Zaire . . . . .	I B, No. 119. III.	Art. 22, Nos. 62, 84, 98, 100, 120.
Zambia . . . . .	General Report, para. 100. I A.	Art. 22, Nos. 29, 97, 99, 100, 105, 123, 136. Subm.

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 47th Session in Geneva from 17 to 30 March 1977. The Committee has the honour to present its report to the Governing Body.

2. The Committee had been deeply grieved to learn of the death in September 1976 of Mr. Kirkaldy, and paid tribute to his memory. He had been a member of the Committee since 1946 and had acted as its rapporteur for 17 years (1946-62). Through his long membership of the Committee, he had become an unparalleled repository of its accumulated experience. His contribution, based on his vast academic knowledge and wide practical experience of industrial relations, made a lasting impact on the Committee's work. His wisdom and integrity, and the balanced judgement he brought to bear on the wide range of questions with which the Committee is confronted, will be sadly missed. He rendered invaluable services to the Organisation, not only as a member of the Committee but also as a member of the Fact-Finding and Conciliation Commission on Freedom of Association and of commissions of inquiry, particularly in the cases concerning Chile.

3. In order to fill the vacancy, the Governing Body has appointed Mr. John Crossley WOOD (United Kingdom).

4. The composition of the Committee is now as follows:

The Right Honourable Sir Adetokunbo ADEMOLA, GCON, KBE, CFP, PC (Nigeria),

former Chief Justice of Nigeria; Chairman, National Census Board; Honorary Benchet of the Middle Temple, London; Honorary Member of the International Commission of Jurists; former member of the International Civil Service Advisory Board; former President of the Nigerian Red Cross Society; Chancellor of the University of Nigeria;

Mr. Günther BEITZKE (Federal Republic of Germany),

former Professor of Civil Law and Private International Law at the University of Bonn; former Director of the Institute of Private International Law and Comparative Law at the University of Bonn; honorary Doctor of the Universities of Bordeaux and Reykjavik; Corresponding Member of the Austrian Academy;

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; President of the Political Studies Centre of Al-Ahram; associate member of the Institute of International Law; member of the International Commission of Jurists; trustee of the International Legal Centre; Vice-President of the Egyptian Society of International Law; Member of the Council of the International Institute of Human Rights;

Mr. Antonio Ferreira CESARINO, Jr. (Brazil),

former Professor of Labour Law of the State University and Professor of Occupational Medicine of the Catholic University of Sao Paulo; Honorary Professor of the Central University of Venezuela; Honorary President of the International Society of Labour and Social Security Law; Honorary Member of the Society of Occupational Medicine of Strasbourg; member of the Brazilian delegation to the sessions of the International Labour Conference of 1950, 1960 and 1964;

The Honourable Sir William DOUGLAS (Barbados),

Chief Justice of Barbados; Chairman, Commonwealth Caribbean Council of Legal Education;

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 of Labour (1967-69); Chairman, Law Commission;

Mr. E. GARCIA SAYAN (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) and to the Fifth Extraordinary Session of the General Assembly (New York, 1967), on the Arab-Israeli Conflict; President of the Peruvian Red Cross Society (1963-74);

Mr. Arnold GUBINSKI (Poland),

Doctor of Laws; Professor of Law at the University of Warsaw;

Begum Saana 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 Montessori Association; first recipient of the International Gimbel Award for services to humanity (1961-62); Founder-President of the All-Pakistan Women's Association;

Mr. Frank W. McCULLOCH (United States),

Scholar in residence, former Professor of Law at the University of Virginia; visiting Professor, School of Industrial and Labour Relations, Cornell University; former Chairman of the National Labor Relations Board (1961-70); member, Public Review Board, United Auto Workers; member, Board of Directors, Migrant Legal Action Program;

Mr. P. 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; former Professor of Law at the University of Tananarive;

Mr. Paul RUEGGER (Switzerland),

Ambassador; former Minister in Rome and London; former President of the International Committee of the Red Cross; Member of the Permanent Court of Arbitration; Member of the Institute of International Law; Member of the Curatorium of the Academy of International Law at The Hague;

Mr. Senjin TSUNOBUOKA (Japan),

member of the United Nations International Law Commission; formerly Ambassador to the Holy See (1958-59), Sweden (1962-66) and Switzerland (1966-67); Permanent Representative to the United Nations (1967-71); Member of the Curatorium of the Academy of International Law at The Hague;

Mr. Grigory TUNKIN (USSR),

Head of the Department of International Law at the University of Moscow; Corresponding Member of the Academy of Sciences of the USSR; Scientist Emeritus of the RSPSR; President of the Soviet Association of International Law; Member of the Institute of International Law; Member of the Curatorium of the Academy of International Law at The Hague;

Mr. Joseph J.M. VAN DER VEN (Netherlands),

Former 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 VÉRDIEP (France),

President of 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); President of the International Society of Labour and Social Security Law;

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. John C. WOOD (United Kingdom),

CBP, LL.M.; Barrister-at-Law; Edward Bramley Professor of Law at the University of Sheffield; member of the Conciliation and Arbitration Service, 1974-76; Chairman of the Central Arbitration Committee since 1976.

5. The Committee regretted that for reasons of health Mr. Ruegger and Mr. Wood were unable to attend its session this year and that Mr. Gajendragadkar was prevented from being present by professional commitments.

6. The Committee elected Sir Adetokunbo ADFMOLA as Chairman and Mr. RAZAFINDRALAMPO as Reporter of the Committee.

7. 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 of the Constitution."

8. 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 93 to 114 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 115 to 126 below, and Part Two (III)); and (c) review of reports supplied by governments under article 19 of the Constitution on the Equality of Treatment (Social Security) Convention, 1962 (No. 118) (see paragraphs 127 to 131 below and Part Three, which is published in a separate volume as Report III (Part 4B)).

9. The United Nations was represented at the session.

## II. FIFTIETH ANNIVERSARY OF THE COMMITTEE

10. Fifty years have now elapsed since the Committee held its first session in May 1927. At that first session, the Committee was composed of eight members and met for three days. It had to examine 180 reports on the application of ratified Conventions from 26 States. The International Labour Organisation was composed of 55 member States, the Conference had adopted 23 Conventions and 28 Recommendations, and the number of ratifications of Conventions was 229. Since then, the number of States Members of the International Labour Organisation has grown to 133, the number of Conventions adopted to 147, of Recommendations to 155, and the number of ratifications to 4,345, and the number of declarations of application of Conventions to non-metropolitan territories has reached 1,332 of which 1,226 are without

modifications. Consequently, this year the Committee was called on to examine almost 2,500 reports on the application of ratified Conventions.

11. The Conference resolution of 1926 which led to the establishment of the Committee described its purpose as "making the best and fullest use" of the reports on ratified Conventions and as "securing such additional data as may be provided for in the forms approved by the Governing Body and found desirable to supplement that already available". The findings of the Committee were to be placed before the Conference through the Governing Body. Subsequently, when the constitutional amendments of 1946 broadened the scope of reporting to include information on the submission of newly adopted Conventions and Recommendations to the competent national authorities, on the effect given to unratified Conventions and to Recommendations and on the application of ratified Conventions in non-metropolitan territories, the Governing Body extended the terms of reference of the Committee of Experts to cover these additional questions.

12. The report of the Conference Committee which proposed the establishment of a committee of experts in 1926 endorsed a suggestion that the members of this body "should be persons of independent standing". Since making the original appointments, the Governing Body has followed the principle that the experts "should be chosen on the ground of their technical competence alone, that they should be completely impartial and that they should be in no sense considered as representatives of governments".

13. Since the original Committee of eight members was set up in 1927, the task of supervision has grown steadily along with the expansion of the ILO's standard-setting activities and the extension of the Committee's terms of reference. As more and more States have joined the Organisation and as the number of instruments has increased, the total of ratifications has risen steadily. In addition to examining the reports thus received on ratified Conventions, the Committee is now also called upon, as indicated above, to consider the information due from governments on the submission of newly adopted instruments to the competent authorities and on the effect given to unratified Conventions and to Recommendations, as well as to exercise certain functions in relation to instruments adopted under the auspices of other international organisations. To cope with these ever-expanding tasks the Committee's membership was gradually increased. At present, it has 18 members. Along with this increase in size the geographical composition of the Committee has come to reflect the ILO's expanding membership. The Governing Body's practice is to include on the Committee persons from every part of the world with first-hand experience of different legal, economic and social systems. The Committee is now composed of five members from Western Europe; three from Eastern Europe; three from Africa; three from South America and the Caribbean; one from North America; and three from Asia. While initial appointments of members are for three years, the Governing Body generally extends the appointments for successive terms so as to draw on the cumulative experience of the Committee's members and ensure a maximum of continuity and uniformity in assessing the extent to which member States comply with their international obligations.

14. Within the framework of the terms of reference laid down by the Governing Body, it is for the Committee of Experts to decide on the practical methods to be followed in discharging its tasks. The Committee has thus gradually evolved a number of specific procedures designed to enable it to cope with its various functions despite its greatly increased workload. The Committee's present methods of work are described in paragraph 38 below under the heading "Organisation of



the work of the Committee". Before setting them out, however, it seems appropriate to describe briefly the manner in which they have evolved over the years.

15. Thus, in 1949 the Committee originated the practice of giving special and searching attention to the first reports received after ratification (which now number between 150 and 200 every year) and asked the Office to prepare a careful comparative analysis of the national position.

16. Since 1950, the Committee has been called on to examine reports requested from member States by the Governing Body on the application of certain unratified Conventions or of Recommendations. Its practice is to make a general survey of the situation in the reporting countries with respect to the instruments selected. Since 1956, with a view to giving a more complete account of the effect of these standards, the Committee's surveys have been based, in the case of Conventions, both on the reports from ratifying States under article 22 of the Constitution and on the reports from non-ratifying States requested pursuant to article 19.

17. In 1957 the Committee decided to adopt a simplified procedure in the case of requests for supplementary information or of comments on minor points: instead of including these in its report, they are communicated directly to the governments concerned, and cases of this kind are merely listed in the Committee's report.

18. In 1959 the Committee put forward the idea that detailed reporting be placed on a two-yearly basis, subject to the safeguards required in certain cases. This system was approved by the Governing Body and the Conference Committee and has been in operation until this year, when it is to be replaced by the new system of detailed reporting mentioned in paragraph 22 below.

19. In 1963, the Committee undertook a close review of the practical application of ratified Conventions, dealing in particular with the incorporation of these standards in internal law and with the data available for assessing their effective implementation. Since then the Committee has pursued this matter and has drawn attention to cases where governments have failed to supply the statistical and other information on practical application called for in the forms of report.

20. On the occasion of its fortieth anniversary in 1967, the Committee put forward a suggestion which led to the introduction in 1968 of the procedure of direct contacts which has now become firmly established. Under this procedure a representative of the Director-General, with the consent of the government, visits the country concerned in order to discuss the problems at issue with the competent national services. Originally introduced to deal with problems relating to the application of ratified Conventions, the direct contacts procedure was extended in 1973 to cover difficulties in fulfilling the constitutional obligations to submit Conventions and Recommendations to the competent national authorities and to submit reports and information under articles 19 and 22 of the Constitution, and to possible obstacles to the ratification of a given Convention. This procedure has also been used in recent years within the framework of the special ILO machinery for examining allegations of violations of trade union rights.

21. In 1972, the Committee undertook a review of the various aspects of the role which employers and workers and their organisations are called upon to play in giving effect to the instruments adopted by the Conference, and made a number of suggestions designed to promote a

fuller participation by employers' and workers' organisations in the supervisory procedures, in particular by making observations on the reports and information supplied by their governments to the ILO under articles 19 and 22 of the ILO Constitution. The Committee has continued to follow this matter closely since then, as has also the Conference Committee which has shown a growing interest in encouraging contributions from employers' and workers' organisations. As a result of the various measures taken to facilitate their task, the observations received from employers' and workers' organisations have increased very substantially in recent years.

22. By 1976, the workload of the Committee, as well as that of many government services responsible for preparing reports, had grown to such an extent since the system of two-yearly detailed reporting was introduced in 1959 that the Governing Body decided, after consulting the Committee and the Conference Committee, to introduce a new and more flexible system of reporting on ratified Conventions, under which detailed reports may be requested at yearly, two-yearly or four-yearly intervals. The details of the new system are set out in paragraph 38 below, under the heading "Rules for the supply of reports on ratified Conventions".

23. Also in 1976, the Committee was entrusted by the Governing Body with responsibility for examining those parts of reports from States Parties to the International Covenant on Economic, Social and Cultural Rights which relate to matters falling within the responsibilities of the ILO, and for reporting on the progress made by States Parties in achieving the observance of the provisions of the Covenant falling within the scope of ILO activities. Particulars of this new responsibility, which the Committee will first be called upon to undertake in 1978, are set out in paragraphs 46 to 49 below.

24. It was in 1969 that the Committee was first called upon to exercise functions in relation to an instrument adopted under the auspices of another organisation, namely the European Code of Social Security, adopted by a regional organisation, the Council of Europe. Since then the Committee has each year had to examine reports from States which have ratified the Code and to draw up conclusions on the extent to which they give effect to its terms. Particulars of this responsibility are set out in paragraphs 50 to 52 below.

25. Without attempting to make an over-all assessment of the impact of its work, the Committee has since 1964 adopted the practice of listing the cases where governments, in response to its earlier comments, have introduced changes in their law and practice in order to give fuller effect to ratified Conventions. During the past 14 years, over 1,100 such instances of progress have come to the Committee's attention. These cases of progress have touched on all the subject areas covered by Conventions and have come from countries in all regions of the world.

26. The Committee is also aware that these examples of action taken in response to its comments represent only a limited proportion of the cases where international labour standards and the procedures to promote their implementation are able, in various ways, to exert a positive influence. There are many "invisible" or less apparent cases in which progress can be attributed to these standards and procedures. One such instance is when legislative or other measures are taken as a result of a government's decision to ratify a Convention. Other cases of "invisible" progress occur when measures are taken in relation with the submission of instruments to the competent authority, even if the instrument is not ratified; or where steps taken with a view to giving effect to the minimum standards of a ratified Convention act as a

catalyst for further measures going beyond the requirements of the Convention; or, again, when the request for a report on an unratified Convention or a Recommendation leads to action resulting in the ratification of the Convention or to fuller implementation even in the absence of ratification. The Committee noted with interest the recent publication by the International Labour Office of a book on "The Impact of International Labour Conventions and Recommendations" which provides illustrations of cases of influence of these various kinds.

27. It seems appropriate to conclude this brief review of the development of the Committee's work by placing its action in the more general framework of ILO supervisory procedures as a whole. Regular supervision is the centre-piece of the arrangements by which the ILO seeks to follow up and supervise the implementation of its standards, but recourse may also be had, under the terms of the ILO Constitution to procedures of complaint and representation, which may be initiated by member States and organisations of employers and workers, or by the Governing Body, in order to investigate allegations of non-observance of a ratified Convention. In addition, there has been a progressive development over the years of other procedures, particularly the standing machinery for dealing with complaints in the field of freedom of association, but also at times ad hoc commissions or investigations. The growing utilisation of these procedures has placed at the disposal of the Organisation a widening range of means through which to bring to bear its influence on the resolution of problems and the adoption of social reforms on the basis of internationally agreed principles and standards.

28. There has also been a continual concern to co-ordinate the operation of the various supervisory procedures so that they will be complementary and mutually reinforcing. Thus regular supervision has been supplemented by the investigation, under the special procedures, of particularly complex issues, and special investigations have found a continuing echo through the work of the standing supervisory bodies in following up the measures taken to implement the recommendations made within the framework of the special procedures.

#### Fundamental principles, mandate and methods of work of the Committee

29. The preceding indications show how, during the 50 years since the Committee's first meeting in 1927, its tasks have increased as a result of the extension of the ILO's standard-setting activities, the very considerable increase in the membership of the Organisation, and new responsibilities arising from constitutional amendments and decisions of the Governing Body, and how the Committee's size, composition and procedures have undergone considerable development in response to those changes. The Committee's basic purposes and principles have, however, remained essentially the same throughout this period. Above all, the Committee remains conscious of the fact that its work can have value only to the extent that it remains true to its tradition of independence, objectivity and impartiality.

30. As it has done from time to time in the past, the Committee decided to undertake a fresh review of its methods of work this year, on the basis of a preliminary examination of the matter by a working party of four of its members. This review appeared particularly appropriate in the light of the new system for reporting on ratified Conventions approved by the Governing Body at its 201st Session (November 1976).

31. The Committee discussed the approach to be adopted in evaluating national law and practice against the requirements of international labour Conventions. It reaffirms that its function is to

determine whether the requirements of a given Convention are being met, whatever the economic and social conditions existing in a given country. Subject only to any derogations which are expressly permitted by the Convention itself, these requirements remain constant and uniform for all countries. In carrying out this work the Committee is guided by the standards laid down in the Convention alone, mindful, however, of the fact that the modes of their implementation may be different in different States. These are international standards, and the manner in which their implementation is evaluated must be uniform and must not be affected by concepts derived from any particular social or economic system.

32. The Committee's terms of reference do not require it to give interpretations of Conventions, competence to do so being vested in the International Court of Justice by article 37 of the Constitution. Nevertheless, in order to carry out its function of evaluating the implementation of Conventions, the Committee has to consider and express its views on the meaning of certain provisions of Conventions.

33. The Committee considered that its methods of work, as adapted and improved from time to time, enable it adequately to discharge its functions. It has nevertheless agreed upon certain innovations. In particular, it has decided that, while the preliminary examination of particular Conventions or subjects will continue to be entrusted to individual members of the Committee, opportunities should be provided for optional consultations among the members at the preliminary stage of examination of reports. Thus, any member of the Committee may ask to be consulted by the expert responsible for a given Convention or subject before draft findings are finalised, and the responsible expert may himself consult other members in cases where he considers this desirable. However, the final wording of the drafts to be submitted to the Committee will remain the sole responsibility of the expert entrusted with the examination of the reports or information concerned. All members will, of course, remain free to present their observations on the drafts when these are considered by the Committee in plenary sitting.

34. The Committee noted that the new system for spacing out of reports on ratified Conventions adopted by the Governing Body will introduce greater flexibility into the periodicity of reporting, with a series of safeguards to ensure that regular and rapid attention be given to important matters and serious situations. In such cases, as a result of these various safeguards, detailed reports will be requested at two-yearly or even yearly intervals, instead of on a four-yearly basis. The Committee noted that, as hitherto, each country will also be required to supply a general report each year on ratified Conventions for which detailed reports are not due. Where such general reports indicate substantial changes in legislation or practice affecting the application of particular Conventions, these will be examined without awaiting the next detailed report on the Conventions concerned. Having regard to the fact that more rapid attention is also to be given to cases in which the application of ratified Conventions has been the subject of comments by employers' or workers' organisations, the Committee considers it important that the above-mentioned general report should include particulars of any comments received from such organisations in respect of the standards concerned.

35. With the greater spacing out of detailed reporting, the Committee is concerned to examine as closely as possible the manner in which Conventions are applied in practice. It therefore once again emphasises the importance of governments supplying full information in reply to the questions in the report forms concerning this aspect,

including any necessary statistical data and information on the results of labour inspection, extracts from the reports of inspection services, and decisions of courts of law or other tribunals involving questions of principle relating to the application of the Convention.

36. A particularly valuable source of information on practical application is constituted by observations received from employers' and workers' organisations on the application of ratified Conventions by their governments. The Committee has already in previous reports welcomed the fact that the action taken in recent years by the Office to make fuller information available to these organisations - which last year, following a request from the Workers' members of the Conference Committee, for the first time included copies of the Committee's observations and direct requests to their government - has resulted in a marked increase in the interest taken by these organisations (further details of which are given in section V of this report). The Committee considers it likely that a further impetus to this trend will be given by the adoption by the Conference in 1976 of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) - which has already received its first ratification - and the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152). The systematic consultations with employers' and workers' organisations on matters relating to international labour standards foreseen by these instruments should not only enhance and generalise the impact of ILO standards at the national level, but should also make available to the Committee more ample information on the way in which Conventions are actually applied.

37. The Committee intends, at its next session, to undertake once again a general examination of the means available to it to assess the extent to which ratified Conventions are made effective in actual practice, and ways in which the flow of information on this aspect of the implementation of ILO standards could be further improved.

38. Following the changes in the reporting system adopted by the Governing Body and the review by the Committee of its working methods in the light of those changes, the Committee considers it appropriate to restate below, as it has done on various previous occasions, its terms of reference, composition, fundamental principles, and organisation of work. It also sets out again the principles governing the procedure of direct contacts, as last restated in the Committee's report of 1973. For the sake of completeness, the Committee is also reproducing the rules for presentation of reports on ratified Conventions approved by the Governing Body in November 1976.

Terms of reference in regard to obligations  
under the ILO Constitution and ILO Conventions

(a) In pursuance of its terms of reference as revised by the Governing Body at its 103rd Session (Geneva, 1947), the Committee is 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 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 of the Constitution."

#### Composition of the Committee

(b) The members of the Committee are appointed by the Governing Body in their personal capacity, on the proposal of the Director-General, for a period of three years. Their term of office is renewable for successive periods of three years. According to the principles adopted by the Governing Body when making the initial appointments to the Committee, its members are chosen as persons of independent standing, completely impartial and on the ground of their competence. They are drawn from all parts of the world so as to possess first-hand experience of different legal, economic and social systems.

#### Fundamental principles

(c) The Committee's fundamental principles as voiced on a number of occasions, call for impartiality and objectivity in pointing out the extent to which it appears that the position in each State is in conformity with the terms of the Conventions and the obligations which that State has undertaken by virtue of the Constitution of the ILO. The members of the Committee must accomplish their task in complete independence as regards all member States.

#### Organisation of the work of the Committee

(d) The Committee holds its annual session at a date and for a period determined by the Governing Body.

(e) At the opening sitting, the Committee elects its Chairman and Reporter for the session.

(f) The sittings of the Committee are held in private. Its documents and deliberations are confidential.

(g) The United Nations is invited to designate a representative to attend the sessions of the Committee.

(h) When the Committee deals with instruments or matters falling within the sphere of competence of other specialised agencies of the United Nations family, representatives of these agencies are invited to participate in the sittings of the Committee.

(i) The Committee assigns to each of its members the initial responsibility for a group of Conventions or for a given subject. Reports and information received by the Office in sufficient time are circulated to the members concerned in advance of the session. Each member of the Committee responsible for a group of Conventions or for a given subject prepares for submission to the Committee preliminary findings, in the form of draft observations or direct requests on the instruments or subject concerned. Any other member may ask to be consulted by the expert responsible for a given Convention or subject before draft findings are finalised, and the responsible expert may himself consult other members in cases where he considers this desirable. However, the final wording of the drafts to be submitted to the Committee remains the sole responsibility of the expert entrusted with the examination of the reports or information concerned. All draft findings are considered and approved by the Committee in plenary sittings.

(j) The Committee appoints small working parties to deal with questions of principle or of special complexity. This is the case, in particular, as regards the comprehensive surveys of reports, under articles 19 and 22 of the Constitution, on certain subjects selected by the Governing Body or the study of certain questions selected by the Committee. These working parties generally meet for a few days before the Committee session. Having regard to the nature and extent of all the work involved they sometimes also meet during the session. Apart from this, certain questions may arise during the Committee's sessions which it is deemed appropriate to refer to a specially appointed working party. The working parties are composed so as to include members with a knowledge of different legal, economic and social systems. Their findings are subsequently submitted to the whole Committee.

(k) The documentation available to the Committee includes the information supplied by governments in their reports or in the Conference Committee on the Application of Conventions and Recommendations, the texts of legislation, collective agreements or court decisions directly relevant to the implementation of standards, the information on the results of inspections furnished by States Members, comments made by employers' and workers' organisations, conclusions of other ILO bodies (such as commissions of inquiry and the Freedom of Association Committee of the Governing Body) and the results of technical co-operation.

(l) The Committee asks the Office to prepare, in the case of first reports received from Governments after ratification of a Convention, a comparative analysis of the position in the country concerned, for consideration by the member of the Committee responsible for the Convention. The Committee also asks the Office, upon receipt of a report, to ascertain whether it takes account of previous observations or direct requests by the Committee or the Conference Committee; if not, the Office is requested, without entering into the substance of the matter, to draw the government's attention to the need for a reply. The Office is also requested, where reports are not accompanied by copies of relevant legislation, statistical data or other documentation necessary for their full examination and this material is not otherwise available, to write to the governments concerned to request them to supply the documents in question.

(m) The findings of the Committee take the form of observations, comments and surveys included in its report or of requests communicated directly to governments by the Director-General on behalf of the Committee.

(n) Although the conclusions of the Committee have represented traditionally unanimous agreement amongst all its members, decisions can be taken by a majority. In such a case it is the established practice of the Committee to include in its report also the opinion of the dissenting members, if they so request, together with any response which the Committee may deem appropriate.

(o) The report of the Committee is submitted to the Governing Body, and it is published as Report III (Part 4) to the next General Session of the Conference.

(p) A special element in the working methods of the Committee consists in the establishment of direct contacts with governments encountering special difficulties in applying ratified Conventions or in fulfilling various constitutional obligations relating to Conventions and Recommendations. The principles governing this procedure are set out below.

Secretariat of the Committee

(g) It is a necessity for the work of the Committee that it have at its disposal a qualified secretariat. This is placed at its disposal by the Director-General of the ILO.

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Principles governing the procedure of direct contacts

(a) The discrepancies noted and the practical or legal difficulties encountered in the application of a ratified Convention, as well as the difficulties met with in matters connected with international standards, including more particularly difficulties in fulfilling various constitutional obligations (articles 19 and 22 of the Constitution) and possible obstacles to the ratification of a given Convention, should be sufficiently important to warrant such contacts.

(b) The Committee of Experts may suggest the possibility of having recourse to direct contacts, whereupon the Director-General will explore the matter with the government concerned; the Conference Committee may also make such a suggestion, following its discussion of a case; the government concerned may itself take the initiative.

(c) The contacts should in all cases take place with the full consent of the government concerned.

(d) The points to be dealt with should be clearly specified in advance.

(e) While these contacts are taking place, the supervisory bodies will suspend their examination of cases for a period which will normally not exceed one year, so as to be able to take account of the outcome of these contacts.

(f) The form which the contacts will take should be determined in the light of their purpose, which is to enable the government to explain all the elements of the case, so as to permit the Committee to assess fully all the facts involved.

(g) The contacts should bring together persons thoroughly acquainted with all aspects of the case, including government representatives with sufficient responsibility and experience to speak with authority about the position in their country and about their own government's attitudes and intentions in the matter.

(h) It will be for the Director-General to designate the representative on behalf of the International Labour Organisation, who will be either an independent person or an ILO official fully conversant with the case; normally, it would not appear appropriate that this representative be a member of the Committee of Experts, but this possibility might be left open in certain special cases.

(i) The representative of the Director-General may, in agreement with the government concerned, visit the country to hold discussions on the matter with government representatives, in order to explain the point of view of the supervisory bodies, acquaint himself in detail with the government's position and the exact nature of the difficulties in question, and make available to the Committee of Experts any relevant information supplied to him by the government.



(j) The representative of the Director-General should, in the course of his assignment, make contact with the organisations of employers and workers so as to keep them informed of the topics discussed and elicit their points of view.

(k) The scope of the direct contacts and the mandate given to the persons selected for the purpose by the Director-General should not in any way be construed as limiting the functions and responsibilities of the Committee of Experts and the Conference Committee for examining the extent to which national law and practice conform to Conventions that have been ratified.

Rules for the supply of reports on ratified Conventions  
(approved by the Governing Body at its 201st Session -  
November 1976)

(a) First reports

First reports should continue to be requested immediately after the entry into force of a Convention for a country.

(b) Subsequent reports: Conventions for which reports should normally be requested at two-yearly intervals

Reports subsequent to the first report should normally be requested at two-yearly intervals for the following Conventions:

<u>Freedom of Association</u>	Nos. 11, 84, 87, 98, 135, 141.
<u>Forced Labour</u>	Nos. 29, 105.
<u>Discrimination</u>	Nos. 100, 111.
<u>Employment Policy</u>	No. 122.
<u>Migrant Workers</u>	Nos. 97, 143.
<u>Labour Inspection</u>	Nos. 81, 85, 129.
<u>Tripartite Consultation</u>	No. 144.

When a new Convention enters into force the Governing Body will decide, when approving the report form for the Convention, whether it should be included in the list of Conventions for which reports should normally be requested at two-yearly intervals. The Governing Body may periodically review the list of Conventions for which reports should normally be requested at two-yearly intervals.

(c) Subsequent reports: other Conventions

The two reports following the first report should normally be requested at two-yearly intervals. Thereafter, reports should normally be requested at four-yearly intervals.

(d) General reports

As hitherto, each country will be requested to supply a general report each year on those Conventions for which detailed reports are not due. Where this general report indicates substantial changes in legislation or practice affecting the application of particular Conventions, these should be examined without awaiting the next detailed report on the Conventions concerned.

(e) Cases in which more frequent reporting is to be requested

(i) Failure to report or to reply to comments by supervisory bodies

When a detailed report is not sent in the year for which it is due, or when the report does not reply to the comments made by the supervisory bodies, a detailed report will be due the following year.

(ii) Serious problems of application

In cases in which there are serious problems of application the Committee of Experts on the Application of Conventions and Recommendations or the Conference Committee on the Application of Conventions and Recommendations should, as hitherto, be able to request that a detailed report be supplied earlier than the year in which it would normally be due.

(iii) Observations by workers' or employers' organisations

When observations on the application of a ratified Convention are made by a national or international organisation of workers or employers, the Committee of Experts on the Application of Conventions and Recommendations or the Conference Committee on the Application of Conventions and Recommendations should be able to request, in the light of any explanations given by the government in reply to the observations, that a detailed report be supplied earlier than the year in which it would normally be due. Where these observations are sent directly to the Office, they should be communicated to the government concerned to enable it to make any comments it thinks fit.

(iv) Governing Body decisions

The Governing Body will be free to decide that detailed reports should be requested at shorter intervals if it considers this necessary owing to current developments, relevance to the objectives of the long-term plan or any other reason.

### III. GENERAL

#### New member States

39. The Committee learned that since its last session the People's Republic of Angola, the Bahamas, Guinea-Bissau, Mozambique and Papua New Guinea had become Members of the International Labour Organisation, bringing the total membership to 133.

#### New Conventions and Recommendations

40. The Committee noted that at its 61st (1976) Session the International Labour Conference adopted the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) and the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152).

41. A maritime session of the Conference (62nd Session) was also held in 1976, which adopted the Protection of Young Seafarers

Recommendation, 1976 (No. 153), the Continuity of Employment (Seafarers) Convention (No. 145) and Recommendation (No. 154), 1976, the Seafarers Annual Leave with Pay Convention, 1976 (No. 146), the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) and the Merchant Shipping (Improvement of Standards) Recommendation, 1976 (No. 155).

#### Obligations binding member States

42. In the course of 1976, 162 ratifications by 37 member States were registered, of which 70 were new ratifications and 92 represent the confirmation by the People's Republic of Angola, the Bahamas, Papua New Guinea and Surinam of obligations previously accepted on their behalf. Ratifications registered during 1976 will result in the entry into force, on 19 July 1977, of the Human Resources Development Convention, 1975 (No. 142), and on 24 November 1977 of the Rural Workers' Organisations Convention, 1975 (No. 141).

43. During 1976, one new declaration of application of a Convention to a non-metropolitan territory with modifications was registered. The Seychelles having become independent during 1976, the number of non-metropolitan territories was 41 on 31 December 1976.

#### In-depth review of international labour standards

44. The decisions taken by the Governing Body, within the framework of the in-depth review of international labour standards, on the new system for reporting on ratified Conventions and their implications for the work of the Committee, have been noted in paragraphs 34, 35 and 38 above.

45. As regards the other aspects of the in-depth review, the Committee learned that the Governing Body had, at its 200th (May 1976) Session, decided to undertake a systematic review of the existing body of standards so as to examine them in the light of current social problems, to evaluate the extent to which these are met by existing instruments and to identify future needs in standard-setting and the ways in which such needs might be fulfilled. The Committee noted that the initial work on this over-all examination had been entrusted to a working party of the Programme, Financial and Administrative Committee of the Governing Body, and that review has already begun of two groups of instruments: standards relating to general conditions of work and to occupational safety, health and welfare, and those relating to basic human rights, labour administration, employment policy, human resources development and industrial relations.

#### Functions in regard to other international and regional instruments

##### International Covenant on Economic, Social and Cultural Rights

46. At its last session, the Committee noted the entry into force of the International Covenant on Economic, Social and Cultural Rights on 3 January 1976. At its present session, the Committee noted that the Economic and Social Council of the United Nations had adopted a resolution at its 60th (May 1976) Session on the procedure for the implementation of the Covenant in which it called upon the specialised agencies to submit reports to the Council, as provided under Article 18 of the Covenant, on the progress made in achieving the observance of

the provisions of the Covenant falling within the scope of their activities, which might include particulars of decisions and recommendations on such implementation adopted by their competent organs. The Committee noted, further, that at its 201st (November 1976) Session, the ILO Governing Body decided (a) to request the Director-General to inform the Secretary-General of the United Nations that the International Labour Organisation agreed to report to the Economic and Social Council on the progress made in achieving observance of the provisions of the Covenant falling within the scope of its activities, in accordance with Article 18 of the Covenant, and (b) for this purpose, to entrust the Committee with the task of examining the reports and other available information on the implementation of the provisions of the Covenant falling within the scope of the ILO's activities.

47. The Committee noted that, under Article 16 of the Covenant, the Secretary-General of the United Nations is required to transmit to the specialised agencies copies of the reports, or relevant parts of the reports, from States Parties to the Covenants relating to matters within the responsibility of these agencies. Under the programme established by the Economic and Social Council in the above-mentioned resolution, the States Parties to the Covenant will furnish reports on its application in three stages at two-yearly intervals. The first reports, which governments have been asked to submit to the United Nations before 1 September 1977, will cover the application of Articles 6 to 9 of the Covenant, which deal respectively with the right to work, the right to the enjoyment of just and favourable conditions of work, trade union rights and the right to social security.

48. The Committee will thus be called upon to examine the position as regards the implementation of the Covenant at its 1978 Session and thereafter. For this purpose, it will have before it the reports, or relevant parts of them, furnished by States Parties to the Covenant to the United Nations. The Committee noted that pursuant to Article 17, paragraph 3, of the Covenant, these reports may refer to relevant information which the reporting State has previously furnished to the United Nations or to a specialised agency instead of reproducing that information, and that they may therefore refer to relevant reports supplied to the ILO under articles 19 or 22 of the ILO Constitution.

49. In connection with the reports on the first group of Articles of the Covenant, the Committee decided to appoint a working party of four of its members to undertake a preliminary examination of these reports. It was agreed that each member of the working party would have responsibility for the initial consideration of the information available, and draft reports thereon, in relation to one of the four articles of the Covenant to be dealt with in the first reports. The members of the Working Party will consult as to their conclusions and will submit these conclusions as a whole to the Committee for consideration and approval.

#### European Code of Social Security

50. The European Code of Social Security, which was adopted under the auspices of the Council of Europe, is modelled on the ILO's Social Security (Minimum Standards) Convention, 1952 (No. 102). Under article 74, paragraph 4 of the Code copies of reports on the Code and the Protocol thereto by ratifying States are to be sent to the Director-General of the ILO so that he may consult the appropriate body of the ILO in regard to them and transmit to the Secretary-General of the Council of Europe the conclusions reached by that body. The Committee having been designated the appropriate body by the ILO Governing Body, and the Code having entered into force on 17 March 1968, the Committee has exercised this function since 1969.

51. As in the case of ILO Conventions, the initial examination of reports on the Code and the Protocol is entrusted to a member of the Committee who presents his draft conclusions to the plenary sitting for approval. The Committee's conclusions are then communicated to the Secretary-General of the Council of Europe for transmission to that organisation's Committee of Experts on Social Security, which is the technical supervisory body for the Code, and which bases its work essentially on the conclusions of the Committee. In accordance with the usual practice, the ILO was represented at the meetings of the Committee of Experts on Social Security, and at the meeting of the Committee on Social and Health Questions of the Consultative Assembly, to which the reports of governments on the Code and the Protocol are also communicated for examination.

52. This year the Committee examined reports on the Code and the Protocol from eight countries, including one first report. It noted that further ratifications have been registered, which will lead to an increase in the reports to be examined in future years.

#### Collaboration with other international organisations

53. The arrangements under which the ILO collaborates with other international organisations on questions concerning the supervision of international instruments on matters of interest to more than one organisation continued to function as in the past. Thus, in conformity with 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.

54. In the field of discrimination, the Committee learned that its report for 1976, and in particular its comments on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), had been brought to the attention of the Committee on the Elimination of Racial Discrimination, which is responsible for supervising the International Convention on the Elimination of All Forms of Racial Discrimination, adopted in 1965 under United Nations auspices. It also noted with interest the documents relating to the work of this Committee which were communicated to it pursuant to the arrangements for co-operation between the two Committees.

55. The United Nations was represented at the sittings of the Committee devoted to the examination of the reports on the above-mentioned Conventions, and UNESCO was also represented at the sitting devoted to Convention No. 111 in accordance with the arrangements between the ILO and UNESCO for the co-ordination of their procedures for the supervision of that Convention and the UNESCO Convention against Discrimination in Education.

56. Within the framework of ILO collaboration with the Council of Europe, on matters other than the European Code of Social Security dealt with above, a representative of the ILO participated in a consultative capacity in meetings of the Committee of Independent Experts responsible for the supervision of the application of the European Social Charter. This participation, which is provided for in article 26 of the Charter, facilitates co-ordination in the supervision of international labour Conventions and of the many provisions of the Charter which deal with matters which are also the subject of ILO Conventions.

### Regional reviews of the application of standards

57. The Committee learned with interest that the Fifth Session of the Inter-American Advisory Committee, held in Quito from 5 to 14 October 1976, examined the situation of the countries in the region with regard to the ratification and application of international labour standards. It noted the proposals for the establishment of a regional working group to examine, taking into account the in-depth review of standards made by the Governing Body, the most important Conventions and Recommendations for the American region in order to promote their ratification and application or, if necessary, their revision, and for action to stimulate the ratification of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) and the implementation by member States of the provisions of the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152).

58. The Committee also noted that the regional reviews of the application of standards will be continued at the Fifth African Regional Conference (December 1977), the Eleventh Conference of American States Members of the ILO (autumn, 1978) and the 17th Session of the Asian Advisory Committee (November-December 1977).

### Regional seminars on national and international labour standards

59. The aim of these seminars is to familiarise the officials of national ministries of labour with the obligations of member States and the ILO procedures relating to Conventions and Recommendations. The Committee noted that such a seminar was held in Nairobi from 4 to 15 October 1976. It brought together officials from English-speaking African countries having direct administrative responsibility for the observance by their countries of the obligations under the ILO Constitution relating to international labour Conventions and Recommendations. Similar seminars will be held in 1977 for French-speaking African countries and for countries of the South Pacific area.

### Constitutional procedures of complaint and representation

60. In its report last year, the Committee noted that a representation had been made by the Swedish Dockers' Union under article 24 of the ILO Constitution alleging the non-application by three States of the Marking of Weight (Packages Transported by Vessels) Convention, 1929 (No. 27), and that the Governing Body had appointed a committee composed of three of its members to examine it. At its 202nd (March 1977) Session the Governing Body took note of the report of this committee, declared the procedure closed and decided to communicate the report to the Committee of Experts and to request the Governments of the States concerned, France, the Netherlands and Poland, to include in their future reports on the application of the Convention under article 22 of the Constitution detailed information on the measures which have been taken to ensure the observance of national provisions on this subject. The Committee has taken account of these decisions in making direct requests to the three States concerned on the application of the Convention.

61. The Committee learned that a complaint under article 26 of the Constitution, which had been presented by the Government of France alleging the non-observance by the owner of a vessel flying the flag of Panama of the Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 56) had been settled to the satisfaction of the complainant Government in the initial stages of the proceedings.

62. The Committee was informed that in the course of the past year a number of other complaints and representations had been made pursuant to articles 24 and 26 of the Constitution, and that these cases were still under consideration.

Difficulties in the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

63. The Committee had to examine a large number of problems concerning the application of the standards contained in this Convention. It noted that one of the most serious problems which arose in this connection concerns the right of workers to establish organisations of their own choosing (Article 2 of the Convention). The Committee observed that this question arises in a number of the countries whose situation was examined, where the legislation prohibits workers from choosing freely the trade unions they might wish to establish and imposes a system in which no more than one trade union may exist for each category or group of workers, or where a unified structure is established for the whole country. During the discussion of this question, it was noted that government intervention in this domain is sometimes aimed at resolving the confusion and the problems resulting from an excessive multiplicity of trade union organisations, as a temporary measure until such time as the desired result has been achieved. In other cases, it is a long-term situation, bound up with considerations of economic development. An institutional or political problem also arises in a number of countries where trade union unity is one of the very concepts of the organisation of society and of the State.

64. The Committee has already pointed out in its general survey on freedom of association and collective bargaining of 1973 that systems of trade union monopoly imposed by law are at variance with the principle of free choice of workers' and employers' organisations, contained in Article 2 of the Convention. This principle is in no way intended as an expression of support either for the idea of trade union unity or for that of trade union diversity. In many countries there may be several organisations among which the workers or the employers may wish to choose freely. In other countries, however, where no such diversity exists, workers and employers may wish to establish new organisations. In other words, although it is not the purpose of the Convention to make trade union diversity an obligation, and although the principle of free choice is in no way intended as an expression of support for the idea of trade union pluralism, the Convention does at least require this diversity to remain possible in all cases. While it may be to the advantage of workers to avoid a multiplicity of trade union organisations, and while appreciating the concern of any government to promote a strong trade union movement, it must be noted that unification imposed or maintained by legislative means runs counter to the principles of Convention No. 87. There is also a fundamental difference between a situation in which a trade union monopoly is instituted or maintained by law and situations in practice which exist in certain countries where workers or their trade unions join together voluntarily in a single organisation without this being the result of legislative provisions adopted to this effect. Freedom of association and trade union unity are not in any way incompatible, provided that such unity is established on a voluntary basis.

Action for the elimination of discrimination in  
employment and occupation

65. The Committee has had to examine this year the reports due under the two-yearly cycle on the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and on the Equal Remuneration Convention, 1951 (No. 100) from all the countries which have ratified them. The Committee has noted with interest that many governments have furnished specific information in reply to the general observation it made in 1975 on the occasion of the International Women's Year, concerning measures taken or envisaged in regard to discrimination in employment based on sex and the promotion of equality of opportunity between women and men in this area. The Committee is again raising these questions in the observations or requests it is addressing to various countries. It hopes that governments will continue to furnish detailed and positive information on this subject. It has learned with interest that the Governing Body and the International Labour Office are studying the possible need for new instruments on equality in employment for women and men.

66. Other questions to which the Committee has continued to give special attention concern the promotion of equality of opportunity and treatment for persons of different races or ethnic origins, as well as the elimination of discrimination based on political opinion. In addition to the individual comments it is addressing to various countries, it is making a general observation on the first of these questions, in regard to the problem raised during the recent Maritime Session of the Conference (October 1976) concerning the existence of discriminatory practices on board ships, against seafarers of certain races or origins. The Committee has been informed that the Office is to undertake a study of this problem, following a resolution adopted by the Conference, to which the Committee refers in its general observation.

67. As is indicated in section IV of this report, direct contacts have taken place or been requested by several governments with a view to examining, inter alia, questions posed by the application of Convention No. 111. The Committee recalls in this regard that on several occasions it has drawn attention to the value of such contacts in the case of this Convention, in which questions of fact and evaluation are often at issue. It hopes that this procedure will prove to be useful in various cases where uncertainties have existed for some time over the conformity of certain measures with the Convention or the effectiveness of actions taken to give effect to it.

68. The Committee has also been informed of new developments in the Office's activities to promote knowledge of problems of discrimination and means of resolving them through studies, information and meetings. In particular, it should be noted that a symposium on equality of opportunity and treatment in employment in Africa is to be held in Dakar in September 1977, following similar regional meetings which have respectively concerned Asia (1969), the Americas (1973) and Europe (1975). In addition, the development of studies on discrimination in the labour field in southern Africa and of assistance by the ILO to the populations of this region, in conformity with recent decisions of the Governing Body, are particularly welcome as means of promoting conditions favourable to the respect of fundamental ILO standards in countries which are still subject to policies of racial discrimination.



Implementation of employment policy standards

69. The Committee noted that the Tripartite World Conference on Employment, Income Distribution and Social Progress, and the International Division of Labour, held in Geneva in June 1976, adopted a Declaration of Principles and Programme of Action which covered a wide range of topics such as basic needs, international economic co-operation, international manpower movements, technologies for productive employment and the role of multinational enterprises in employment creation in developing countries. Of particular interest to the work of the Committee are those parts of the Declaration of Principles and Programme of Action which touch directly on the implementation of the Employment Policy Convention, 1964 (No. 122). Thus, the Declaration calls on member States to place prime emphasis on the question of employment, in particular to meet the challenge of creating sufficient jobs in developing countries by the year 2000 and thereby achieve full employment. It also calls on all member States to ratify Convention No. 122.

70. The Committee noted that, in accordance with a suggestion made by it in its last report, the Governing Body of the International Labour Office, at its 202nd (February-March 1977) Session, approved a revised report form for the Employment Policy Convention, taking account of the experience gained in supervising the implementation of the Convention since its entry into force in 1966, the growing understanding of the many aspects of an active employment policy which has resulted from the ILO's World Employment Programme and the conclusions of the World Employment Conference. The Committee hopes that, on the basis of the more complete information called for in the revised report form, it will be in a better position to evaluate the employment situation and the adequacy of policies pursued in each ratifying State.

71. The Committee also noted that, with a view to amplifying the existing standards, the World Employment Conference asked for consideration of possible revision of Convention No. 122 and that this question is being pursued by the International Labour Office.

72. While the World Employment Programme and the World Employment Conference have attempted to deal particularly with the enormous obstacles to full employment encountered by developing countries, recent reports on the Employment Policy Convention have shown a significant rise in general levels of unemployment in many industrialised countries. In a number of these cases the primary cause of sudden and sharp increases in unemployment is to be found in a reduction in economic activity in large parts of the world and in world trade. Remedial action in this regard does not depend on the decisions or action of any single country. In many instances, however, the present situation has highlighted structural problems in national labour markets which may not be removed by general economic recovery but may call for more far-reaching national measures.

73. The Committee recalls that the Employment Policy Convention requires each ratifying State to pursue as a major goal an active policy designed to ensure that there is productive work for all who are available for and seeking it. While such a policy cannot ensure that a country can be insulated from the effects on employment of world economic conditions, it does require a periodic reassessment of the situation in the light of emerging trends and needs with a view to determining, in consultation with the representatives of the productive forces within the country, the appropriate short-, medium- and long-term measures to be adopted. The Committee accordingly hopes that in future reports on this instrument governments will provide the most detailed information available on the employment and unemployment

situation in their countries, including particulars of the incidence of unemployment by region, type of industry, sex and age group, as well as on the factors which have adversely influenced the employment situation and on the short-, medium- and long-term policies being pursued to overcome them. It trusts that these reports will also provide detailed information on the consultations which have been held between those responsible in government for devising and implementing employment policies and representatives of persons and groups affected by the measures to be taken, with a view to taking fully into account their experience and views and securing their full co-operation in formulating and enlisting support for such policies, as required by Article 3 of the Convention.

#### IV. PROCEDURE OF DIRECT CONTACTS

74. At its previous session the Committee noted that a request had been made by the countries of the Andean Pact (Bolivia, Chile, Colombia, Ecuador, Peru and Venezuela) for the establishment of direct contacts with a view to examining the possibility of a uniform application of ratified Conventions and of the ratification, by those member countries which had not yet done so, of 25 important Conventions,<sup>1</sup> with a view to "facilitating the alignment of policies and the harmonisation of social and labour legislation".

75. At its present session the Committee noted that these contacts had taken place and covered two different types of questions in relation to the Conventions cited: the application of Conventions which have already been ratified and the ratification of Conventions not yet ratified.

76. The Committee notes that, as a result of these contacts as they affected ratified Conventions, relevant information was obtained in certain cases and in others the governments have already initiated action, or stated their intention to amend the existing legislation or to take other measures in the light of the comments made to them.

77. The Committee notes also that subsequent to these direct contacts Bolivia ratified Conventions Nos. 88, 95, 102, 111, 117, 118, 121, 122, 128, 129, 130 and 131 and Colombia Conventions Nos. 87, 98 and 129.

78. Finally, the Committee notes that Chile, Colombia, Ecuador, Peru and Venezuela are giving favourable consideration to the ratification of other Conventions which were considered in the framework of the direct contacts.

79. Since the last session, direct contacts have also taken place with Burundi, Dominican Republic, Haiti and Tanzania.

80. The direct contacts with Burundi, which took place in August-September 1976, concerned those ratified Conventions with which the national legislation was not in full conformity, problems relating to submission of Conventions and Recommendations to the competent authorities and prospects for further ratifications. Direct contacts with the Dominican Republic, in November 1976, related to Conventions

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<sup>1</sup> Conventions Nos. 29, 81, 87, 88, 95, 97, 98, 100, 102, 103, 105, 107, 111, 114, 117, 118, 121, 122, 128, 129, 130, 131, 132, 135 and 138.

Nos. 26, 29, 81, 87, 89, 98, 100, 105, 111 and 119 and submission to the competent authorities. In Haiti, where they took place in November 1976, they covered Conventions Nos. 1, 24, 25, 29, 30, 42, 81, 90, 98, 100, 105 and 106 and submission to the competent authorities. The direct contacts with Tanzania, held in October 1976, concerned Conventions Nos. 29 and 105, submission to the competent authorities and the preparation of reports on ratified Conventions and on unratified Conventions and Recommendations.

81. Particulars of the results of these direct contacts, and also of further measures taken as a result of earlier direct contacts (Afghanistan, 1974: Convention No. 106; Bolivia, 1973: Convention No. 42) will be found in the general observations concerning various countries and in the individual observations relating to the application of the Conventions in question and to the submission of Conventions and Recommendations to the competent authorities in the countries concerned, in Part Two, I A and B and III below.

82. Requests for direct contacts have been received from Costa Rica with regard to Conventions Nos. 92, 94, 95, 113, 114, 120 and 127, from Panama with regard to Conventions Nos. 13, 27, 30, 42, 52, 77, 78, 95, 112, 113, 119, 123 and 127, and from Paraguay with regard to Conventions Nos. 1, 29, 30, 100, 105, 111, 115 and 117. The Government of the Philippines has requested the establishment of direct contacts to examine the possibility of bringing about a more satisfactory and substantial application of some of the Conventions it has ratified (more particularly Conventions Nos. 17 and 89). The Government of Malaysia, which had stated at the Conference Committee in June 1976 that it wished to have recourse to the procedure of direct contacts with regard to Convention No. 105, subsequently indicated that it was still examining the position with a view to deciding on a formal request. In its report on Convention No. 111, the Government of Cyprus has indicated that it would be prepared to accept direct contacts.

#### Other types of assistance to governments

83. The Committee learned with interest that contacts of a less formal nature to help governments to discharge their obligations relating to international labour standards had taken place during 1976 in Ethiopia, Gabon, Kenya, Paraguay, Somalia, Sudan and Zaire.

### V. THE ROLE OF EMPLOYERS' AND WORKERS' ORGANISATIONS

84. At each session, the Committee draws the attention of governments to the role which employers' and workers' organisations are called on to play in the application of Conventions and Recommendations, and to the importance of measures designed to help these organisations to participate in practice in the application of ratified Conventions.

85. The Committee found that this year again almost all governments have indicated in their reports and information sent to the ILO in accordance with articles 19 and 22 of the ILO Constitution that they have complied with the obligation under article 23, paragraph 2, of the Constitution, to communicate copies to the representative organisations.<sup>1</sup>

<sup>1</sup> Direct requests have, however, been addressed by the Committee to the Governments of the following States which have not supplied  
(Footnote continued on next page)

86. Following a suggestion made by the Worker members of the Conference Committee in 1976, the ILO last year sent to the representative organisations of employers and workers in each State a copy of the observations and direct requests addressed by the Committee to their respective governments, together with the other material which has in recent years been sent to them to assist them in considering the reports and information communicated to them under article 23, paragraph 2, of the ILO Constitution.

87. The Committee noted that the Worker members of the Conference Committee also suggested that it would be useful to organise once again - as had been done in the past - a study meeting for the Worker representatives at a coming session of the Conference, so as to inform the organisations concerned about the various ways in which they can participate in the ILO's standard-setting activities. The Committee was informed that such a meeting is planned.

88. The Committee noted that a seminar for trade union lawyers was organised in Poland in 1976 by the World Federation of Trade Unions, which also examined the standard-setting work of the ILO and the role assigned to workers' organisations in connection with it.

#### Observations by employers' and workers' organisations

89. This year the Committee had to examine 69 observations of which 19 came from employers' organisations and 50 from workers' organisations. This total represents a noticeable increase over the observations received in the past two years (around 50) and is twice the number examined in 1974. These observations relate to the application of ratified Conventions,<sup>1</sup> reports supplied by governments

(Footnote continued from previous page)

information on the measures taken to comply with this obligation: Afghanistan, Honduras, Jordan, Nicaragua (communication of reports on ratified Conventions); United Republic of Cameroon, Chile, Rwanda, Spain, Thailand (communication of information on submission to the competent authorities); and Argentina (communication of the report on an unratified Convention).

<sup>1</sup> Austria: Austrian Congress of Labour Chambers on Conventions Nos. 26 and 122, Union of Austrian Industrialists on Convention No. 103; Bangladesh: Bangladesh Employers' Association on Conventions Nos. 11, 98, 106 and 111; Brazil: National Confederation of Workers in Maritime, Fluvial and Air Transport on Conventions Nos. 53, 58, 91 and 108, National Association of Maritime Navigation Undertakings (SYNDARMA) on Conventions Nos. 53, 58 and 91, National Confederation of Communications and Publicity Workers and National Confederation of Commerce on Conventions Nos. 98 and 111, National Confederation of Agricultural Workers on Convention No. 99, National Confederation of Commerce and National Confederation of Commercial Workers on Convention No. 106; Canada: Canadian Labour Congress on Conventions Nos. 14 and 122, Canadian Railway Labour Association, Canadian Chamber of Commerce, Canadian Construction Association on Convention No. 122; Cyprus: Cyprus Turkish Trade Unions Federation on Conventions Nos. 2, 44 and 88; Finland: Confederation of Finnish Employers and Federation of Commercial Employers on Conventions Nos. 87 and 111, Seafarers' Organisation on Convention No. 53; France: General Confederation of Labour (CGT) on Conventions Nos. 97 and 100; Federal Republic of Germany: Confederation of German Trade Unions (DGB) on Convention No. 135; India: Centre of Indian Trade Unions (CITU) on Conventions Nos. 1 and 5, All India Loco Running Staff Association on Convention No. 1; Ireland: Irish Congress of Trade Unions on Conventions Nos. 81, 87, (Footnote continued on next page)

under article 19 of the ILO Constitution on the Equality of Treatment (Social Security) Convention, 1962 (No. 118),<sup>1</sup> the submission to the competent authorities of a newly adopted instrument and certain other matters.<sup>2</sup>

90. Most of these observations were, as in previous years, communicated by the governments in their reports. The governments often added their own comments to the observations of the occupational organisations, thus completing the information available to the Committee and enabling it to consider the questions raised in the light of the varying views expressed. In the ten cases in which the observations were communicated directly to the ILO they were sent to the governments concerned for comment, in accordance with established practice.

91. In certain cases, the governments concerned have taken action in the light of the observations made by these organisations. For example, the Committee has noted that measures have been taken for the complete or partial solution of the questions raised by organisations in Finland under Convention No. 53 and by organisations in Bangladesh and Italy under Convention No. 81.

92. In order to reduce the delay in examining observations from employers' and workers' organisations, the Committee has followed its usual practice of examining these observations as soon as the government's comments have been received, irrespective of whether a report was due on the Convention. If the government does not send its comments within a reasonable period, the Committee nevertheless examines the substance of the observations. This practice will be maintained under the new system of detailed reporting so as to prevent delays in examining these observations.

(Footnote continued from previous page)

100, 102, 122 and 132; Italy: CISL-FILS and UIL-STAT Trade Unions of Syracuse on Convention No. 81; Japan: General Council of Trade Unions (SOHYO), Japanese Confederation of Trade Unions (DOMEI), Federation of Independent Unions (CHURITSURUFEN), National Federation of Industrial Organisations (SHINSANBETSU), National Federation of Smaller Enterprises Organisations on Conventions Nos. 26 and 131, General Council of Trade Unions (SOHYO) on Conventions Nos. 87 and 98; Netherlands: Dutch Confederation of Trade Unions Movement on Convention No. 87; Pakistan: Pakistan National Federation of Trade Unions on Conventions Nos. 1, 11, 87 and 98; Sweden: Swedish Trade Union of Railroad Mechanics and Engineers, Swedish Association of Executive Personnel and Swedish Dockers' Union on Conventions Nos. 87 and 98.

Observations have been received from the Trade Unions International of Public and Allied Employees and the General Union of Civil Servants (UGP-CGT of France) on the application of Convention No. 111 in the Federal Republic of Germany.

<sup>1</sup> Australia: Australian Council of Trade Unions and Central Industrial Secretariat.

<sup>2</sup> Austria: the Austrian Congress of Labour Chambers has proposed to the Government the acceptance of Part IV of Convention No. 102, which has already been ratified; Federal Republic of Germany: the Confederation of German Trade Unions (DGB) has proposed to the competent authorities the ratification of Convention No. 142; Ireland: the Irish Congress of Trade Unions has submitted to the competent authorities proposals for the practical application of Convention No. 144, which has not yet been ratified by Ireland.

VI. REPORTS ON RATIFIED CONVENTIONS

(Articles 22 and 35 of the Constitution)

Supply of reports

93. The Committee's principal task consists in the examination of the reports supplied by governments on Conventions which have been ratified by member States or which have been declared applicable to non-metropolitan territories.<sup>1</sup>

94. In accordance with the procedure for detailed reporting at two-yearly intervals approved by the Governing Body and the Conference, detailed reports from all ratifying States were due to be examined this year in respect of 60 Conventions<sup>2</sup> which covered the period from 1 July 1974 to 30 June 1976. In addition, detailed reports were also requested 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 because reports due for the previous period had not been received or did not contain the information requested.

Reports requested and received

95. A total of 2,200 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, 1,831 of these reports had been received by the Office. This figure corresponds to 83 per cent of the reports requested, as compared with 81.7 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.

96. In addition, 733 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, 566 reports, or 77.2 per cent had been received by the end of the Committee's session. A further 564 reports were requested on Conventions ratified by the member States but not declared applicable to the non-metropolitan territories; of these 418 or 74 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.

97. Apart from the above-mentioned reports, 14 governments also supplied general reports on the Conventions for which detailed reports

<sup>1</sup> ILO: Summary of Reports on Ratified Conventions, Report III (Part 1), International Labour Conference, 63rd Session, Geneva, 1977.

<sup>2</sup> The Conventions concerned are Nos. 1, 3, 5, 7, 8, 9, 11, 13, 14, 15, 20, 21, 26, 27, 28, 30, 32, 33, 35, 36, 37, 38, 39, 40, 43, 45, 47, 49, 50, 52, 53, 60, 62, 64, 67, 68, 84, 86, 87, 91, 97, 98, 99, 100, 102, 103, 106, 107, 108, 110, 111, 112, 119, 120, 122, 123, 128, 131, 134, 136.

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89 last year and 139 the year before. The Committee regrets that the improvement noted last year has only partly been maintained, and appeals to governments to give special attention to its comments.

103. In cases of failure to reply, the Committee has to repeat the observations or requests that it had made previously on the Conventions in question. The failure of 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

104. 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). The communication of reports in due time is essential if the Committee is to be able to examine them with the necessary degree of care, and it has been compelled to defer to its next session the examination of certain reports which arrived after the due date, as their study could not be completed within the time available. Similarly, at its present session, it has had to examine a number of reports deferred from 1976.

#### Examination of reports

105. 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, as set out in paragraph 38 above under the heading "Organisation of the work of the Committee".

#### Observations and direct requests

106. In the majority of cases, the Committee found that no comment was called for regarding the manner in which ratified Conventions were implemented. 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. 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.

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33, 62, 67, 87, 105, 119), Chad (Conventions Nos. 13, 29, 41, 52, 81, 87, 98, 100, 105, 111), Ghana (Conventions Nos. 26, 50, 64, 100, 111, 119), Guinea (Conventions Nos. 3, 5, 10, 13, 16, 17, 18, 29, 33, 45, 52, 62, 81, 90, 94, 99, 105, 113, 114, 117, 118, 121, 122), Jordan (Conventions Nos. 100, 105, 111), Malta (Conventions Nos. 108, 111), Mauritania (Conventions Nos. 19, 22, 29, 53, 62, 81, 84, 87, 94, 102, 111, 114, 122), Mongolia (Conventions Nos. 59, 87, 111), Tanzania (Conventions Nos. 17, 29, 88, 105, 108), Thailand (Conventions Nos. 29, 88, 105, 122, 123, 127), Tunisia (Conventions Nos. 8, 58, 59, 88, 91, 98, 112, 117, 119, 122, 127), Turkey (Conventions Nos. 81, 95, 98, 99, 111), Upper Volta (Conventions Nos. 3, 6, 18, 19, 97, 100).



107. As previously, the Committee has indicated by footnotes those cases in which, because of the nature of outstanding problems in the application of the Conventions concerned, it seemed appropriate to ask governments to supply full particulars to the Conference at its next session in June 1977 or to supply a detailed report earlier than would otherwise be the case. Within the new system of spacing out of reports over a four-year period applicable to most Conventions, such earlier detailed reports have been requested after an interval of either one or two years, according to the circumstances.

108. 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 and direct requests - classified by country - will be found at the beginning of this report.

### Practical application

109. 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 an important source of information on practical application available to the Committee. 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 section V above) and technical co-operation reports of experts or missions working in fields covered by Conventions.

110. This year over 42 per cent of the reports supplied on Conventions for which particulars of practical application are specifically requested contained such data. The Committee hopes that governments will continue their efforts to include information on practical application in their reports. 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 information of this kind in more than half the reports concerned: Austria, Belgium, Chile, Denmark, Ecuador, Finland, France, Guatemala, Iraq, Ireland, Israel, Italy, Japan, Malawi, New Zealand, Norway, Sierra Leone, Sweden, United Kingdom, Zambia.

111. The Committee has also noted with interest the judicial and administrative decisions on questions of principle relating to the application of ratified Conventions to which certain countries referred in their reports. Fifty-two reports contained information of this kind, a striking increase over preceding years when the total has invariably been less than twenty. The Committee particularly welcomed this greater effort on the part of governments to supply information of this nature, which throws valuable light on problems which have arisen in giving practical effect to the Conventions concerned.

### Cases of progress

112. 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 82 instances in which measures of this kind have been taken, involving 45 States and 2 non-metropolitan territories. The full list is as follows:

<u>Country</u>	<u>Conventions Nos.</u>
Afghanistan	106
Algeria	3
Argentina	9
Austria	102
Belgium	96, 100
Benin	29
Bolivia	42
Brazil	98
Bulgaria	32
Burundi	26
United Republic of Cameroon	29, 95
Chile	34
Congo	5
Cuba	92
Czechoslovakia	29
Ecuador	35, 37, 39, 103, 120
Egypt	87
Ethiopia	11
Finland	91, 108
Gabon	19
Greece	87
Guyana	108
Haiti	1, 24, 25, 30, 81, 90, 98, 106
Iceland	100, 111
India	1
Iraq	27, 29
Ireland	81
Kenya	14, 65, 81
Liberia	29
Luxembourg	103
Mali	33
Netherlands	128
Pakistan	96
Panama	3, 53, 56, 68, 92
Peru	24, 25, 100
Philippines	59
Portugal	91, 98
Spain	1, 30, 91, 103, 106, 111, 112
Sri Lanka	8
Surinam	17, 42, 87, 101
Sweden	108
Switzerland	111
Tunisia	18
Ukrainian SSR	108
USSR	108

Non-metropolitan territories

United Kingdom:

Brunei	108
Dominica	98, 108

113. These cases bring the total recorded instances of progress, since the Committee began listing them in its reports 14 years ago, to over 1,100. They provide an impressive 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.

114. They do not, however, as the Committee regularly points out, exhaust the instances in which Conventions and Recommendations have a measurable influence on the legislation and practice of member States. For instance, the Committee again noted a number of cases this year in which it emerged from the report that new legislation was adopted shortly before or after ratification: Finland (Convention No. 134), Federal Republic of Germany (Convention No. 130), Ghana (Convention No. 96), Japan (Conventions Nos. 115 and 119), Madagascar (Convention No. 132), Papua-New Guinea (Convention No. 27), Surinam (Convention No. 101), Uruguay (Convention No. 130) and United Kingdom (Antigua) (Convention No. 14).

#### VII. SUBMISSION TO THE COMPETENT AUTHORITIES TO THE COMPETENT AUTHORITIES

(Article 19 of the Constitution)

115. In accordance with its terms of reference, the Committee this year examined the following information<sup>1</sup> supplied by the governments of member States, pursuant to article 19 of the Constitution of the International Labour Organisation:

- (a) information on action taken to submit to the competent authorities, within the constitutional time limits of 12 or 18 months, the instruments adopted by the Conference at its 60th Session (1975), namely: the Rural Workers' Organisations Convention, 1975 (No. 141), the Human Resources Development Convention, 1975 (No. 142), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Rural Workers' Organisations Recommendation, 1975 (No. 149), the Human Resources Development Recommendation, 1975 (No. 150), and the Migrant Workers' Recommendation, 1975 (No. 151);
- (b) additional information on action taken to submit to the competent authorities the instruments adopted by the Conference from its 31st (1948) to its 59th (June 1974) Sessions (Conventions Nos. 87 to 140 and Recommendations Nos. 83 to 148);
- (c) replies to the observations and direct requests made by the Committee at its 1976 Session.

#### 60th Session

116. The Committee has noted with interest that the governments of the following 50 member States have indicated that they have submitted to the authorities considered as competent by them the

<sup>1</sup> 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), International Labour Conference, 63rd Session, Geneva, 1977.

instruments adopted by the Conference at its 60th Session; Algeria, Argentina, Australia, Barbados, Bolivia, Byelorussian SSR, Bulgaria, United Republic of Cameroon, Chile, Costa Rica, Democratic Yemen, Denmark, Dominican Republic, Egypt, Finland, France, German Democratic Republic, Federal Republic of Germany, Haiti, Honduras, Hungary, Indonesia, Iran, Israel, Ivory Coast, Jamaica, Japan, Kuwait, Luxembourg, Mali, Morocco, Nigeria, New Zealand, Norway, Panama, Paraguay, Romania, Spain, Sierra Leone, Sudan, Sweden, Switzerland, Thailand, Trinidad and Tobago, Tunisia, Ukrainian SSR, USSR, United Kingdom, United States, Venezuela.

117. The governments of the following three countries have indicated that they have submitted to the competent authorities certain of the instruments adopted by the Conference at its 60th Session: Cuba, Mexico, Netherlands.

### 31st to 59th Sessions

118. The Committee noted with interest that considerable progress has been made in several 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 (numerous instruments adopted from the 31st to the 59th Sessions), Chile (instruments adopted from the 50th to the 59th Sessions), Dominican Republic (instruments adopted at the 52nd, 53rd, 56th, 58th and 59th Sessions), Ivory Coast (numerous instruments adopted from the 50th to the 59th Sessions), Jamaica (numerous instruments adopted from the 48th to the 59th Sessions), Paraguay (numerous instruments adopted at the 41st to the 59th Sessions), Spain (various instruments adopted from the 46th to the 59th Sessions), Zaire (instruments adopted at the 54th, 55th, 56th and 59th Sessions).

119. 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 discharge of the obligation to submit to the competent authorities the Conventions and Recommendations adopted by the Conference. Appendix II shows the over-all position in this respect for the instruments adopted from the 31st to 60th Sessions of the Conference.

### Comments by the Committee and replies from governments

120. 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 to a number of countries which are listed at the end of that section.

121. The Committee notes with regret that, notwithstanding its repeated requests, a number of 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

122. Although cases of recent progress have been noted by the Committee, it observes that there are still cases in which instruments adopted by the Conference are not submitted to the legislative body. In this connection, the Committee recalls the comments which it has made for a number of years and hopes that the difficulties which persist in this respect can be resolved in the near future.

Communication of information and documents

123. 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 still do not transmit all or most of this information to the Office. The following countries have not supplied the documents relating to the submission of instruments adopted during at least the last ten sessions of the Conference under consideration (50th to 60th): Byelorussian SSR, 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

124. The position in several countries is still a matter of grave concern to the Committee. It thus notes with regret that, in the following cases in particular, no information showing that the Conventions and Recommendations adopted by the Conference during at least the last seven sessions under consideration (53rd to 60th) have in fact been submitted to the competent authorities: Afghanistan, Benin, Lao Republic, Uganda.

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125. 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 ILO Constitution.

126. The Committee proposes at its next session to undertake an over-all review of questions which arise in connection with the discharge by member States of their obligation to submit Conventions and Recommendations to the competent authorities.

VIII. REPORTS ON AN UNRATIFIED CONVENTION

(Article 19 of the Constitution)

127. 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 Equality of Treatment (Social Security) Convention, 1962 (No. 118).<sup>1</sup>

128. Of a total of 119 reports requested, 94 have been received (that is 79 per cent of those requested) as well as 22 reports concerning non-metropolitan territories.

129. This total represents a return, after the lower figure recorded last year, to the fuller response to the request for reports under article 19 of the Constitution which was noted in the two preceding years. The Committee hopes that governments will continue to make every effort to supply the reports requested, so that its general surveys can be as comprehensive as possible. A table of reports supplied is appended to Part Three of the present report (Volume B).

130. The Committee once again notes with regret that a number of countries have not supplied any of the reports on unratified Conventions and on Recommendations requested under article 19 of the Constitution of the ILO for the past five years. They are as follows: Afghanistan, Lao Republic, Nepal.

131. Part Three of this report (Volume B) contains the Committee's general survey of the questions covered by the Convention. 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 two members of the Committee, appointed by it.

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132. 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, 30 March 1977.

(signed) Adetokunbo Ademola,  
Chairman.

E. Razafindralambo,  
Reporter.

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<sup>1</sup> ILO: Equality of Treatment (Social Security): Summary of Reports on Convention No. 118, Report III (Part 2), International Labour Conference, 63rd Session, 1977, Geneva.



PART TWO

**OBSERVATIONS CONCERNING PARTICULAR  
COUNTRIES**





## **OBSERVATIONS CONCERNING PARTICULAR COUNTRIES**

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

#### **A. GENERAL OBSERVATIONS**

##### **Albania**

The Committee notes with regret that the reports due have not been received. It must recall once again that under article 1, paragraph 5, of the Constitution of the ILO, States continue to be bound, even after their withdrawal from the Organisation, to ensure the observance of ratified Conventions for the period provided for in such Conventions and to report on their application.

In the absence of any information from the Government, the Committee is unable to ascertain to what extent effect is now given to the Conventions by which Albania remains bound (Nos. 4, 5, 6, 10, 11, 16, 21, 29, 52, 58, 59, 77, 78, 87, 98, 100 and 112).

##### **Algeria**

The Committee notes the adoption of Ordinance No. 75/31 of 29 April 1975 concerning general conditions of employment in the private sector. It hopes that the Government's future reports on ratified Conventions will specify the statutory and other provisions which ensure that these Conventions are applied in sectors other than the private sector.

##### **Bahamas**

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 supply all the reports due on the application of ratified Conventions.

##### **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 supply all the reports due on the application of ratified Conventions.

### Chad

The Committee regrets to note that for the second consecutive year the reports due have not been received. It has, however, noted a communication from the Government concerning the report on the application of standards, which is to be submitted to the Fifth African Regional Conference, to the effect that the Department of Labour is doing everything possible to bring about the legislative amendments necessitated by the ratification of certain Conventions as quickly as possible.

The Committee hopes that the Government will not fail in future to fulfil its obligation to provide reports on the application of ratified Conventions and that these reports will contain information on the progress made in giving effect to the Committee's comments.

### Costa Rica

The Committee notes with interest that the Government has requested direct contacts with the ILO with a view to bringing the national legislation into closer conformity with Conventions Nos. 92, 94, 95, 113, 114, 120 and 127. The Committee trusts that these direct contacts will take place as soon as possible and that they will produce the desired results.

The Committee regrets that the first reports on Conventions Nos. 102, 129 and 130, which have been due for three years, have not been received. It trusts that the Government will supply these reports in the near future.

### Dominican Republic

The Committee notes that direct contacts took place in November 1976 between the national competent services and a representative of the Director-General of the International Labour Office regarding Conventions Nos. 26, 29, 81, 87, 89, 98, 100, 105, 111 and 119, on the application of which comments had been made.

The Committee notes with interest that, as a result of these direct contacts, the following texts have been drafted: (a) a draft bill to amend sections 38, 219(6), 398, 401 and 686 of the Labour Code which relate to the application of Conventions Nos. 81, 89 and 111; (b) a draft decree to amend the Industrial Health and Safety Regulations, with a view to the better implementation of Convention No. 119; (c) a bill to repeal sections 269, 270, 271, 272 and 273 of the Penal Code with a view to the better implementation of Convention No. 105.

The Committee trusts that this draft legislation will be adopted at an early date and requests the Government to supply information on the measures taken to that end.

The Committee also trusts that the Government will shortly supply the first reports on Conventions Nos. 77 and 95, which have been due for two years.

### Egypt

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.

Gabon

The Committee notes, from the statement made to the Conference Committee by a Government representative in 1976, that a new Labour Code had been approved by the Council of Ministers and that it had been reproduced in stencil form but not yet been printed. It also notes that the Conference Committee requested the Government to supply the official text of the Code as soon as possible and to indicate the date of its entry into force.

The Committee notes that no further information has been supplied on the subject by the Government. It hopes therefore that the Government will indicate whether the Code has been promulgated and, if so, supply the official text of the Code, as promulgated. The Committee also requests the Government to indicate whether a decree has been issued in accordance with section 251 of the Code to determine the date of its entry into force. Finally, the Committee hopes that, as indicated under several Conventions, the new Labour Code will ensure the better application of these instruments.<sup>1</sup>

Haiti

The Committee notes that direct contacts took place in November 1976 between the competent national services and a representative of the Director-General of the ILO regarding Conventions Nos. 1, 24, 25, 29, 30, 42, 81, 90, 98, 100, 105 and 106, on the application of which comments had been made.

The Committee notes with satisfaction that, as a result of these direct contacts, a decree was adopted on 10 December 1976 amending certain sections of the Labour Code and of the Act of 28 August 1967 on the organisation of the Department of Social Affairs, which affect the application of Conventions Nos. 1, 30, 81, 90, 98 and 106. The Committee also takes note of the two communications sent by the Secretary of State for Social Affairs on 17 November 1976, with a view to the better implementation of Convention No. 42.

Honduras

In its earlier observation, the Committee noted that direct contacts had taken place in December 1975 and that the following texts had been drafted at that time: (a) two draft decrees relating to Convention No. 29; (b) draft regulations relating to Convention No. 32; (c) a draft decree relating to Convention No. 42 amending section 455 of the Labour Code, as well as draft amendments to the Compulsory Social Security Implementation Rules; (d) a draft decree relating to Convention No. 62; (e) draft regulations relating to Convention No. 78; (f) a draft decree relating to Convention No. 87 amending various sections of the Labour Code; (g) draft regulations relating to Convention No. 95; (h) draft decree relating to Convention No. 105; (i) draft regulations and a draft ministerial circular relating to Convention No. 108. The Committee expressed the hope that this draft legislation would be adopted at an early date and requested the Government to provide information on any measures taken to that end.

The Committee notes that no reference is made to this draft legislation in the reports received on the application of Conventions

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<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session.

Nos. 32, 62, 87 and 108, and that its adoption is apparently subject to future changes in the Labour Code. The Committee trusts that the draft legislation prepared during the direct contacts will shortly be enacted, irrespective of any changes that may be made in the Labour Code, particularly since the drafts in question did not affect the Labour Code so far as Conventions Nos. 29, 32, 62, 78, 95, 105, 108 and parts of Convention No. 42 are concerned. The Committee requests the Government to provide information on any measures taken in this connection.

#### Iraq

The Committee notes that, under section 6(3) of Law No. 157 of 1973 concerning the implementation of major development projects, projects of this nature may be exempted from some or all provisions of the Labour Law by the decision of the chairman of the committee responsible for the administration of this Law. It also notes, from the information provided in the report on Convention No. 1, that such exemptions have been granted in respect of provisions relating to hours of work and weekly rest.

The Committee requests the Government to provide full particulars of all exemptions granted under the above-mentioned Law and the effect of such exemptions on the application of Conventions ratified by Iraq.

The Committee also hopes that the Government will take measures to ensure that exemptions in respect of labour matters may be granted under Law No. 157 of 1973 only to the extent compatible with the obligations arising under international labour Conventions ratified by Iraq.

#### Jordan

The Committee notes the Government's statement that it is in the process of enacting a new Labour Law to replace all existing labour legislation in Jordan which will be in keeping with the new developments achieved in the country and in accordance with the desire of the Government to achieve social justice as provided for in the Jordanian Five-Year Plan, 1976-80.

The Committee expresses the hope that the new legislation will ensure the application of all Conventions ratified by Jordan, with due regard to its comments.

#### Democratic Kampuchea

In the absence of any reports, the Committee has not been able to examine the current position as regards the application of ratified Conventions.

#### Lao Republic

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.

Lebanon

The Committee noted the information sent by the Government, indicating that it had not been possible to provide reports on ratified Conventions owing to the events that had greatly disrupted both the public and private sectors, but that it was hoped to meet this obligation by the end of October 1977.

The Committee refers to its earlier comments on the application of Conventions Nos. 14, 52, 89 and 90, and hopes that the Government will be in a position to ensure the application of ratified Conventions and to supply reports on the action taken to that end.

Lesotho

The Committee notes with regret that the reports due have not been received. It recalls once again that in accordance with article 1, paragraph 5 of the ILO Constitution, States have a continuing obligation even after withdrawal from the organisation, to apply ratified Conventions for the period provided for therein and to report on them.

The Committee notes that two first reports, concerning the application of Conventions Nos. 14 and 98, have not been received and that no information has been supplied in reply to the direct requests made previously concerning the application of Convention Nos. 19 and 29.

Libyan Arab 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.

Madagascar

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.

Malta

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 supply all the reports due on the application of ratified Conventions.

Mauritius

The Committee noted with interest the adoption by the Legislative Assembly on 16 December 1975 of Act No. 50 issuing the Labour Code. It hopes that the Government will indicate the date fixed under section 61 of that Act for its entry into force and that it will send a copy of the relevant proclamation.

Mauritania

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 supply all the reports due on the application of ratified Conventions.

Mongolia

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 supply all the reports due on the application of ratified Conventions.

Nepal

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 supply all the reports due on the application of ratified Conventions.

Nicaragua

In its previous observation, the Committee took note of the direct contacts which took place in May 1975 and of the following texts which were drafted at that time: (a) a bill to amend certain sections of the Labour Code respecting the application of Conventions Nos. 1, 3, 4, 6, 8, 9, 18, 22 and 30; (b) a draft decree concerning Convention No. 17; (c) a draft decree relating to Conventions Nos. 87 and 98. The Committee had expressed the hope that this draft legislation would be adopted in the near future and had requested the Government to provide information on the measures taken to this end.

The Committee notes that, during the 61st Session of the Conference, a Government representative stated that, although a committee had been appointed to revise the Labour Code, his Government would make every effort to ensure that the draft legislation prepared during the direct contacts with a view to bringing the legislation into line with the Conventions which it had ratified was adopted before the committee completed its work. The Committee takes note of a subsequent communication from the Government indicating that a consultative committee of the Ministry of Labour was reviewing the whole question of harmonising the labour legislation with the Conventions which Nicaragua had ratified.

The Committee trusts that this review will result in the adoption in the near future of the draft legislation prepared during the direct contacts so as to bring the legislation into line with the Conventions in question which Nicaragua ratified over 40 years ago, and it requests the Government to indicate the measures taken in this regard.

Panama

The Committee notes with interest that the Government has requested direct contacts with the ILO with a view to bringing the national legislation into closer conformity with Conventions Nos. 13, 27, 30, 42, 52, 77, 78, 95, 112, 113, 119, 123 and 127. The Committee trusts that these direct contacts will take place as soon as possible and that they will produce the desired results.

Paraguay

The Committee notes with interest that the Government has requested direct contacts with the ILO with a view to bringing the national legislation into closer conformity with Conventions Nos. 1, 29, 30 100, 105, 111, 115 and 117. The Committee trusts that these direct contacts will take place as soon as possible and that they will produce the desired results.

Peru

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.

Philippines

The Committee notes that the Government has requested the establishment of direct contacts with the ILO with a view to examining together the possibility of bringing about a more satisfactory and substantial application of some of the Conventions so far ratified by the Philippines. It also notes that, following a request for more specific indications of the matters to be examined in the course of the direct contacts, the Government has indicated the Conventions on workmen's compensation and night work for women particularly as the ones necessitating expert assistance.

In accordance with the rules governing the procedure of direct contacts, the Committee has temporarily deferred further examination of the application of Conventions Nos. 17 and 89.

Somalia

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.

South Africa

The Committee notes with regret that the reports due have not been received. It must recall once again that under article 1, paragraph 5, of the Constitution of the ILO, States continue to be bound, even after their withdrawal from the Organisation, to ensure the observance of ratified Conventions for the period provided for in such Conventions and to report on their application.

In the absence of any information from the Government, the Committee is unable to ascertain to what extent effect is now given to the Conventions by which South Africa remains bound (Nos. 2, 19, 26, 42, 45, 63 and 89).

Tanzania

The Committee notes from the reports supplied by the Government that, due to administrative and practical difficulties, it has not been



possible for some years to obtain information concerning the application of Conventions in Zanzibar. The Committee hopes that the Government will take all possible measures to overcome these difficulties and will soon be in a position to supply information on the effect given to ratified Conventions in Zanzibar.

#### Thailand

The Committee notes with regret that for the second year in succession 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.

#### Togo

The Committee notes with regret that for the second year in succession 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.

#### Tunisia

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.

#### Turkey

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 supply all the reports due on the application of ratified Conventions.

#### Upper Volta

The Committee notes with regret that for the second year in succession 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.

#### Viet-Nam

In the absence of any reports, the Committee has not been able to examine the current position as regards the application of ratified Conventions.

#### Zambia

The Committee notes with regret that the first report on Convention No. 135, due for two years, has not been received. It hopes that the report will be available for examination by the Committee at its next session.

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Requests regarding certain points are being addressed directly to the following States: Algeria, Bangladesh, Benin, Bolivia, Bulgaria, Burundi, Byelorussian SSR, United Republic of Cameroon, Central African Republic, Chad, Colombia, Congo, Costa Rica, Cuba, Dominican Republic, Egypt, Gabon, Haiti, Indonesia, Kenya, Kuwait, Libyan Arab Republic, Mongolia, Nigeria, Pakistan, Paraguay, Spain, Syrian Arab Republic, Tunisia, Uganda, Ukrainian SSR, USSR, Venezuela, Yugoslavia.

## B. INDIVIDUAL OBSERVATIONS

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

#### Chile (ratification: 1925)

Referring to its previous observations, the Committee has taken note of the report of the Commission of Inquiry set up under article 26 of the Constitution of the ILO, dated 8 May 1975 and, in particular, of the conclusion reached that the Government of Chile had not violated, by Legislative Decree No. 35 of 24 September 1973, the obligations imposed by this Convention.

Nevertheless, on a different point, not covered by the inquiry procedure, the Committee notes with regret from the Government's report that no progress has yet been made in bringing the Labour Code into line with the Convention on the following points mentioned in its earlier comments:

1. Section 25 of the Labour Code exempts persons performing functions which, by their nature, cannot be limited to fixed working hours, which is not an exception provided for in the Convention.

2. Section 28 of the Code provides that, in the case of operations which are by their nature not harmful to the workers' health and in special cases to be determined by the competent labour inspectorate, there may be agreement in writing for up to two hours' overtime per day, whereas under Article 6, paragraph 1(b), of the Convention, such overtime is to be allowed only as a temporary exception to deal with exceptional cases of pressure of work and the maximum overtime is to be fixed in each instance by regulations, as provided in paragraph 2 of Article 6 of the Convention.

The Committee hopes that the Government will shortly take the necessary steps to bring the law into line with the Convention on these two points.<sup>1</sup>

#### Egypt (ratification: 1960)

Article 6 of the Convention. In connection with its earlier comments the Committee noted from the information given in the 1975 report that the Government intends, as soon as the new Labour Code is adopted, to amend Ministerial Order No. 62 of 1960 listing all road transport and rail transport operations as "intermittent by their

<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1978.

nature" for purposes of section 117 of the Labour Code, which permits workers to be required to be present at workplaces for more than 11 hours a day. In its latest report the Government states, however, that this exemption is to be applied under section 114 of the Labour Code, which does not permit a worker to be actually employed on work for more than 8 hours a day or 48 hours a week, even if his attendance at the workplace exceeds 11 hours a day.

The Committee emphasises once again that Article 6(1)(a) of the Convention, providing for permanent exceptions in cases where attendance at the workplace must necessarily exceed the normal hours prescribed by the Convention, only allows such exceptions in relation to persons whose work is particularly intermittent. This possibility of making exceptions cannot therefore be used for all road and rail transport workers.

The Committee hopes that the Government will take action shortly to bring the national law into line with the Convention on this point.<sup>1</sup>

#### Haiti (ratification: 1952)

Further to its earlier observations, the Committee notes with satisfaction that, as a result of the direct contacts held between the national competent services and a representative of the Director-General of the ILO, sections 100 and 104 of the Labour Code have been amended by Decree of 10 December 1976 to bring them into line with Article 1 of the Convention (application of provisions regarding hours of work to road transport services) and Article 6 (determination of maximum number of additional hours).

#### India (ratification: 1921)

Following earlier comments, the Committee notes with satisfaction that, by virtue of the Factories (Amendment) Act, 1976, the definition of "worker" for the purposes of the Factories Act has been extended to cover contract labour and the power to grant exemptions during a public emergency, under section 5 of the Factories Act, has been restricted to a grave emergency whereby the security of India or any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance, in conformity with Article 14 of the Convention.

The Committee also notes the comments communicated by the All-India Loco Running Staff Association and the Centre of Indian Trade Unions concerning the application of the Convention to railway workers, and the observations on these comments made by the Government. The comments made by the two organisations, which refer more particularly to the situation of loco-running staff, relate to the limitation of normal hours of work, the effect on entitlement to overtime rates of pay of provisions for averaging normal hours of work, the maximum hours of duty which may be worked at one stretch, and the implementation of agreements reached on the last-mentioned point in 1973.

The Government indicates that the hours of work of railway employees were reviewed by the Railway Labour Tribunal, 1969, which recommended reduced hours of work and enhanced rates of overtime; that the Third Pay Commission (1973) also reviewed the pay scales of all categories of railway employees, including loco-running staff, and made

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1978.

specific recommendations; that the recommendations of both the Tribunal and the Pay Commission have been accepted by the Government; that an award made in 1974 by the Board of Arbitration covering the loco-running staff has also been implemented; and that a Grievances Committee set up in 1973 to examine the grievances of loco-running staff had completed its work in August 1975. The Government recalls that the genesis of the regulations governing hours of work of railway servants was to be found in legislation enacted in 1930 to implement the provisions of this Convention, and that since then the regulations had been repeatedly liberalised. It indicates that the Railway Labour Tribunal, 1969, had, on detailed examination, found the provisions recommended by it, including those relating to averaging of hours of work of running staff on a two-weekly basis, to be consistent with the Convention.

In order to be able to consider the issues involved, the Committee would be grateful if the Government would supply copies of the decision of the Railway Labour Tribunal, 1969, the report of the Third Pay Commission, 1973, the arbitration award for loco-running staff of 1974, and the report of the Grievances Committee of 1975, as well as copies of recent annual reports on the working of the Railway Servants (Hours of Employment) Regulations. The Committee would also appreciate further information on the present state of implementation of the decisions or recommendations of the above-mentioned bodies, and on any difficulties encountered in this connection.<sup>1</sup>

Iraq (Ratification: 1965)

Article 6, paragraph 1 of the Convention. The Committee notes that paragraph 6 of section 67(b) of the Labour Code, as amended by Act No. 50 of 1973, authorises an increase in working hours "if the work is required for the purposes of development and the increase of production". It has also noted from the Government's report that under Act No. 157 of 1973 certain undertakings participating in the implementation of important development projects have been exempted from the provisions of the Labour Code relating to hours of work and weekly rest and may employ workers during official rest periods as well as during the weekly rest periods.

The Committee wishes to emphasise that an increase in working hours is not authorised by the Convention in the cases mentioned above. It hopes that the Government will take the necessary measures to bring legislation and practice into conformity with the Convention.

Article 6, paragraph 2. The Committee notes that section 68 of the Labour Code, as amended by Act No. 50 of 1973, no longer lays down any limit on the number of hours overtime. It recalls that the Convention requires that regulations issued in accordance with Article 6 shall fix the maximum of additional hours which may be authorised in each instance. It hopes that the Government will take steps to bring the legislation into conformity with the Convention on this point also.<sup>2</sup>

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.

<sup>2</sup> The Government is asked to report in detail for the period ending 30 June 1978.

Kuwait (ratification: 1961)

The Committee notes that in its last report the Government reiterates its intention to adopt measures putting the national legislation in conformity with the Convention on the following points:

Article 1 of the Convention. Section 2 of the Labour Act (Private Sector) (No. 38 of 1964) exempts from its application temporary workers employed for periods not exceeding six months at a time and workers in undertakings with fewer than five employees, whereas this Article of the Convention does not allow of such exemptions.

Article 3 and Article 6(1)(b) and (2). Sections 34 and 35 of the Labour Act (Private Sector) and sections 14 and 15 of the Labour Act (Public Sector) provide that the employer may order work for two additional hours per day and on the weekly rest day but prescribe no limit to the total hours of overtime, whereas under these Articles of the Convention additional hours are permitted only as temporary exceptions to avoid serious interference with the ordinary working of the undertaking, the maximum number being fixed in each instance after consultation with the organisations of employers and workers concerned.

Since the Government has been referring to its intention of adopting the measures necessary to bring the legislation into conformity with these provisions of the Convention for many years, the Committee hopes this will be done in the near future.<sup>1</sup>

Nicaragua (ratification: 1934)

See General Observations: Nicaragua.<sup>1</sup>

Peru (ratification: 1945)

The Committee regrets that no report has been received from the Government. It earlier drew attention to the need to adopt certain provisions for bringing the national law into line with Articles 3, 4, 5 and 6 of the Convention (time worked in excess of normal hours), and in its last observation it noted that a draft Presidential Decree had been prepared for this purpose during the direct contacts that took place on the application of this Convention. The Committee hopes that the draft can soon be adopted and asks the Government to report any action taken to this end.

Spain (ratification: 1929)

In connection with its earlier comments the Committee notes with satisfaction that section 23 of the Employment Relations Act of 1976, which fixes the maximum normal hours of work at 44 in the week, limits in paragraph 4 the maximum number of overtime hours to 2 per day, 20 per month and 120 per year and prescribes an increase of 50 per cent in the wage for such hours, thus ensuring compliance with Article 6(2) of the Convention in all cases.

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.

Syrian Arab Republic (ratification: 1966)

Article 6 of the Convention. The Committee notes that the Government has once again stated that a draft law taking account of its previous comments, which was submitted to the National Assembly, has not yet been adopted. It hopes that this draft will be adopted in the near future and will modify section 117 of the Labour Code so that, except in the case of intermittent work as defined by the Convention, the worker's presence will not be required at his workplace outside the hours of work authorised.<sup>1</sup>

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In addition, requests regarding certain points are being addressed directly to the following States: Bolivia, Burundi, Iraq, Libyan Arab Republic, Portugal.

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

**Convention No. 2: Unemployment, 1919**Cyprus (ratification: 1965)

In its reports on the application of Conventions Nos. 2, 44 and 88 for the period 1973-75, the Government indicated a number of difficulties which had arisen in the application of these Conventions as a result of the events which had occurred in Cyprus in 1974. It referred to the disruption of the employment service due to the fact that a substantial part of the country was no longer under the control of the Government of Cyprus. It also indicated that the Social Insurance Law had been amended with effect from 1 March 1975 so as to suspend a number of benefits, including the unemployment benefit. It stated that these amendments had been dictated by the need to protect the Social Insurance Fund, since the Fund had lost about 40 per cent of its income from contributions and demands for unemployment benefits had increased beyond all normal proportions and threatened the very existence of the Fund.

The Committee has noted the comments on the above-mentioned reports received since its last session from the Cyprus Turkish Trade Unions Federation and the observations on these comments communicated by the Government of Cyprus. The Committee notes that the Federation's comments relate mainly to the situation prevailing prior to 1974, and that in so far as they claim that the requirements of the Conventions had not been fully respected their validity is denied by the Government of Cyprus. In so far as the comments relate to questions of responsibility for events in 1974, they fall outside the scope of this Committee's terms of reference.

The Committee can only express the hope, as it had already done in direct requests addressed to the Government of Cyprus in 1976, that the Government will find itself in a position to take measures to overcome the present difficulties in the application of the Conventions concerned and that it will provide information in future reports on any progress made to this end.

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1978.

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

#### Algeria (ratification: 1962)

1. In connection with its earlier comments the Committee noted with satisfaction that, as a result of the Director of Social Security's Circular No. 380/SS/S/SDR dated 31 January 1975, maternity benefit is now paid under the social security system for the full period of maternity leave (up to 14 weeks) as required by Article 3(c) of the Convention in conjunction with Article 3(a) and (b).

2. The Committee also noted with satisfaction that, in the case of women workers in the private sector, Ordinance No. 75-31 of 24 April 1975 on general conditions of work in this sector authorises interruptions for nursing and prohibits dismissal during a woman's absence on maternity leave (or in case of illness arising out of pregnancy or confinement) as required by Articles 3(d) and 4 of the Convention.

#### Argentina (ratification: 1933)

##### Article 3(c) of the Convention.

1. Medical Benefits. The Committee notes the Government's reply to its previous comments on the granting of medical care to women who are not covered by insurance or who do not meet the requirements for length of service laid down by Legislative Decree No. 18017 of 1968.

2. Cash benefits. As regards the grant of cash benefits to these workers, the Government refers to the pre-natal allowance provided for in Act No. 20590 of 1973. As the Committee noted in its comments in 1975, this allowance, since it is a family benefit and is accorded only for the period of pregnancy after a qualifying period, does not assure the full application of the Convention on this point. The Committee hopes that the necessary measures will be taken either to remove the qualifying condition required by Legislative Decree No. 18017, or to give to women workers who do not fulfil these conditions financial aid from public funds (for example, through public assistance).

3. Mistake in estimating the date of confinement. In its previous comments, the Committee noted that national legislation contained no provision - as the Convention does - which provides that a mistake by the doctor or midwife in estimating the date of confinement shall not prevent the woman from receiving the benefits to which she is entitled from the date of the medical certificate up to the date when confinement occurs. The Committee had requested the Government to take the necessary measures to ensure the full application of the Convention on this point. However, the Government's report does not indicate any progress in this regard and the new Decree regulating the labour contract (No. 390 of 1976) contains no provisions in this sense in its sections on the protection of maternity (177 and 178). The Committee thus has no choice but to raise this question again, and it hopes the Government will not fail to do everything possible to bring national legislation and practice into conformity with the Convention.

Chile (ratification: 1925)Article 3(c) of the Convention (maternity benefits).

(a) Referring to its earlier comments concerning the granting of maternity benefits to women not fulfilling the qualifying conditions under Act No. 10383 of 1952 on workers' compulsory insurance (as amended), the Committee noted with interest that under Legislative Decree No. 307 of 1974 on the unified family benefits scheme, women are entitled to a maternity allowance without any qualifying condition. In addition, medical care is provided for them by the National Health Service or the National Medical Service according to the group to which the woman worker belongs.

(b) As regards medical cost-sharing by women with salaried status under Act No. 16781 of 1968, the Committee noted from the information given during the direct contacts mission to the Andean countries that such sharing only relates to care given by private practitioners, that these women workers can obtain free care from the National Medical Service or from a social welfare service and that they may be able to recover the cost from their sickness fund. The Committee hopes that, as part of the planned reorganisation and unification of the social security system, arrangements can be made for women workers to receive free medical care in accordance with the Convention.

Article 4 (prohibition of dismissal). The Committee's comments pointed out that under the Labour Code a woman could be dismissed during her absence on maternity leave on the grounds specified in the Code, and it asked the Government to take steps towards including an express provision prohibiting dismissal while a woman is on maternity leave (including any extension of leave because of delayed confinement or of illness arising out of pregnancy or confinement). In reply, the Government stated that while this is theoretically possible under the law, the situation could not occur in reality, since the grounds for dismissal specified in the Labour Code could not by their very nature arise during maternity leave.

During the direct contacts mission already mentioned, the Government repeated this, but indicated at the same time that it would consider the possibility of amending the law on this point. The Committee has noted this information and hopes that, when the final drafting of the new Labour Code takes place, account will be taken of the above provision of the Convention.

Colombia (ratification: 1933)

Article 3(a), (b) and (c) of the Convention (length of leave and maternity benefit). In its earlier comments the Committee pointed out that section 236 of the Labour Code and clause 33 of Decree No. 1848 of 1969, prescribing 8 weeks of maternity leave, do not comply with the Convention under which a woman is entitled to 12 weeks of maternity leave including 6 to be taken after confinement. It also pointed out that the above law and regulations do not - as required by the Convention - provide for an extension of pre-natal leave in the event of a mistake by the doctor or midwife in estimating the date of confinement.

The Committee now finds that the new Decree approving the general regulations for sickness and maternity insurance (No. 770 of 1975, clause 16(b)) similarly limits payment of maternity benefit to a period of eight weeks, and makes no provision for continuing payment in the event of late confinement.



The latest report of the Government provides no new information on any action taken to implement these basic provisions of the Convention, e.g. as regards adoption of the Bill drafted after the direct contacts in 1972 for bringing section 226 of the Labour Code into line with the Convention. Hence, the Committee is obliged to raise this matter again and trusts that the Government will make every effort to bring about the necessary changes in the national law.<sup>1</sup>

Federal Republic of Germany (ratification: 1927)

Article 4 of the Convention (prohibition of dismissal). In reply to the Committee's previous observations concerning section 9 of the Maternity Protection Act (which allows dismissal during maternity leave in certain exceptional cases), the Government states that it was not possible to modify this Act during the seventh session of the Bundestag, but that it hopes to be able to do so during the next session. The Committee notes this statement with interest, and requests the Government to indicate any progress achieved in this regard.<sup>2</sup>

Libyan Arab Republic (ratification 1971)

1. Referring to its earlier comments, the Committee noted with interest the Government's statement that, under Act No. 72 of 1973 to establish a general system of social security, maternity insurance now covers women employed in the public sector (including those with the status of civil servants) in the same way as women employed in the private sector, regardless of the number of persons employed in the undertaking where the women are employed. The Committee also noted the information given regarding women working in transport by sea or inland waterway (Articles 1 to 3 of the Convention).

2. As regards the other points mentioned in its comments, the Committee draws attention to the following:

(a) Article 3(a), (b) and (c) of the Convention (in conjunction also with Article 4). The Government states in the report that the draft for a new labour code, which is to bring the national law into line with the above provisions of the Convention, is still under consideration. The Committee hopes that the draft will be adopted in the near future and that it will abolish the qualifying condition for entitlement to maternity leave, that it will increase the period of leave from the present 50 days to 12 weeks, of which 6 weeks to be taken obligatorily after confinement, and that it will permit an extension of pre-natal leave and maternity benefit where confinement occurs after the presumed date and also in the event of illness resulting from pregnancy or confinement, as required by these basic provisions of the Convention.

(b) Article 3(c). As regards women workers who do not fulfil the qualifying conditions (laid down in section 24 of the Social Insurance Act of 1957, as amended) for entitlement to maternity, medical and cash benefits, the Government states that this point will be taken into account in the orders to be made by the Council of Ministers under Act No. 72 of 1973. The Committee noted this

<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1978.

<sup>2</sup> The Government is asked to report in detail for the period ending 30 June 1977.

announcement with interest and hopes that the orders will soon be issued.

3. The Committee also asks the Government to include information in the next report on the progress made in bringing the new social security system into operation.<sup>1</sup>

Nicaragua (ratification: 1934)

See General Observation: Nicaragua.<sup>2</sup>

Panama (ratification: 1956)

1. In its examination of the Government's report the Committee notes with satisfaction that, since February 1976, the social security scheme has been extended to the whole country so that all working women covered by the Convention are now insured for maternity benefit.

2. The Committee also notes the information given by the Government on the application of the following Articles of the Convention: Article 1 (protection of public employees and officials); Article 3, paragraph 1 (family undertakings); Article 3(c) (cash benefits for women not fulfilling the insurance qualifying conditions); Article 4 (insertion of an explicit provision in the national law to prohibit dismissal during maternity leave); it also studied the statistics supplied.

3. The Committee hopes that the Government's next report will indicate: (a) whether the new law on the self-employed worker's contribution has been adopted (family undertakings); (b) the results of the survey relating to working women who do not fulfil the qualifying conditions for entitlement to cash benefits; and (c) whether a provision has been inserted in the Labour Code to provide statutory backing for the practice of not allowing dismissal, as required by Article 4 of the Convention and as the Government implies in its report.

Venezuela (ratification: 1944)

For a number of years, the Committee has been asking the Government to supply information or take measures to ensure full application of the Convention on the following points:

1. Coverage of the social security scheme and in particular maternity insurance for the whole of the national territory which should cover all categories of workers dealt with by the Convention, whether they are engaged in the private or in the public sector (Article 1 of the Convention in connection with Article 3(c)).

2. Application of the provisions of the Convention to women with the status of an official or a public employee, in particular as regards the application of free medical services (pre-natal, obstetric and post-natal), the application of two rest periods per day of half an hour each for nursing, and protection against dismissal (Article 1 in connection with Articles 3(c), 3(d) and 4).

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1978.

<sup>2</sup> The Government is asked to report in detail for the period ending 30 June 1977.

3. Payment of maternity benefit in case of the prolongation of maternity leave as a result of doctor's or midwife's error in estimating the date of confinement, without reduction of post-natal leave and the benefits accruing (Article 3(c), final clause).

It appears from the Government's report and from the information passed on during direct contacts with the countries of the Andean Group, that, as regards the first point, a part of the social security scheme (that is, old-age sickness and dependants' insurance) has already been extended throughout the country by Presidential Decree No. 878 of 1975 and that comprehensive extension of this scheme is presently under consideration and will be in force at a later stage; concerning this point the Committee notes that out of the 3,286,183 active population, 707,885 are women who benefit from the protection by virtue of the Social Security Act. As regards officials and public employees the Government states that there is medical benefit and obstetric care for most of them as a result of the agreements concluded between the different public departments and private clinics, and that several ministries or other public offices have already their own dispensaries. With regard to the third point, the Labour Code is in the process of amendment and it will contain provisions for the prolongation of pre-natal leave and the payment of indemnity for delayed confinement due to error of judgement of the date. The Government furthermore indicates that the Venezuelan Social Insurance Institute has been informed of the previous comments of the Committee and it has the intention of adopting Article 11 of the Social Insurance Act to the new provisions of the Labour Code and the regulations applying it.

The Committee notes this information with interest and hopes the Government will make sure to supply information on the measures taken and to describe the progress made.

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In addition, requests regarding certain points are being addressed directly to the following States: Algeria, United Republic of Cameroon, Colombia, Cuba, Gabon, Greece, Ivory Coast, Nicaragua, Upper Volta.

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

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

Bolivia (ratification: 1954)

Article 2 of the Convention. The Committee recalls its previous comments in which it pointed out that section 58 of the General Labour Act, 1942, authorising the employment of children under 14 years as apprentices was contrary to the provisions of this Article of the Convention. It notes from the Government's report that the draft Labour Code contains a provision prohibiting labour by children under 15 years. The Committee hopes that steps will shortly be taken to bring the law into line with the Convention either by adoption of the new Labour Code or by amending the existing law pending the Code's promulgation.

Congo (ratification: 1960)

Article 2 of the Convention. Further to its previous comments, the Committee notes with satisfaction that section 116 of the Labour Code (Act No. 45-75 of 15 March 1975) did not retain the provision of the 1964 Labour Code under which children of less than 14 years could be employed in light work, thus bringing the legislation into conformity with the Convention.

Guinea (ratification: 1959)

The Committee notes with regret that the Government's report contains no reply to its previous comments. It must therefore repeat its previous observation which read as follows:

Article 4 of the Convention. With reference to its earlier observations, the Committee notes the Government's report according to which the text of the draft order concerning the employment of children, which is designed to ensure the application of Article 4 of the Convention, will be communicated as soon as it is adopted. Since the Government has been referring to the aforementioned draft since 1967, the Committee trusts that it will be adopted in the very near future so that every employer in an industrial undertaking is required to keep a register of all persons under the age of 16 years employed by him, and of their dates of birth.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

India (ratification: 1955)

The Committee has noted the comments concerning the application of this Convention communicated by the Centre of Indian Trade Unions and the Government's observations thereon.

The Centre of Indian Trade Unions has stated that, although reliable statistics regarding the employment of children under 12 years in different industries are not available, it is estimated that between five and six million children under that age are employed in industries besides agriculture. The organisation has referred to the finding by the National Commission of Labour in its report of 1969 that employment of children persisted in varying degrees in the unorganised sector such as small plantations, restaurants and hotels, cotton ginmills and weaving, stone breaking, brick-kiln, handicrafts and road building, and has stated that the situation is no better at present.

The Government, in its observations, has stated that the provisions of the Convention are being observed by the enforcement of the Factories Act, 1948, the Employment of Children Act, 1938 and the Mines Act, 1952, and that in addition the employment of children below a particular age has been prohibited by various other laws, such as the Motor Transport Workers' Act, 1961 and the Bidi and Cigar Workers (Conditions of Employment) Act, 1966. While recognising the prevalence of child labour, the Government points out that it occurs by and large in the rural sector and in small establishments, but is practically non-existent in organised industries, as borne out by the report of the National Commission on Labour. The Government states that most of the child workers are in agriculture, livestock raising, etc., and that only an insignificant proportion of children under 12 years in urban areas are in employment.

The Committee recalls that, according to Article 6 of the Convention, the minimum age provisions contained in Article 2 do not apply to India; instead, in India children under 12 years of age shall not be employed -

- (a) in factories working with power and employing more than ten persons;
- (b) in mines, quarries, and other works for the extraction of minerals from the earth;
- (c) in the transport of passengers or goods, or mails, by rail, or in the handling of goods at docks, quays, and wharves, but excluding transport by hand.

The Committee has previously concluded that the legislation referred to by the Government meets the requirements of Article 6 of the Convention, and indeed goes beyond those requirements in establishing a minimum age of 14 years (or, in certain cases, 15 years) for employment of the kinds mentioned in that Article and in applying minimum age standards to a wider range of undertakings than those mentioned in Article 6. The Committee also notes that various forms of employment mentioned by the Centre of Indian Trade Unions as using child labour (such as plantations and restaurants and hotels) fall outside the scope of the Convention. Certain of the activities mentioned appear, however, to be of an industrial character. The Committee notes the Government's statement that, in so far as child labour exists, it is to be found in the unorganised sector and predominantly in rural areas.

The Committee would be grateful if, in accordance with Point V of the report form approved by the Governing Body, the Government could provide additional information on the activities of inspection services in enforcing the minimum age for various undertakings of the kind mentioned in Article 6 of the Convention, both in urban and rural areas, including copies of any available reports on the working of the legislation concerned and particulars of the number and nature of the contraventions reported and the action taken in respect of them.<sup>1</sup>

Sierra Leone (ratification: 1961)

See under Convention No. 59, Article 4.

Singapore (ratification: 1965)

In earlier comments, the Committee had noted that the Employment Act, 1968, permitted the employment in industrial undertakings of children aged 12 years or over who were in possession of a certificate of registration issued by the Commissioner for Labour, whereas Article 2 of the Convention provided that children under 14 years should not be employed or work in such undertakings. In 1975, the Committee was able to note with satisfaction that the Employment Act had been amended in 1973 so as to prohibit the employment of children under 14 years in industrial undertakings.

The Committee regrets to note that the Employment (Amendment) Act, 1975 and the Employment of Children and Young Persons Regulations

<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1978.

1976 (section 4) once again authorise the employment of children aged 12 years or over in industrial undertakings with the written permission of the Commissioner for Labour and also as apprentices, contrary to the Convention. The Committee hopes that measures will be taken to ensure the observance of the Convention.<sup>1</sup>

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In addition, requests regarding certain points are being addressed directly to the following States: Bahamas, Uganda.

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

Requests regarding certain points are being addressed directly to the following States: Benin, Upper Volta.

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

Requests regarding certain points are being addressed directly to the following States: Bahamas, Sri Lanka.

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

Nicaragua (ratification: 1934)

See General Observation: Nicaragua.<sup>2</sup>

Singapore (ratification: 1964)

With reference to its earlier comments on the need to make the unemployment indemnity provided for seamen in cases of shipwreck under section 77 of the Merchant Shipping Act also payable to ships' masters (who are not covered by the definition of "seafarers" under section 2 of the Act), the Committee notes that no proposal has been made for action to bring the law into line with the Convention on this point. The Government merely repeats that masters can have a clause to this effect inserted in their contracts of employment. The Committee must point out again that, even if the terms of the contract between master and shipowner enable the Convention to be implemented in some cases, the fact remains that, in the absence of such clauses in individual contracts or collective agreements, the protection required by the Convention can only be provided for all persons covered by means of legislation.

In view of this, the Committee trusts that the Government will take the necessary action to ensure that masters are covered by the provisions of the Convention.

<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1978.

<sup>2</sup> The Government is asked to report in detail for the period ending 30 June 1977.

Sri Lanka (ratification: 1951)

Article 2 of the Convention. The Committee notes with satisfaction the adoption of the 1974 Regulations under the Merchant Shipping Act (No. 52 of 1971), in which Regulation 19 provides for an unemployment indemnity in accordance with this Article of the Convention in the event of wreck, loss or abandonment of the ship.

As regards certain points on which additional information is required, a request is being made directly to the Government.

United Kingdom (ratification: 1926)

In the comments made since 1971 the Committee drew the Government's attention to the need to amend section 15 of the Merchant Shipping Act, 1970, in order to (a) extend the scope to masters and pilots (Article 1 of the Convention) and (b) to abolish the bar to claims to the unemployment indemnity which may apply to a seaman who has not made reasonable efforts to save the ship and persons and property carried in it (Article 2). In its report for the period 1974-76 the Government indicates that it has not yet been possible to take the contemplated action but reaffirms that the comments will be duly borne in mind; it also states that it will send information on any amendment of section 15 of the Act when it comes into operation.

The Committee would like to draw the Government's attention to the fact that, until section 15 takes effect, the matters in question are still governed by the 1894 Merchant Shipping Act of which section 157 contains a restriction similar to that mentioned under (b). It hopes that it will soon be possible to amend the law as indicated above, especially since the governments of certain British non-metropolitan territories for which section 157 of the 1894 Merchant Shipping Act is still in operation have stated that they will base their consideration of the matter on the changes made in the law of the United Kingdom.

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In addition, requests regarding certain points are being addressed directly to the following States: Iraq, Jamaica, Mauritius, Panama, Papua New Guinea, Sierra Leone, Sri Lanka, Tunisia.

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

**Convention No. 9: Placing of Seamen, 1920**Argentina (ratification: 1933)

In previous direct requests, the Committee had noted the absence of a system of public employment offices for finding employment for seamen. It therefore notes with satisfaction that the National Directorate of the Employment Service now undertakes the placing of seamen, and that detailed statistics of seamen placed by it are provided in the report.

Colombia (ratification: 1933)

Further to the previous observations, the Committee notes that, under the provisions of Decree No. 062 of 1976, regional employment offices have been established throughout the country and commenced operations in January 1976. It notes further that these offices will also deal with the placing of seamen.

The Committee hopes that the Government's next report will provide full information on the organisation and functioning of the new arrangements for the placing of seamen, including particulars of the number and location of regional employment offices which undertake the placing of seamen and of the measures taken to give effect to the provisions of Article 4, paragraph 2, of the Convention (work relating to the placing of seamen to be administered by persons having practical maritime experience) and of Article 5 (advisory committees of representatives of shipowners and seamen). It hopes that the Government will also furnish all available statistical and other information on the work of the offices placing seamen (Article 10).<sup>1</sup>

Mexico (ratification: 1939)

The Committee refers to its observations made since 1957 concerning the absence of a system of employment offices for seamen and advisory committees of shipowners and seamen as required by Articles 4 and 5 of the Convention. It recalls that, according to information communicated to the Conference Committee in 1973, the National Ports Co-ordinating Committee had been instructed in January 1973 to study measures to comply with the Convention, including in particular the organisation of a system of free employment offices and the establishment of appropriate advisory committees. It regrets that such measures have not yet been taken. The Government states in its report that at present seamen are engaged by certain co-operatives and by shipping agents; these arrangements do not meet the requirements of the Convention.

The Committee notes that consultations on the matter are continuing and trusts that measures will be taken at an early date to establish a system of employment offices for seamen and advisory committees in accordance with Articles 4 and 5 of the Convention.<sup>2</sup>

Nicaragua (ratification: 1934)

See General Observation: Nicaragua.<sup>3</sup>

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1978.

<sup>2</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session and to report in detail for the period ending 30 June 1977.

<sup>3</sup> The Government is asked to report in detail for the period ending 30 June 1977.



Uruguay (ratification: 1933)

Articles 4 and 5 of the Convention. In previous observations the Committee had noted that the Merchant Marine Personnel Registers were under the management of committees comprising representatives of shipowners and of seamen's organisations having legal personality. The Committee notes that, under Decree No. 384/976 of 29 June 1976, these committees have been abolished and the management of the Registers has been entrusted to a committee on which shipowners and seamen are no longer represented.

The Committee trusts that the Government will accordingly take measures to establish advisory committees, consisting of an equal number of representatives of shipowners and seamen, to advise on matters concerning the functioning of the Registers, as required by Article 5 of the Convention.<sup>1</sup>

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In addition, requests regarding certain points are being addressed directly to the following States: Argentina, United Republic of Cameroon, Cuba, Greece, New Zealand, Panama, Peru, Poland, Romania, Sweden.

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

A request regarding certain points is being addressed directly to Guinea.

**Convention No. 11: Right of Association (Agriculture), 1921**Bangladesh (ratification: 1972)

The Committee has noted the information given in the Government's report in reply to a previous direct request.

In particular, it notes the Government's statement that the Industrial Relations Ordinance applies to workers solely engaged in the tea and sugar industries and in other agricultural establishments operated on a commercial basis. Such workers have the same right of association as industrial workers.

The Committee has examined the comments submitted by the Bangladesh Employers' Association, according to which the Industrial Relations Ordinance, 1969, does not appear to apply to agricultural workers unless they are organised in the same way as the tea plantation workers.

The Committee would point out that the right of association guaranteed by the Convention applies to all persons engaged in agriculture, including independent workers, tenants, sharecroppers, smallholders, etc.

<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.

The Committee requests the Government to indicate how the right of association is secured for these categories of workers.<sup>1</sup>

Byelorussian SSR (ratification: 1956)

See under Convention No. 87.

Cuba (ratification: 1935)

See under Convention No. 87.

Czechoslovakia (ratification: 1923)

See under Convention No. 87.

Ethiopia (ratification: 1963)

Further to its earlier direct requests, the Committee notes with satisfaction that the new legislation no longer excludes agricultural workers (section 2(27) of Proclamation No. 64/1975) and that, according to the Government's latest report, agricultural workers, including those in the traditional sector, have the same rights of association as other workers and that they are forming associations.

Pakistan (ratification: 1923)

According to the comments transmitted by the Pakistan National Federation of Trade Unions, the term "agriculture" is not covered under the definition of "industry" in any of the labour laws of Pakistan. The Industrial Relations Ordinance, 1969, is not applicable to agricultural workers. Workers in plantations, however, have the right to organise.

The Committee would point out that the right of association guaranteed by the Convention applies to all persons engaged in agriculture, including independent workers, sharecroppers, tenants, smallholders, etc.

The Committee requests the Government to indicate how the right of association is secured to these categories of workers.<sup>1</sup>

Poland (ratification: 1924)

See under Convention No. 87.

Romania (ratification: 1930)

See under Convention No. 87.

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977..

Rwanda (ratification: 1962)

With reference to its earlier comments the Committee has taken note of the Government's report, particularly the information that a draft legislative decree repealing section 186 of the Labour Code and extending the provisions of the latter to workers employed in agriculture has been submitted for the signature of the President of the Republic.

The Committee notes that the same information had already been given in the report sent in 1975. It trusts that the legislative decree will be approved in the very near future and requests the Government to provide full information in this connection.

Ukrainian SSR (ratification: 1956)

See under Convention No. 87.

USSR (ratification: 1956)

See under Convention No. 87.

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In addition, requests regarding certain points are being addressed directly to the following States: German Democratic Republic, Lesotho, Papua New Guinea.

Information supplied by Algeria, Brazil and Zambia in answer to direct requests has been noted by the Committee.

**Convention No. 13: White Lead (Painting), 1921**Afghanistan (ratification: 1939)

The Committee recalls that, following direct contacts in 1974 between the competent national services and a representative of the Director-General of the ILO, a draft decree was drawn up with a view to bringing national legislation into conformity with the Convention. In its report for 1975, the Government indicated that this draft decree was being considered by the Government.

The Committee notes that the Government's latest report no longer refers to this draft decree but states that a text based on the Convention has been included in the new draft Labour Code which is at present under consideration by the Government.

The Committee recalls that the adoption of a new Labour Code has been under consideration for many years and that the above-mentioned draft decree was designed to ensure implementation of the Convention pending adoption of such a Code. It trusts that provisions to give effect to the Convention will be adopted in the near future.<sup>1</sup>

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session and to report in detail for the period ending 30 June 1977.

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Algeria (ratification: 1962)

The Committee notes that the legislation applying Conventions Nos. 13, 32 and 62 was dated prior to 3 July 1962 and was accordingly repealed by Ordinance No. 73-29 of 5 July 1973, which came into force on 5 July 1975.

The Committee further notes from the Government's report on Convention No. 13 that the legislation is being revised and that a series of texts are about to be promulgated, including one relating to the prohibition of the use of white lead in painting.

The Committee hopes that texts giving effect to the provisions of Conventions Nos. 13, 32 and 62 will be promulgated in the near future, and that the Government will supply copies thereof.<sup>1</sup>

Chad (ratification: 1960)

The Committee once again notes with regret that, in the absence of a report, no information is available on the measures announced by the Government in 1972 and designed to give full effect to Article 5 I(a) and (b) of the Convention. It trusts that the Government will not fail to take the appropriate measures and to supply information on the subject.

Guinea (ratification: 1959)

The Committee regrets that the Government's report contains no reply to its previous comments. It recalls that since 1960 it has pointed to the necessity to prohibit the employment of young persons and women in any painting work of an industrial character involving the use of white lead or sulphate of lead or other products containing these pigments, as required by Article 3 of the Convention. In 1972, the Government communicated the text of a draft Order which would have given partial effect to this provision, but since then it has given no information on the measures taken or envisaged to give effect to Article 3. The Committee trusts that steps will now be taken to lay down the requisite prohibition.

The Committee also recalls that steps remain to be taken to compile and supply statistics of morbidity and mortality through lead poisoning among working painters, in accordance with Article 7 of the Convention.

Mexico (ratification: 1938)

Since 1948 the Committee has drawn the Government's attention to the need to adopt laws or regulations to give effect to the Convention. The Government informed the Conference Committee in 1973 that this would be done through general regulations on occupational hygiene and safety, the draft of which had been almost completed.

The Committee notes with regret from the Government's report that these regulations have not yet been submitted to the national Congress.

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.

The Committee trusts that provisions giving full effect to the Convention will be adopted in the near future.<sup>1</sup>

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In addition, requests regarding certain points are being addressed directly to the following States: Congo, Greece, Italy, Nicaragua.

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

#### Bolivia (ratification: 1954)

The Committee notes that the draft Legislative Decree drawn up following direct contacts which took place in 1973 between the competent national services and a representative of the Director-General of the ILO, and which was intended to ensure that workers employed during days of weekly rest received compensatory periods of rest in accordance with Article 5 of the Convention, has still not been adopted. It hopes that this draft will be adopted in the near future.

#### Kenya (ratification: 1964)

Further to its earlier comments the Committee notes with satisfaction that the Employment Act 1976 (section 8) provides workers with a weekly rest of at least one day during each period of seven days.

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In addition requests regarding certain points are being addressed directly to the following States: Burundi, Iraq, Lesotho.

Information supplied by the Libyan Arab Republic 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)

Article 2 of the Convention. In its earlier comments the Committee drew attention to the incompatibility with the Convention of section 55(2) (b) of the Employers and Employed Act, which allows young persons of 16 to 18 years to be employed as trimmers or stokers on vessels engaged in coastal shipping. The Committee has taken note of the Government's statement that it expects to indicate in its next report the arrangements made in this regard. The Committee trusts therefore that appropriate steps will be taken shortly.

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.

In addition, requests regarding certain points are being addressed directly to the following States: United Republic of Cameroon, Iraq, Mauritius, Panama.

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

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

Guinea (ratification: 1966)

The Committee notes with regret that the Government's report contains no reply to its previous comments. Since its first report, received in 1967, the Government has referred to a draft order on women's and children's employment designed to give effect to the provisions of the Convention and stated in its report for 1971-73 that this draft was to be adopted in the near future. The Committee trusts that the Government will be in a position to provide the text of the order adopted with its next report.

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

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

Guinea (ratification: 1966)

The Committee notes that the Government's report contains no reply to its previous comments. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its previous direct request, which read as follows:

Articles 1 and 3. Further to its earlier requests, the Committee notes with interest the Government's reply to the effect that the new Social Security Code, the draft of which has already been placed before the National Assembly for adoption, will be the legislation which will apply the provisions of the Convention. It trusts that this Code will also cover officials, the permanent civil service, auxiliary officials and assimilated staff, since those groups have so far not been subject to any special scheme of workmen's compensation for accidents.

Article 5. The Committee also hopes that the new Code will comply fully with the terms of the Convention, according to which compensation in the case of accidents causing permanent incapacity or death is paid to the victim or to his dependants in the form of periodical payments, and only in certain cases in the form of a lump sum, if the competent authority is satisfied that it will be properly utilised.

The Committee hopes that the new Code will be adopted in the very near future, as indicated by the Government.

Philippines (ratification: 1960)

See under General Observations, Philippines.

Surinam (ratification: 1976)

Article 10 of the Convention. With reference to its previous observations, the Committee notes with satisfaction the adoption of the Ordinance of 24 November 1975 amending Decree No. 145 of 1947 on industrial accidents and occupational diseases, paragraph 10(e) of article 6 of which, as amended, provides that medical treatment shall henceforth include the supply, renewal and repair of artificial limbs, thereby giving full effect to this Article of the Convention.

The point on which there are still certain discrepancies between the national legislation and Article 7 of the Convention has been dealt with in a direct request to the Government.

Tanzania (ratification: 1962)

The Committee notes that, for the fifth year in succession, the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

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.<sup>1</sup>

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

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<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session.

**Convention No. 18: Workmen's Compensation (Occupational Diseases), 1925**Benin (ratification: 1960)

The Committee notes that, for the second year in succession, the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee notes with regret that the Government's report has not been received, and that accordingly no information is available on the measures taken or contemplated to apply fully Article 2 of the Convention. The Committee hopes that those measures 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.

Guinea (ratification: 1959)

The Committee takes note of the report provided by the Government covering the 1974-1976 period. It notes, however, that this report contains no reference to the amendments which, according to the information given to the Conference Committee in 1976, have been made to the list of occupational illnesses. Rather, the Government states that the general provisions of section 136(2) of the Social Security Code (Act No. 21/AN/60 of 12 December 1960) with respect to any illness of an occupational character, is quite sufficient "to enable a doctor, who is in any case always under oath, to exercise full freedom of conscience in determining the nature of any illness for the purposes of social security". The Government further states that it "would seem inappropriate to be preoccupied with the listing of illnesses while science daily discovers new forms of disease resulting from population increase and environmental pollution". Consequently the Government concludes that "the ratification of the Convention suffices to give effect to Guinea's acceptance of all of its social requirements".

The Committee regrets to note the position taken by the Government for the latter would not appear at all to correspond to the requirements of the Convention. It is bound, therefore to reiterate its previous observation which was in the following terms:

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.

The Committee ventures to call the Government's attention to all of these points and requests it to reconsider its most recent position which would seem to preclude any possibility of taking steps to bring national legislation into conformity with the provisions of the Convention.<sup>1</sup>

Tunisia (ratification: 1959)

The Committee has taken note of the information provided by the Government in the two reports received in 1976, and also of the statements made to the Conference Committee in 1976.

With reference to its previous observations regarding the list of different pathological manifestations in the left-hand column of the table appended to Decree No. 74-320 of 4 April 1974, the Committee notes with satisfaction the adoption of Decree No. 76-908 of 21 October 1976 which amends the former Decree to make the list of occupational diseases indicative in character (whereas it was previously limitative in character).

With reference to its previous observations regarding the types of work corresponding to anthrax infection, the Committee notes the Government's statement that the reference in Decree No. 74-320 of 4 April 1974, to "all work exposing the worker to the risk" of anthrax infection, imports a presumption of automatic compensation which can only be refused if the employer proves that the origin of the illness is not occupational.

Upper Volta (ratification: 1960)

The Committee notes that, for the second year in succession, the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

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

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<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session.

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.

Yugoslavia (ratification: 1927)

The Committee notes that the definition of industries and processes corresponding to anthrax infection in the new list of occupational diseases (Social Agreement dated 24 December 1974, "Sluzbeni List" SFRJ, No. 40/75) takes as its model the formulation in the Employment Injury Benefits Convention, 1964 (No. 121), ratified by the Government in 1970, but does not conform to Convention No. 18 on this point. The Committee hopes that the Government will give consideration to suitable action to ensure full compliance with this Convention when the list is amended.

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

United Republic of Cameroon (ratification: 1962)

Article 1, paragraph 2, of the Convention. With reference to the comments made since 1965 the Committee notes from the information given in the Government's report that the revision of the law which was to permit repeal of section 57 of Ordinance No. 59/100 of 31 December 1959, which permits discrimination between nationals and foreigners who are non-resident as regards workmen's compensation, has not yet taken place. Consequently, the Committee can only once again express the hope that the said section 57 which, according to the information from the Government, is not applied in practice, will be repealed in the near future so as to bring the law into line with this provision of the Convention.<sup>1</sup>

Gabon (ratification: 1961)

Article 1, paragraph 2, of the Convention. Further to its earlier observations, the Committee notes with satisfaction that section 108 of Act No. 6/75 of 25 November 1975, for the enactment of the Social Security Code, has repealed Decree No. 57-245 of 24 February 1957, respecting compensation for and the prevention of industrial accidents and occupational diseases, as amended (under section 29 of that Decree, foreign workers who had suffered an industrial accident (or their dependants) who ceased to reside in Gabon received in principle a lump sum equal to three times their pension, and foreign dependants of a foreign worker who were not residing in Gabon at the time of the accident received no compensation at all).

The points on which additional information is necessary are being dealt with in a direct request to the Government.

<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.

Mauritania (ratification: 1963)

The Committee notes that for the second year in succession the Government's report has not been received and that its previous report contains no reply to its earlier comments concerning equality of treatment of nationals of States bound by the Convention, and their dependants, with Mauritanian nationals in the event of residence or transfer of residence abroad. The Committee trusts that the Government's next report will contain full information on this question, which it feels obliged to raise once more in a direct request.

Surinam (ratification: 1976)

Referring to its earlier observations, the Committee has taken note of the adoption of the Ordinance of 24 November 1975 amending and supplementing Government Decree No. 145 of 1947 which has eliminated the former differences in treatment as regards workmen's compensation between nationals and non-nationals in the event of residence outside Surinam.

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In addition, requests regarding certain points are being addressed directly to the following States: Brazil, Fiji, Gabon, Lesotho, Madagascar, Mauritania, Upper Volta, Yugoslavia.

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

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

Requests regarding certain points are being addressed directly to the following States: Bolivia, Colombia, Peru.

**Convention No. 22: Seamen's Articles of Agreement, 1926**Colombia (ratification: 1933)

Further to its previous observation concerning Bill No. 45 of 1973, the Committee notes from the statement made by a Government representative to the Conference Committee in 1976 that this Bill has not been enacted since some members of Parliament considered its standards to be lower than those provided for in collective agreements. The Committee recalls that the Bill in question did not contain provisions to give effect to the requirements of Article 3, paragraphs 2, 4 and 5, or of Articles 4, 5, 7, 8, 13 and 14 of the Convention. It notes in addition that the collective agreements communicated by the Government do not contain provisions giving effect to the Convention.

The Committee notes with interest that a new Bill, in which account will be taken of its comments, was to be submitted to Parliament at its next session.

The Committee trusts that the necessary legislative provisions will be adopted at an early date so that all the provisions of the Convention can be given full effect.<sup>1</sup>

Federal Republic of Germany (ratification: 1930)

Article 9, paragraph 1, of the Convention. The Committee has several times pointed out in earlier comments that section 63(3) of the Seafarers' Act, 1957, which restricts the right of a seaman to terminate a contract for an indefinite period in a foreign port, is incompatible with this provision of the Convention under which such contracts can be terminated in any port where the vessel loads or unloads.

The Committee notes from the Government's report that the negotiations with the social partners for amending section 63(3) could not be completed during the last legislative period but that the Government will seek, on the basis of the text already sent to the Committee, adoption of new provisions during the present legislative period. The Committee hopes that the next report will contain information on the amendments thus made in the Act in question.

Mexico (ratification: 1954)

Article 5, paragraph 2, of the Convention. The Committee refers to its previous observations and notes with interest from the Government's last report that its comments have been brought to the attention of the competent authorities, with a view to re-examining the possibility of omitting any evaluation of the quality of the seaman's work from the seaman's book.

Article 9, paragraph 1. For many years the Committee has stressed in its comments that section 209(III) of the Federal Labour Act, which prohibits the termination of an agreement for an indefinite period when the vessel is abroad, is not in conformity with this paragraph of the Convention, according to which such a contract should be capable of termination, subject to the giving of the notice specified in the contract, in any port in which the vessel loads or unloads.

The Committee has carefully examined the detailed arguments contained in the last report and in the earlier reply communicated by the Government. It notes that the Government still maintains its position that the above-mentioned restriction is compatible with the Convention, in particular for the following reasons: (i) that, under Article 9, paragraph 3 of the Convention, national law shall determine the exceptional circumstances in which notice even when duly given shall not terminate the contract; (ii) that the large majority of Mexican vessels are engaged in navigation within the national limits, the country's fleet being engaged in commerce in foreign ports to only a limited extent, and in consequence the termination of a contract abroad constitutes an exceptional case; and (iii) that even where the repatriation of the seaman is assured, the termination of the contract in these circumstances could make the seaman subject to forced unemployment without remuneration during the voyage to the port of disembarkation and would thus involve serious consequences for the seaman and his family.

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<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session and to report in detail for the period ending 30 June 1977.

As regards the first point raised by the Government, the Committee must point out once again that the right conferred on ratifying States by paragraph 3 of Article 9 of the Convention, to determine the exceptional circumstances permitting derogations from the rule laid down in paragraph 1 of the same Article, may not be exercised in such a way as to eliminate completely and generally the express provision of the Convention that an agreement for an indefinite period may be terminated in any port where the vessel loads or unloads. As regards the second point, the Committee wishes to stress that under Article 1, paragraph 2(c) and (g) of the Convention, the Convention does not apply to vessels engaged in the coasting trade nor to those engaged in the home trade (as defined in Article 2(d) of the Convention) which are below the tonnage limit prescribed at the date of the passing of the Convention. Thus the Government may determine what categories of ships do not come within the scope of the Convention according to the criteria laid down therein. As concerns the third point, the Committee must stress once again the importance for the seaman's freedom of choice of employment, of his ability to terminate his contract in accordance with the provisions of the Convention. It also recalls that the Convention does not prohibit the imposition of limitations on the right of an employer to terminate the employment relationship (on the lines indicated, for example, in the Termination of Employment Recommendation, 1963 (No. 119)), since, in accordance with the principle stated in article 19, paragraph 8, of the ILO Constitution, the ratification of a Convention does not prevent the adoption of conditions which are more favourable to the workers concerned.

In consequence, the Committee can only express the hope that the Government will once more re-examine the situation and take the necessary measures with a view to bringing the legislation into conformity with Article 9 of the Convention.

Article 4, paragraph 1, and Articles 7, 8, 12, 13 and 14. The Committee hopes the Government will not fail to supply in its next report the information (already requested several times) on the measures which give effect to these Articles.<sup>1</sup>

#### Peru (ratification: 1962)

Article 9, paragraph 1, of the Convention. For a number of years the Committee has been drawing attention to the discrepancy between section 673 of the Harbour Masters and National Merchant Marine Regulations, which only permit an agreement for an indefinite period to be terminated in the port of embarkation, and this provision of the Convention to the effect that this type of agreement may be terminated in any port where the vessel loads or unloads, subject only to the giving of the agreed notice.

The Committee notes from the information provided by the Government that this comment has been brought to the notice of the Harbour Masters Directorate of the Ministry of Shipping with a view to the taking of appropriate action. The Committee hopes that the next report will contain information on such action.

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.

Venezuela (ratification: 1944)

The Committee notes with interest, from the information communicated by the Government, that its previous comments have been communicated to the committees responsible for the revision of labour legislation, with a view to drawing up the necessary provisions to bring national legislation into conformity with the Convention. The Committee accordingly hopes that measures will be taken at an early date to bring the legislation into conformity with the Convention on the following points:

Article 9, paragraph 1, of the Convention. The Committee recalls that, contrary to this paragraph of the Convention (according to which an agreement for an indefinite period should be capable of termination in any port where the vessel loads or unloads), section 289 of the existing labour regulations prohibits termination of an agreement in a foreign port, and a similar provision also appears in draft regulations for employment on board merchant ships previously communicated by the Government.

Article 14, paragraph 2. National legislation does not contain any provision entitling a seaman to obtain from the master a separate certificate as to the quality of his work, as provided for in this paragraph of the Convention.

The Committee is addressing a direct request to the Government regarding Article 6, paragraph 3(10)(c), Article 8 and Article 13, paragraph 1, of the Convention, and hopes that, in the current revision of the legislation, steps will also be taken to give full effect to those provisions.<sup>1</sup>

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In addition, requests regarding certain points are being addressed directly to the following States: Mauritania, Peru, Venezuela.

**Convention No. 23: Repatriation of Seamen, 1926**Ireland (ratification: 1930)

Article 3, paragraphs 1 and 4, of the Convention. The Committee refers to its earlier comments on section 32 of the Merchant Shipping Act of 1906 which does not cover the right to repatriation for (a) a seaman who leaves the ship in a Commonwealth country; and (b) a foreign seaman joining the ship in a foreign port and leaving it in another foreign port. The first exception is incompatible with Article 3, paragraph 1, of the Convention, and the second exception where a foreign seaman joins the ship in his own country is contrary to paragraph 4 of the same Article. The Government has stated that the Convention is implemented in practice and it has referred since 1965 to a revision of the seafarers legislation which would bring it into line with the Convention. According to the latest information from the Government, this revision is continuing but no date can yet be given for its completion.

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<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session and to report in detail for the period ending 30 June 1977.

The Committee would once more urge the Government to take the necessary steps at an early date to ensure conformity with the Convention, either in the general revision of the legislation or by amending the provisions in question.

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

#### Ecuador (ratification: 1962)

1. The Committee noted, from the Government's report on Convention No. 35, that the coming into force of the new Social Security Code, which was to ensure full implementation of the social security Conventions ratified by Ecuador, was suspended by Decree No. 60 of 9 February 1976 and that the previous law is still in operation.

2. In the comments that it had made earlier the Committee had pointed out that this law is inconsistent with the Convention on two points, namely: (a) section 4 of the Compulsory Social Insurance Act exempts certain classes of foreign employed persons where they can show that they are covered by insurance providing benefits at least equivalent to those provided in Ecuador, whereas Article 2, paragraph 3, of the Convention makes no provision for exemption based on nationality; and (b) clause 7 of the Rules of the Social Insurance Medical Department - which reappears in the various agreements made by the Ecuadorian Social Insurance Institute - makes medical care subject to a waiting period, whereas Article 4 of the Convention provides for medical care as from the commencement of the illness.

3. On the first of these two points, the Committee had found that the new Social Security Code still exempts the classes of foreign workers alluded to from liability to insurance for a certain time. The Committee hopes that the Government will do everything possible either to remove this provision from the national law or to eliminate from it any reference to nationality, in accordance with the intention which it expressed during the direct contacts mission to the Andean Group countries.

4. On the second point the Committee, while noting with interest the progress made in providing medical care under the various agreements made between the Ecuadorian Social Insurance Institute (IESS) and the Ministry of Public Health for co-ordinating their services, is obliged to revert to the matter in the hope that steps can be taken to remove the waiting period required under the national regulations for entitlement to medical care. (The Committee had also noted that the Social Security Code whose coming into force had been suspended did not make medical care conditional on any waiting period.)

#### Haiti (ratification: 1955)

Further to its previous observation, the Committee notes with satisfaction the promulgation of the Decree of 18 February 1975, establishing a compulsory sickness insurance scheme; it hopes that this scheme will gradually be brought into operation as indicated during the direct contacts carried out in November 1976, and requests the Government to report any progress made in this respect.

Peru (ratification: 1945)

Article 2 of the Convention (Scope of application): The Committee notes with satisfaction, further to its previous comments, that by virtue of Supreme Decree No. 002-75-TR of 1975, the scope of the social security scheme has now been extended to all provinces of the country. The Committee expresses the hope that the legislation establishing the infrastructure to provide the necessary medical assistance will soon be promulgated.

Article 4 (Medical care). The Committee also notes with interest the Government's statement that the necessary changes have been made in the draft legislative decree concerning the establishment of a national social security system which would, inter alia, abolish the qualifying period for granting of medical care which is contrary to the provisions of the Convention. The Committee hopes that the decree will be passed as soon as possible.

Uruguay (ratification: 1933)

Further to its previous observations the Committee notes with interest from the information communicated to the Conference Committee in 1976 and from the Government's latest report that by Resolution No. 2.120 of 18 December 1975 the sickness insurance scheme was extended to five new sectors of industrial activity, and that the policy of progressively extending it is to continue until all sectors of activity are covered. The Committee requests the Government to report further progress to this end, and hopes that it will soon be possible to cover all workers falling within the scope of the Convention.<sup>1</sup>

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

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

**Convention No. 25: Sickness Insurance (Agriculture), 1927**Haiti (ratification: 1955)

See under Convention No. 24.

Peru (ratification: 1945)

See under Convention No. 24.

Uruguay (ratification: 1933)

Further to its previous observations, the Committee notes from the Government's report that the Administration of the Sickness Insurance Scheme has decided to set up a committee to study the

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<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 64th Session and to report in detail for the period ending 30 June 1978.



incorporation of the agricultural sector into the Scheme, which is progressively being extended to all sectors of activity. The Committee therefore trusts that it will soon be possible to extend the sickness insurance scheme to workers in agriculture, in accordance with the requirements of the Convention.<sup>1</sup>

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

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

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

Bolivia (ratification: 1954)

Further to its previous observations, the Committee notes that the Government once again refers to legislative provisions for the establishment of the National Wages Council with a membership which includes representatives of employers and workers, but does not indicate whether the Council has in fact been set up or consulted in connection with the fixing of minimum wages.

The Committee hopes that the Government will supply detailed information on the establishment and functioning of the Council and also, as required by Article 5 of the Convention, on the minimum rates of wages fixed and approximate numbers of workers covered.<sup>2</sup>

Burundi (ratification: 1963)

Further to its previous observations and direct requests, the Committee notes with satisfaction that a Ministerial Order of 29 September 1976, made in pursuance of section 66 of the 1966 Labour Code and following consultation with the tripartite National Labour Council, lays down new minimum guaranteed wages, taking into account the cost of living, to replace those in force since 1963.

Rwanda (ratification: 1962)

Article 3, paragraph 2(3), and Article 4 of the Convention. In previous observations the Committee had noted that the national legislation did not prescribe any penalties for failure to observe statutory minimum wage rates. The Government indicated in the Conference Committee in 1974 that appropriate sanctions would be included in a future order defining the occupational categories and fixing the corresponding wages.

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<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 64th Session and to report in detail for the period ending 30 June 1978.

<sup>2</sup> The Government is asked to report in detail for the period ending 30 June 1978.

The Committee notes from the Government's last report that such a Ministerial Order (No. 221/09) was issued on 3 May 1976. However, the text of this Order has not been supplied, nor has the Government given any indication whether it makes provision for sanctions. The Committee trusts that full information on these matters, including copies of the above-mentioned Order and of any other provisions which may have been adopted to prescribe penalties for non-observance of minimum wage rates, will be available for examination at its next session.<sup>1</sup>

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In addition, requests regarding certain points are being addressed directly to the following States: Brazil, Colombia, Congo, Costa Rica, Federal Republic of Germany, Ghana, Jamaica, Luxembourg, Mauritius, Nicaragua, Nigeria, Paraguay, Sudan, Syrian Arab Republic, Togo, United Kingdom, Uruguay.

Information supplied by Canada, Chile, Dominican Republic, Panama and Uganda in answer to direct requests has been noted by the Committee.

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

Iraq (ratification: 1966)

With reference to its previous comments, the Committee notes with satisfaction that Amendment No. 1 (1975) to the 1949 Port Rules and By-Laws has imposed on the consignor and the carrier the obligation to mark the weight on packages and objects covered by the Convention, thus giving effect to Article 1, paragraph 4 of the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: Bangladesh, France, Netherlands, Papua New Guinea, Poland, Sweden.

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

### Convention No. 28: Protection against Accidents (Dockers), 1929

A request regarding certain points is being addressed directly to Nicaragua.

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.

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

Mr. Tunkin, member of the Committee, stated his opposition to the observations with regard to some socialist countries. He said that these observations were the result of the erroneous approach to the implementation of some ILO Conventions outlined in his statement on Convention No. 87. Another member of the Committee, Mr. Gubinski, associated himself with the statement by Mr. Tunkin.

The Committee refers in this connection to its comments with respect to Convention No. 87.

**Belgium (ratification: 1944)**

In its previous observation, the Committee noted the receipt of a communication of 24 September 1975 from the Belgian Confederation of Christian Trade Unions containing observations about the application of the Convention in respect of the status of career military officers and particularly their right to leave the service. As the Government's reply was received during its last meeting, the Committee was obliged to defer examination of the question until its present session.

The Committee notes that under the provisions of the Regency Decree of 1948 concerning the organisation of the school for officer candidates, as amended by Ministerial Order of 13 July 1964, read in conjunction with the Royal Order concerning the organisation of the Royal Military Academy of 14 November 1968 and the Act of 1 March 1958 concerning the status of career and reserve officers, a minor entering the Officers' Candidates School at 14 years of age and who at 16 years of age undertakes, with the consent of his parent or guardians, an engagement for a seven-year period, will normally enter the Royal Military Academy at the end of the third year, at which time he will conclude a new contract for eight years. If he enters the Royal Medical Corps School, he will sign a contract for ten years. During the third year of study in each of these schools, and thus at a time at which the student will be not less than 19 years of age, he will normally be commissioned as a sub-lieutenant. As a consequence of this appointment the successive contracts which he concluded previously become inoperative, the student then taking up officer status which is governed by the Act of 1958. Under section 20 of this Act, termination of the employment relationship can only be effected by retirement on pension, by acceptance of resignation, by discharge or dismissal: and, pursuant to section 21, an officer's resignation can only take effect if accepted by the King, and the Minister of National Defence can refuse this resignation if he deems it contrary to the interests of the service. Further, a person who, on completion of studies enters the Royal Military Academy or a military technical school as a non-commissioned officer candidate comes under the same system, namely the conclusion of an initial contract for a definite period of time followed by taking up the status of career commissioned or non-commissioned officer, which status renders inoperative the initial contract.

In its report the Government mentions guidelines issued by the Ministry of National Defence concerning the opportunities for officers and non-commissioned officers to resign, the most recent of which is Instruction No. SGE-BMA-7046 of 24 October 1975. By virtue of this Instruction, an officer's request to leave is accepted, except in special cases, provided that he has exercised one or several of the functions reserved to officers by the organisational chart of the Armed Forces for a period of time equivalent to at least 1.75 of the time taken to train him and in so far as he has at least captain's rank. Thus an officer who was trained for six years could have his request to resign accepted only after exercising the functions of an officer for

ten years and six months and, in the case of a medical corps officer having been trained for ten years, he could only resign after seventeen years and six months.

The Committee notes that in its reply the Government refers to Article 2, paragraph 2(a), of the Convention, which provides that forced or compulsory labour does not include labour or services of a purely military character exacted in virtue of compulsory military service laws. The Government considers that this exception extends also to military service which a person has taken up voluntarily. In this connection it refers to broader provisions contained in other international instruments and refers to the decision of the European Commission on Human Rights of 19 July 1968 which declared irreceivable the appears presented by members of the British Armed Forces against the United Kingdom in connection with its legislation on armed service engagements.

The Government states also that no citizen is obliged to take up a military career. On the contrary, the candidate signs his contract without constraint and of his own free will. Special protective measures are provided for, such as the consent of parents or guardians, if the candidate is under 19 years of age, as well as a prohibition against signing a contract of military service under the age of 16. Pursuant to the provisions of section 9 of the Royal Decree on voluntary engagements and re-engagements in peace-time, of 3 September 1952, moreover, volunteers enrolled before the age of 18 are released from their engagement if they so request within three months of enrolment. The legislation and regulations are published in the Official Gazette (Moniteur belge) and candidates are informed of their future obligations before signing their engagement with the Royal Military Academy. Candidates are thus fully aware of the situation before undertaking what are not contractual obligations but a statutorily defined set of obligations, since they cannot be unaware that their training will normally be followed by appointments. Similar provisions apply to non-commissioned officer candidates.

The Committee recalls that the exception contained in Article 2, paragraph 2(a) of the Convention, is limited to labour or service required in virtue of compulsory military service laws. The limited nature of the scope of this exception was also noted by the European Commission on Human Rights in the decision referred to by the Government. In Belgium compulsory military service is governed by the Militia Acts, consolidated as of 30 April 1962, as amended. Since career officers' service is not carried out pursuant to compulsory military service legislation, it does not fall under the exception set out in Article 2, paragraph 2(c), of the Convention.

The Committee also recalls particularly that the Government of the United Kingdom took positive action in light of its comments under Convention No. 29 concerning long-term engagements of young persons in the Armed Forces.

The Committee notes that service as a commissioned or non-commissioned officer results from a freely concluded enlistment and that the conditions governing such services are laid down in duly published texts. It also notes that, although a commissioned or non-commissioned officer may resign from the service only with the consent of the responsible Minister, instructions have been issued which specify minimum periods of service after which normally a resignation would be accepted. The Committee observes, however, that, under the rules thus laid down, the persons concerned remain bound to serve for very lengthy periods. Moreover, the possibility of refusing acceptance of a resignation in particular cases is specifically reserved by the

instructions; in that case, the obligation to serve may continue until the commissioned or non-commissioned officer reaches retiring age. All these obligations are enforced under the menace of various penalties (whereas the absence of such specific enforcement of obligations under ordinary employment relationships is generally considered an essential feature of freedom of labour).

The Committee observes that, although the Convention in principle does not apply to obligations of service for which the person concerned has offered himself voluntarily, the situation under review is analogous to the cases it noted in paragraph 70 of its General Survey of forced labour of 1968, where it stated that although the employment initially results from a freely concluded agreement, the effect of the statutory restrictions preventing termination by means of notice of reasonable length is to turn a contractual relationship based on the will of the parties into service by compulsion of law. The Committee accordingly considered such obligations to be incompatible with the Conventions relating to forced labour.

The Committee would be grateful if the Government would review the situation in the light of the foregoing considerations and would indicate in its next report any further measures taken or contemplated with a view to permitting the termination of service at least at certain intervals, subject to such conditions as might be reasonably required to ensure continuity of operation of the armed forces and would also take account of the relative magnitude of the costs of training of those concerned.

Benin (ratification: 1960)

Further to its previous comments, the Committee notes with satisfaction that certain legislation providing for the imposition of forced labour contrary to the Convention has been repealed. In particular, it notes that:

- (a) Decree No. 239 of 1 June 1962 concerning collective village fields has been repealed by Decree No. 76-272 of 29 October 1976;
- (b) Ordinance No. 62-PR/MDRC of 29 December 1966 requiring all able-bodied men to work in the priority zones has been repealed by Ordinance No. 76-58 of 29 October 1976;
- (c) Act No. 62-21 of 14 May 1962 concerning the call-up of unemployed persons has been repealed by Ordinance No. 76-59 of 29 October 1976.

United Republic of Cameroon (ratification: 1960)

Further to its earlier comments concerning section 37 of the Order of 8 July 1933, which was contrary to the Convention by allowing compulsory prison labour to be exacted from prisoners other than those convicted in a court of law, the Committee notes with satisfaction that the provision in question has been repealed by Decree No. 73-774 of 11 December 1973. Similarly, the exception of prison labour from the definition of "forced or compulsory labour" in the 1974 Labour Code is now limited to work or service exacted as a consequence of a conviction in a court of law.

Central African Empire (ratification: 1960)

For several years the Committee has pointed out that the authorities may impose forced or compulsory labour contrary to the provisions of the Convention by virtue of the following legislation:

- (a) By Ordinance No. 66/04 of 8 January 1966 for the suppression of idleness, as amended by Ordinance No. 72/083 of 18 October 1972, anyone, of either sex, between 18 and 55 years old and not physically incapacitated, must show proof of a normal occupation or the pursuance of studies at a school or university. Any person who is unable to show such proof is regarded as an idle person and is subject to a penalty of one to three years' imprisonment.
- (b) Ordinance No. 66/38 of 1966, respecting the control of the active population, provides that any person between 18 and 55 years old who cannot prove that he belongs to one of eight specified categories of the active population is to be directed to cultivate a plot of land designated by the administrative authorities, and if he is found outside his home district he is liable to imprisonment.
- (c) Section 28 of Act No. 60/109 of 1960, respecting the development of the rural economy, provides that the minimum areas to be cultivated shall be fixed by each rural community.

In previous reports and in a communication to the Conference Committee in 1976, the Government indicated that it intended to bring this legislation into conformity with the Convention. The Committee therefore notes with regret that the Government's report for the period 1974-76 contains no information on the developments in this respect.. It hopes steps will be taken in the near future to repeal the provisions in question.<sup>1</sup>

Chad (ratification: 1960)

The Committee notes with regret that once again the Government has failed to supply a report and that no new information is available in reply to its previous comments.

1. Forced labour for recovery of taxes. In its previous observations, the Committee had referred to section 260 bis 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. Having regard to 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 260 bis, the Committee hopes that the Government will be able to indicate in the near future the measures which have been taken to bring this provision into conformity with the Convention.

2. Exaction of labour from persons subject to restriction on residence. In its previous observations, 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 restrictions on residence following completion of a sentence. In this regard, the Government stated to the Conference Committee in 1972 that in practice no form of forced labour had been exacted

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<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session.

from such persons. The Committee once again expresses the hope that, to ensure the observance of the Convention, section 2 of the Act of 1959 will be repealed.

3. Since 1965 the Committee has requested the Government to supply a copy of the instructions which, according to its statements, had been adopted to ensure that, in accordance with Article 2, paragraph 2(c), of the Convention, no form of penal labour might be imposed on persons who are banished, interned or expelled by administrative decision under Act No. 14 of 13 November 1959. The Committee regrets to note that this text has not yet been supplied. It hopes that a copy will be communicated as soon as possible.

4. Compulsory service for public works. In its previous comments, the Committee had referred to section 7(4) of Ordinance No. 2 of 27 May 1961 on the organisation and recruitment of the army and to sections 3 and 4 of Decree No. 9 of 6 January 1962 on the recruitment of the army under which persons liable to military service who have not been called up for active service may be called upon, by order of the Government, to perform work of general interest. In this regard, the Committee had drawn attention to paragraphs 24 to 26 of the Committee's general report of 1971, in which it referred to the adoption of the Special Youth Schemes Recommendation, 1970 (No. 136) and the clarification which the deliberations of the International Labour Conference on this instrument had provided concerning the relationship between certain compulsory schemes involving the participation of young persons in activities directed to economic and social development and the Conventions on forced labour. The Committee hopes that the Government will supply full information on the present position of law and practice as regards the mobilisation of persons for work of general interest, as well as on any measures which may have been taken or may be contemplated in this regard in order to ensure the full application of the Convention.<sup>1</sup>

#### Cuba (ratification: 1953)

In previous observations, the Committee referred to Act No. 1231 of 16 March 1971, by virtue of which all men between the ages of 17 and 60 who are able to work, but are not enrolled at an education institution or connected with a work centre without just cause, or who are connected with a work centre but have abandoned it (unjustified absence for more than 15 working days being considered as abandonment of work), or who are connected with a work centre and have been punished at least three times for unjustified absence by the Labour Committee of the work centre and repeat the offence, are considered to be in a precriminal state of idleness and may be subjected to various security measures, all involving an obligation to work (sections 3 and 4). Failure to comply with security measures or subsequently falling again into any of the precriminal states of idleness constitutes the crime of idleness, and is punishable with imprisonment in a rehabilitation centre for from 12 to 24 months with an obligation to work (sections 8 and 9). Under Acts Nos. 1250 and 1251 of 1973, the power to impose the security measures and penalties provided in Act No. 1231 is vested in the regional and provincial people's courts.

The Committee considered that the provisions of Act No. 1231 were contrary to the Convention and therefore expressed the hope that they would be repealed. It referred in this connection to the comments in -----

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session and to report in detail for the period ending 30 June 1977.

paragraphs 55 and 56 of the general survey on forced labour in its 1968 report, in which it pointed out that the imposition of a general obligation to work under threat of penal sanctions was incompatible with the standards laid down in Conventions Nos. 29 and 105, and also stressed that legislation defining vagrancy and similar offences in an unduly extensive manner could be used as a direct or indirect means of compulsion to work. The Committee also pointed out that, where the law imposes an obligation to work which is contrary to the Convention, the fact that breaches of this obligation were punished by a sentence after judicial proceedings was not sufficient to bring it under the exception provided for in Article 2, paragraph 2(c), of the Convention; in such cases the penalty must be regarded as one of the elements of "forced or compulsory labour" as defined in Convention No. 29 - i.e. work exacted "under the menace of any penalty". The Committee also felt it desirable to emphasise that the imposition of penalties involving an obligation to work as a punishment for absence from work appears equally incompatible with the obligation of the Government under Article 1(c) of Convention No. 105 (ratified by Cuba), not to make use of any form of forced or compulsory labour as a means of labour discipline.

In its reports the Government indicated that these provisions had neither the aim nor the effect of establishing any form of forced labour in the conditions and circumstances prohibited by Conventions Nos. 29 and 105; that the sole purpose of Act No. 1231 is social defence and the prevention and re-education of certain forms of behaviour endangering the established social order and public tranquility and that such provisions are in keeping with earlier ones contained in the Code of Social Defence which had not given rise to any comments and which treat a person's condition or habit of idleness as a dangerous pre-criminal state. The Government indicated that, although the Act is based on the general principle of the social duty to work, its provisions must be considered in relation to the actual social situation in the country taking account of their compatibility with the labour law in force. Labour law and practice require labour contracts to be made with the consent of the workers and employers and no worker can be forced to enter into or remain in a labour relationship against his will.

The Government also indicated that Act No. 1231 is not designed to promote a type of labour discipline contrary to the provisions of Article 1(c) of Convention No. 105. It pointed out in this connection that the measures prescribed for punishing breaches of labour discipline are those listed in the Labour Courts Act (No. 1166 of 1964) and that none of these measures involves a worker performing forced labour because of a breach of labour discipline. The aim of the provision in Act No. 1231 to the effect that certain types of irregular conduct with regard to work duties and labour discipline - such as unjustified and repeated absence or sudden discontinuance of a labour relation in an irregular manner with neglect of contractual obligations - are to be regarded as the symptoms and elements of a pre-criminal state and of an offence mentioned in sections 3 and 8 of the Act, is to enable such background factors in the field of work to be taken into consideration in deciding whether a case is one of anti-social behaviour.

In its earlier comments the Committee pointed out that the Social Defence Code gave a stricter definition of "habitual idleness" than that given in Act No. 1231, since it applies to persons who, although fit to work, habitually remain idle, living at the expense of the work of others or of public assistance, without any known means of subsistence. The Committee therefore suggested that the Government might consider dispensing with the additional provisions of Act No.



1231. The Committee felt that it must point out that, under the Act, the fact that a person is not continuing his studies or is (without valid reason) not enrolled at a place of work or, being so enrolled, abandons his work or is punished for unjustified absence, is sufficient to place him in the category of pre-criminal idler, and the fact that he fails to comply with the security measures or relapses into pre-criminal idleness is sufficient to make him a criminal idler; and that the law requires no other evidence than this. It also seemed clear to the Committee that the penalties imposed for such reasons as abandoning work or unjustified absence must be regarded as measures of labour discipline under Article 1(c) of Convention No. 105, even if they are included in the penal legislation and not under the labour legislation proper. Finally, as regards the general rules applying to labour contracts or any other rule in the law, the Committee pointed out that under one of the final provisions of Act No. 1231, all provisions conflicting with this Act are to be inoperative.

In its report for the period 1975-76 the Government refers to its earlier reports and to the explanations and details given to the Conference Committee in 1976.

Having regard to the discussion on this subject in the Conference Committee, particularly the desire expressed by the Committee that the Government should devote particular attention to the provisions of Conventions Nos. 29 and 105 in the penal and social legislation that is contemplated, the Committee hopes that the Government will shortly indicate the measures taken or contemplated to bring the national law into line with these Conventions.

#### Czechoslovakia (ratification: 1957)

With reference to its earlier comments the Committee notes with satisfaction that Act No. 20 of 1975 (section IV, item 3) has repealed Ordinance No. 40 of 1953 on the civil labour service, which permitted compulsory call-up of labour in cases other than the emergencies specified in the Convention.

#### Gabon (ratification: 1960)

The Committee noted in its earlier observations that the provisions in Ordinance No. 50/62 of 21 September 1962 under which any citizen being physically fit and aged 18 or over who is unable to show that he has employment or is enrolled at an educational establishment may be ordered, under threat of penal sanction, to accept any employment indicated to him by the authorities, are not in conformity with the Convention. The Committee notes the statement made by a representative of the Government at the Conference Committee in June 1976, indicating that the Labour Code which is to repeal Ordinance No. 50/62 has been approved by the Council of Ministers. It requests the Government to indicate whether the Code has come into force, since section 251 of the Code provides that an implementing decree is to be issued for this purpose.

The Committee also notes that there is no provision in the Code expressly repealing Ordinance No. 50/62 and that section 4(a) of the Code prohibiting forced labour authorises labour or service called for under the military or civic service laws and involving tasks of a purely military nature or of general interest. The Committee must point out that the imposition of labour or service for carrying out tasks of general interest is not compatible with the Convention unless it is expressly limited to the exceptions mentioned in the Convention.

In these circumstances, the Committee would be grateful if the Government would indicate the steps taken to repeal formally Ordinance No. 50/62 of 21 September 1962 and to amend the provisions of section 4(a) of the draft labour code so as to exclude any imposition of labour or service other than in the cases specified in Article 2, paragraph 2 of the Convention.

Guinea (ratification: 1961)

See under Convention No. 105.

Haiti (ratification: 1958)

In observations and direct requests addressed to the Government for a number of years, the Committee has pointed out 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 which is not permitted by Article 2, paragraph 2(c) of the Convention. The Committee also noted that the legislation does not prescribe any penalties for the illegal exaction of forced or compulsory labour, as provided for under Article 25 of the Convention.

The Committee notes with interest the information which the Government provided to the representative of the Director-General of the ILO during the direct contacts held in 1976 to the effect that there has been no case of imposition of forced labour in the circumstances provided for under section 230 of the Penal Code and that the Government will shortly be bringing its legislation into line with the Convention on the points mentioned by the Committee. It hopes that the necessary measures will be taken in the near future and that the Government will provide information on the matter.

Honduras (ratification: 1957)

See under General Observation: Honduras.

Indonesia (ratification: 1950)

In previous observations the Committee had noted that large numbers of persons had been detained for periods of up to ten years or more without having been tried by a court of law. Some 10,000 of these detainees had been installed on the island of Buru, which they were not free to leave and where they had no other choice than to work in the narrow range of activities provided for in the resettlement programme. The Committee had concluded that the detainees could not be considered to have offered themselves voluntarily for the work in question, but were performing forced or compulsory labour within the meaning of the Convention. Furthermore, according to allegations made in the Conference Committee in 1974, detainees in other parts of Indonesia had been forced to work on major construction projects. The Committee had asked the Government to supply information in answer to these allegations, and to indicate the measures taken or proposed to be taken to ensure the observance of the Convention in regard to all the persons concerned.

The Committee notes the information supplied by the Government in a report received in April 1976, in a statement made at the Conference Committee in 1976 and in a subsequent report received in March 1977.

It notes in particular the details provided of the number of detainees released and the undertaking given to the Conference Committee that the entire matter would be settled by the end of 1978, by the trial or release of all remaining detainees. The Conference Committee welcomed this information, and urged the Government to provide full information on the progress made.

According to the Government's latest report, it is anticipated that the cases of detainees who are to be tried by the courts of justice will be settled by the end of 1978.

As regards detainees against whom there is insufficient evidence to go to trial, the Government indicates that they are to be accepted back in society. It states that it had released a total of 2,500 detainees of this category from various rehabilitation centres by the end of 1976 and that it intends to return to society 10,000 persons in 1977, another 10,000 during 1978, and the remaining ones in 1979. The Government states, however, that there are certain problems which require solution. First, there must be sufficient employment for the released detainees. For this reason, the Government plans to establish resettlement areas in Symatra, Kalimantan, Sulawesi and other places for those who come from these places. Those who come from Java, due to the density of the population, will be transmigrated to other islands. Budgetary requirements for resettlement and transmigration are the main reason for the release time-table indicated. Second, the released detainees will have to prove their good citizenship through concrete deeds in an adjustment process which may take time and which requires supervision.

The Committee has taken due note of these explanations.

As regards detainees whom it is proposed to bring to trial, the Committee trusts that the Government will supply detailed information on the action taken, including the number of persons tried, the numbers still awaiting trial and the measures taken to ensure that persons who are acquitted or whose sentences do not involve further detention are permitted to recover their free choice of employment.

As regards detainees who are not to be brought to trial, it appears from the information given by the Government that, although it is proposed to release them from their present condition of detention, they will not be free to return to the place and employment of their choice, but are to be placed in resettlement centres. Areas which, in the case of detainees from Java, will be located on other islands where, as the Committee previously noted in respect of the island of Buru, they may have no choice but to engage in the narrow range of mainly agricultural activities provided for in the areas to be developed under the resettlement programme.

While recognising the need to provide assistance to the persons concerned in returning to society upon release from their prolonged detention, the Committee feels bound to point out that, in order to ensure the observance of the Convention, detainees who are not brought to trial should be permitted once again to enjoy full and effective freedom of choice of employment. It hopes that the Government will take the necessary measures to this end.<sup>1</sup>

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<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session.

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Iraq (ratification: 1962)

Further to its previous observations, the Committee notes with satisfaction that Law No. 149 of 1975 (Fifth Amendment to Law No. 20 of 1970 Regulating Trade) has repealed the provisions of Law No. 20 of 1970 empowering the Council for Regulating Internal and Foreign Trade to summon workers for employment in public services producing and providing manufactured and semi-manufactured goods, and laying down penal sanctions for those refraining from working in establishments taken over by the said Council.

Liberia (ratification: 1931)

The Committee notes the detailed report supplied by the Government.

1. Prison labour. Further to its previous observations, the Committee notes with satisfaction that the Act of 8 May 1972 validating Volume I of the Liberian Code of Laws Revised has repealed the former Criminal Procedure Law (under which convicted prisoners could be required to work in any part of Liberia) and put into effect a new Criminal Procedure Law under which the labour or time of a prisoner shall not be contracted for or hired out to any employer outside the correctional system except to political subdivisions or agencies of the Republic.

2. Legislation relating to vagrancy. The Committee notes with interest from the Government's report that the provision of section 346 of the Penal Code which states that an idle person who is offered employment and who refuses is deemed a vagrant, has been omitted from the new Penal Code which has been passed by the National Legislature and which is due to be published soon. The Committee hopes that the Government will soon be able to indicate that the new Penal Code has entered into force, and that a copy of the new code will be supplied.

3. Local public works. In its previous observation, the Committee noted the Government's statement that, following the adoption, on 31 March 1971, of a new Local Government Law, the Revised Laws and Administrative Regulations for Governing the Hinterland, 1949 (which contained provisions permitting the exaction of forced labour for a variety of purposes) were no longer being used as the basis for local administration, and the maintenance of tribal roads and bridges (which had remained an obligation upon tribesmen) became the obligation of the Government. The Committee asked the Government to supply a copy of the new Local Government Law. It also requested information on the organisation, role and competence of the local, district and county development committees (which are instrumental in the implementation of the rural development programme on a "self-help" basis, involving the supply of unpaid labour by the local inhabitants).

The Committee notes that the text of the Local Government Law adopted in 1971 has not been supplied. It notes, however, from the Government's report that, in order to remove all doubts in the matter and discrepancies between the legislation and the application of the Convention, the competent government agency was engaged in modifying and updating the Revised Laws and Administrative Regulations for Governing the Hinterland, 1949, and that it was hoped that before the 63rd (1977) Session of the Conference, some measures would be taken on the recommendation of the competent government agency regarding the revision or modification of the above-mentioned laws. The Committee trusts that the necessary measures will be taken to ensure the observance of the Convention in all works undertaken within the framework of local administration. It hopes that a copy of the Local Government Act adopted in 1971, as well as information on the progress made in modifying the Revised Laws and Administrative Regulations for Governing the Hinterland, 1949, will be supplied at an early date.

The Committee notes the information on the responsibilities, duties and activities of local development committees set out in a statement on the community development programme of the Ministry of Local Government, Rural Development and Urban Reconstruction and in the 1975 report of the same ministry, which have been supplied by the Government. In his statement, the Minister refers to guidelines to govern the implementation of Rural Self-Help Development, establishing procedures under which communities having the desire to help themselves can receive assistance for projects initiated by them. The Committee would appreciate it if a copy of these guidelines could be supplied.

4. Prohibition of forced labour. In its previous report, the Government indicated that penal sanctions to punish the illegal exaction of forced labour were included in the draft new Labour Code and that, pending adoption of such Code, draft legislation on the matter had been prepared to bring the law into conformity with Article 25 of the Convention. In the absence of further information in the Government's latest report, the Committee again expresses the hope that the necessary legislation will be adopted in the near future.

5. 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, of ensuring the strict observance of such legislation, in accordance with Articles 24 and 25 of the Convention. In this connection, the Committee asked the Government to supply full information on the measures adopted to ensure adequate labour inspection particularly in the agricultural sector, including non-concessionary agricultural undertakings. The Committee had also asked for information on the measures taken to ensure that compulsory cultivation is no longer imposed by tribal chiefs.

The Committee notes from the 1975 report of the Ministry of Labour, Youth and Sports that there were less regular labour inspection visits, due to the volume of desk work and inadequate transportation, and neither the 1975 nor the 1976 reports of this Ministry mention inspection of non-concessionary agricultural undertakings. The Committee again expresses the hope that the necessary measures will be taken in this respect and that the Government will supply full information on the progress made. It requests the Government to continue to communicate copies of the annual reports of the Ministry of Labour, Youth and Sports and the Ministry of Local Government, Rural Development and Urban Reconstruction.<sup>1</sup>

#### Mauritania (ratification: 1961)

The Committee notes with regret that the Government has again failed to supply a report and that no new information is available in reply to its previous comments which dealt with the following matters:

1. The Committee has noted previously that Act No. 71-059 of 25 February 1971, concerning the general organisation of civil protection, limits the power to call up labour to specified exceptional circumstances falling within the definition of emergencies contained in Article 2, paragraph 2(d), of the Convention. The Committee has however noted that this Act has not repealed any earlier legislation. It hopes that measures will be taken to repeal Ordinance No. 62-101 of 26 April 1962

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session.

granting district officers very general powers to requisition persons.

2. The Committee also once more expresses the hope that Act No. 70-029 of 23 January 1970, which makes it possible to requisition employees in the public administration, in public undertakings and in private undertakings "when circumstances so require", will be amended so as to permit such requisitioning only in circumstances of emergency within the meaning of Article 2, paragraph 2(d), of the Convention.

3. The Committee would ask the Government also to provide information on the regulations now in force in regard to the conditions of employment of prison labour, and indicate in particular the measures taken to ensure, in accordance with Article 2, paragraph 2(c), of the Convention, that prisoners are not hired to or placed at the disposal of private persons, companies or associations.

#### Pakistan (ratification: 1957)

In its previous observation, the Committee raised a number of important issues concerning the implementation of the Convention and asked the Government to report in detail for the period ending 30 June 1975. The Committee notes that the Government's report refers to information communicated to the Conference Committee in 1976.

1. Restrictions on termination of employment. In previous observations the Committee 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.

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.

In its previous report, the Government stated that persons in employment under the Federal Government offered themselves for government services with full knowledge of the fact that the application of the laws providing for maintenance of essential services has become the normal incidence of such service. In 1976, it has indicated to the Conference Committee that the relevant provisions have never been made use of in practice, and that, although emergency still continues in the country, the Government has as a policy not made use of its powers at any stage; according to the Government, this policy has the force of law and, consequently, the Government does not consider it necessary to amend or repeal the above provisions.

The Committee takes due note of these indications. It wishes however to recall that, while section 3 of the Pakistan Essential

Services (Maintenance) Act, 1952, enables the Government to declare any employment or class of employment to be essential for the purposes of the Act, and this power has been used in the past in respect of various categories of employment, no such declaration is required to impose restrictions on termination of employment by government employees, since the Act covers automatically every employment under the Central Government. Similarly, the West Pakistan Essential Services Act covers all employment under the Government or any agency set up by it or a local authority and any service relating to transport or civil defence.

Having regard to the declared policy of the Government and in order to clarify the legal situation, the Committee again requests the Government to take the necessary measures either to formally repeal the Acts in question or to amend them so as to limit their scope 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 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 remained in force. It 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.

In its report for the period 1973-75, the Government stated that the powers conferred by the Control of Employment Ordinance and the rules framed thereunder had not been used during the current emergency declared in 1971 and that rules regarding forced labour made under the Defence of Pakistan Ordinance had been invoked in time of war only. In its statement to the Conference Committee in 1976, the Government emphasised that all these provisions were exclusively for compulsory work connected with defence in wartime and that it would not use them in peacetime. The Committee accordingly once more expresses the hope that the Government will be in a position in the near future to bring the law in these respects into conformity with the Convention.

3. Prison labour. In previous comments, the Committee asked the Government to furnish the full text of the Jail Code, and to supply information on the present position of law and practice regarding the use of convict labour by private individuals, companies or associations. In its statement to the Conference Committee in 1976, the Government indicated that all able-bodied medically fit persons were required to work with their consent only for training in some vocational trade which helped them in their rehabilitation and they were paid prescribed wages; the use of convict labour in private farms was permitted by the Government but only with the consent of the prisoner who was provided free food, clothing, accommodation and medical care, besides stipulated wages. The Committee notes these indications with interest. It once more requests the Government to supply the full text of all relevant statutory instruments, including the Jail Code, regarding the conditions of detention and work of both unconvicted and convicted prisoners.

4. 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 the provincial governments concerned had found the labour inspection services to be inadequate to implement the requirements of the labour laws and had recommended that the officers of the departments involved should maintain a strict vigil over the conditions prevailing in the labour camps.

The Committee had noted 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), did not give any information concerning inspection of labour camps or the investigation of any complaints about conditions in such camps. It had expressed the hope that the Government would provide further particulars of the nature and results of any inquiries on this matter which had 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 notes from the Government's statement to the Conference Committee that the accused in those cases of forced labour which had taken place have been sentenced to various terms of imprisonment. It hopes that the Government will supply any available further information about the legal action against the labour recruiters involved.

The Committee further notes from the Government's statement to the Conference Committee that only one labour camp exists at present in the country and that construction contracts are now awarded to established and registered contractors and a fair wage clause is a compulsory part of every contract. It hopes that the Government will report in detail on the activities of the labour inspection services in supervising the conditions of engagement of workers by labour contractors.

#### Tanzania (ratification: 1962)

##### Tanganyika

The Committee notes that direct contacts took place in October 1976 between the competent national authorities and a representative of the Director-General of the ILO. It notes with regret that the Government's report has not been received. It is obliged, therefore, to draw attention once more to the fact that contrary to the Convention forced labour may be exacted under the following provisions:

- (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 has noted that a considerable number of by-laws imposing such obligations have 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.

The Committee recalls the Government's statement concerning Tanganyika in its previous reports that the law was to be amended. It also notes the statement by a Government representative at the Conference Committee in 1976 that thorough consideration had been given to the comments of the Committee of Experts and the Conference Committee and that practice was in conformity with the Convention since the provisions of the legislation referred to by the Committee were not in fact in use and would be dropped from the new legislation.

The Committee, however, notes that by-laws issued on 9 January 1976 by some district development councils still provide that every resident who holds agricultural land, in accordance with local customary law relating to land tenure, shall, under penalty of imprisonment, cultivate and maintain an area of not less than one acre of cash crop or crops.

The Committee further notes that during the direct contacts, the Government indicated that it was envisaging the possibility of assigning to a competent body the task of examining in detail the observations of the Committee of Experts and of submitting proposals to the Government on measures that might be taken towards closer compliance with the forced labour Conventions.

The Committee once more expresses the hope that the Government will take steps to repeal the provisions in question at a very early date.

#### Zanzibar

See General Observation.

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. In the absence of any information on the regulations which may have been made in this regard, the Committee is 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. It accordingly hopes that the difficulties presently facing the Government as regards access to information on the application of the present Convention in Zanzibar will soon be overcome.<sup>1</sup>

#### Tunisia (ratification: 1962)

1. In previous comments, the Committee referred to section 2(1) of the Legislative Decree on rehabilitation through labour (No. 62-17 of 15 August 1962) under which any male person who dishonestly refuses to work after receiving prior warning may, by order of a committee appointed by the Secretaries of State, for Justice and for the Interior - which is effective immediately and subject to no appeal

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session.

on error of fact or law - be directed to rehabilitative labour on a government worksite for a period of up to one year (for a first offender) or up to two years (for a recidivist).

In its report the Government repeats that the Committee referred to is judicial in character. However, the Committee of Experts observes that, while the Convention excepts from its scope - in the circumstances specified in Article 2, paragraph 2(c) - work exacted as a consequence of a conviction in a court of law, it nevertheless prohibits in Article 2, paragraph 1, recourse to the menace of any penalty (including penal sanctions) as a means of compulsion to work. The Committee has emphasised, in paragraph 56 of its General Survey of Forced Labour of 1968, that laws or regulations defining vagrancy and similar offences in too broad a manner might be used as a means of compulsion to work. The Committee accordingly asks the Government to reconsider the matter with a view to limiting the scope of Legislative Decree No. 62-17 to cases of unlawful behaviour such as those mentioned in section 2(2) and (3) of the Decree.

2. The Committee has noted the Government's repeated statement that the Decree of 17 December 1942 under which convicted persons in prison may be placed at the disposal of private employers, and likewise the Decrees dated 7 August 1936, 29 September 1938 and 28 January 1946 and the Orders dated 17 December 1942 and 25 February 1943, which allow workers to be requisitioned, have been tacitly repealed either because they have never been put into operation since Independence or because they were war-time measures which fell into disuse 30 years ago. The Committee takes due note of this statement. It considers however that it would be useful, in order to avoid any misunderstanding by the authorities or other persons applying the national legislation, if the Government would also repeal formally any texts that are incompatible with the ratified Conventions even if they have fallen into disuse. Consequently, it hopes that the Government will have no difficulty in bringing the national law into line with the practice indicated and with the Convention.

#### USSR (ratification: 1956)

1. Legislation concerning persons "leading a parasitic way of life". In its previous observation, the Committee noted with interest that earlier legislation on "persons leading a parasitic way of life" had been repealed on 7 August 1975 by an Ukase of the Presidium of the Supreme Soviet of the RSFSR, but observed that another Ukase adopted the same day had extended the scope of section 209 of the Penal Code of the RSFSR. This section, which previously applied to persons systematically engaging in vagrancy and begging, was extended to cover also "persons leading, over a prolonged period of time, any other parasitic way of life". The Committee asked the Government to supply information on the precise meaning and scope of this provision.

In its reply, the Government indicates that the concept of a "parasitic way of life" is to be explained as living off unearned income, the deriving of which is prohibited by law and runs counter to the moral standards of a socialist society. It states that the principle that "work is a moral obligation and a duty for every able-bodied citizen" is laid down in the Fundamental Principles of Labour Legislation of the USSR and the Union Republics; this principle is embodied in a whole series of other standard-setting texts and will be implemented irrespective of changes in the legislation in force. In so far as special penal provisions, such as sections 154 and 147 of the Penal Code of the RSFSR, apply to persons leading a parasitic way of life by deriving an unearned income from speculation or fraud, under

section 209 of the Penal Code of the RSFSR, the same conduct is deemed to be vagrancy and living at the expense of others, as is deriving an illicit unearned income from fortune-telling and gambling.

The Committee takes due note of these explanations. It also notes the provisions of Ordinance No. 10 of 28 June 1973 of the Plenum of the Supreme Court of the USSR (as amended by Ordinance No. 13 of 3 September 1976) which lay down guidelines for courts dealing with cases of violation of the passport rules, systematic vagrancy or begging and the leading of any other parasitic way of life over a protracted period of time. It notes that, while this Ordinance contains definitions of "systematic vagrancy" and "begging", it does not specifically define the concept of "leading any other parasitic way of life". However, according to section 6, criminal proceedings for leading a parasitic way of life for a protracted period may not be brought against minors, persons recognised under established legal procedure as invalids or who have reached the age of retirement, or pregnant women or women with children under the age of 8 years or housewives. Section 7 provides that in the absence among the case materials of sufficient data concerning the capacity for work of a person charged with leading a parasitic way of life for a protracted period, his capacity for work can be ascertained on the basis of medical findings.

The Committee recalls the comments made in paragraphs 55 and 56 of the general survey of forced labour in its 1968 report, where it pointed out that laws creating an obligation for all able-bodied citizens to engage in a gainful occupation, subject to penal sanctions, are incompatible with the Convention and that laws on vagrancy and assimilated offences worded in such general terms as to lend themselves to application as means of direct or indirect compulsion to work should be amended to bring them within the narrower concept of vagrancy. The Committee would request the Government to provide information on any measures taken or contemplated regarding section 209 of the Penal Code of the RSFSR and corresponding provisions in other Union Republics with a view to ensuring observance of the Convention.

2. Obligations in the planning of agricultural production. In previous comments, the Committee noted that, according to the preamble and section 3 of 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, dealing with the planning of agricultural production, collective farms, in planning their production, were under an obligation to ensure the attainment of assignments set in accordance with the state plan. The Committee also noted that under section 267 of the Civil Code of the RSFSR, procurement contracts were to be concluded on the basis of the plans of state purchase of such products and the plans for the development of agricultural production on collective and state farms, so that, when concluding these contracts, collective farms appeared to remain bound by the obligations which the Order of 1964 placed upon them. Accordingly, while noting that only civil sanctions applied in cases of failure to carry out procurement contracts, the Committee pointed out that the obligations laid upon collective farms by the Order of 20 March 1964 in relation to the planning of agricultural production both preceded and underlay the conclusion of procurement contracts and did not derive from the latter. The Committee asked the Government to provide information on the sanctions by which the observance of the obligations in relation to planning would be enforced.

In its report, the Government - while once more referring to the civil sanctions applicable to collective farms in the event of non-fulfilment of contractual obligations - states that the agricultural production plans themselves do not envisage any sanctions.

The Committee requests the Government to indicate whether any other legislative texts make provision for sanctions which may be applicable in cases of failure to comply with the obligations defined in the Order of 20 March 1964 concerning the planning of agricultural production. In particular, the Committee would be grateful if the Government would indicate in its next report whether section 172 of the Penal Code of the RSFSR - which punishes the non-performance or improper performance of duties by an official which causes substantial harm to state or social interests - has been the subject of Court decisions defining or illustrating the precise scope of this provision, thus clarifying whether it might be applicable in cases of non-compliance with the obligations defined in the above-mentioned Order of 20 March 1964.

3. Termination of membership of collective farms. In previous comments, the Committee noted that, according to 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 was 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; and that, under clause 7 of the model collective farm rules adopted on 28 November 1969, a member's application to leave a collective farm must be submitted to the management committee and the general meeting of the collective farm. It accordingly appeared that a member of a collective farm might terminate his membership only with the consent of the management committee and the general meeting of the collective farm, and that, if such consent were refused, he would remain bound by all the obligations resulting from his membership of the collective farm (including obligations regarding work).

The Committee also noted that, under basic regulations on the issue and maintenance of collective farmers' workbooks approved by the Union Council of Collective Farms and confirmed by Order No. 310 of 21 April 1975 of the Council of Ministers of the USSR, collective farmers were to be issued workbooks, which were to be kept at the management office of the collective farm and handed to the owner if and when he ceased to be a member of the collective. Since, according to the Order of the Council of Ministers of the USSR and the All-Union Central Council of Trade Unions of 6 September 1973 respecting workbooks for wage and salary earners, the production of the workbook was required for taking up employment, it appeared important that the legislation should clearly specify the manner in which a member of a collective farm could terminate such membership.

The Committee accordingly suggested that clause 7 of the model collective farm rules should be amended to provide expressly that members of a collective farm might terminate their membership by a unilateral decision, subject only to giving notice of reasonable length.

The Committee has taken note of the indications provided by the Government to the Conference Committee in 1976 and in its latest report. The Government has stated that, according to clause 1 of the model collective farm rules, collective farms are voluntary organisations, and that it would be impossible to qualify them as voluntary if any of their members could not voluntarily leave them. It has furthermore indicated that the purpose of the requirement of notification under clause 7 is not to prevent a member of a collective farm from leaving, but to bring the fact of his departure to the attention of all members so that the collective farm may find a replacement or may try to persuade the member not to leave during a period of intense work; an authoritative commentary on the model rules

states that clause 7 establishes the possibility for a collective farmer to leave the collective farm on any grounds. The Government concludes that the management committee and the general meeting are under an obligation to satisfy the request of a member to leave the farm and states that a refusal of the request would be illegal and would be countermanded by the District Soviet of Working People's Deputies. Thus, in its view, both law and practice conform to the Convention.

The Government has also indicated that, in order to amend clause 7 of the model collective farm rules, it would be necessary to convene the Union Council of Collective Farms which has met only three times before, and it is not possible to call such a large-scale meeting for the purpose of making minor amendments to the model rules; moreover, the Government could not interfere in the internal affairs of the collective farms.

The Committee takes due note of these various explanations. As regards the last-mentioned point, it recalls that according to article 3 of the Fundamental Principles of Labour Legislation of the USSR and the Union Republics, the labour of collective farm members is governed by the legislation of the USSR and the Union Republics on collective farms, in addition to the collective farm rules. It would thus appear that legislative measures to clarify the rights of collective farm members could be adopted by the legislative authorities without necessarily convening the Union Council of Collective Farms. Accordingly, having regard to the important question at issue, the Committee would be grateful if the Government would once more re-examine the matter with a view to the adoption of appropriate measures to provide expressly in the legislation that members of a collective farm may terminate their membership by a unilateral decision, subject only to giving notice of reasonable length.

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In addition, requests regarding certain points are being addressed directly to the following States: Benin, Bulgaria, Burundi, United Republic of Cameroon, Central African Empire, Congo, Cuba, Czechoslovakia, Dominican Republic, Egypt, Iceland, Iraq, Ivory Coast, Lesotho, Pakistan, Peru, Somalia, Surinam, Switzerland, Syrian Arab Republic, Tanzania, Thailand, Yugoslavia, Zambia.

Information supplied by Botswana and Costa Rica in answer to direct requests has been noted by the Committee.

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

#### Chile (ratification: 1935)

Referring to its previous comments the Committee notes from the Government's report that section 108(2) of the Labour Code (proviso allowing certain employees to be excluded from the provisions governing hours of work) has been omitted in the preliminary draft for the new Labour Code. Further, the Government repeats that amendment of section 131 of the Labour Code to make it compatible with the requirements of Article 7 of the Convention (cases in which exceptions are permissible and fixing of a maximum number of additional hours of work) will be considered during the revision of the preliminary draft Code.

The Committee hopes that the necessary changes will shortly be adopted in order to ensure conformity with the Convention.

Guatemala (ratification: 1961)

The Committee notes that the Government, while indicating that the draft Labour Code will contain provisions relevant to the Convention, makes no mention of the draft governmental decision that was prepared following the direct contacts which took place in 1975 in order to give effect to the provisions of Article 7, paragraph 2(b), (c), (d) (governing temporary exceptions to the normal working hours) and paragraph 3 (permissible number of additional hours of work) of the Convention. The Committee hopes that this decision will shortly be issued.<sup>1</sup>

Haiti (ratification: 1952)

Further to its earlier observations, the Committee notes with satisfaction that, as a result of the direct contacts held between the national competent services and the representative of the Director-General of the ILO, sections 100 and 104 of the Labour Code have been amended by Decree of 10 December 1976 to bring them into line with Article 1 of the Convention (application of provisions regarding hours of work in certain commercial establishments) and Article 7, paragraph 3 (determination of maximum number of additional hours allowed in the day and in the year).

Iraq (ratification: 1962)

Article 7, paragraph 2 of the Convention. See under Convention No. 1 (Article 6, paragraph 1).

Article 7, paragraph 3. See under Convention No. 1 (Article 6, paragraph 2). The Committee hopes that the Government will take steps to fix the maximum number of additional hours that may be authorised in the day and in the year, in accordance with the provision of Convention No. 30.<sup>1</sup>

Kuwait (ratification: 1961)

Articles 1, 4, 7 and 8 of the Convention. See observation under Convention No. 1.<sup>2</sup>

Nicaragua (ratification: 1934)

See General Observation: Nicaragua.<sup>2</sup>

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1978.

<sup>2</sup> The Government is asked to report in detail for the period ending 30 June 1977.

Spain (ratification: 1932)

See under Convention No. 1.

Syrian Arab Republic (ratification: 1960)

See under Convention No. 1.<sup>1</sup>

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In addition, requests regarding certain points are being addressed directly to the following States: Bolivia, Iraq, Norway.

**Convention No. 32: Protection against Accidents (Dockers) (Revised), 1932**Algeria (ratification: 1962)

See under Convention No. 13.<sup>2</sup>

Argentina (ratification: 1950)

The Committee notes with regret that once again the Government's report contains no information on measures taken or contemplated to bring the national legislation into conformity with the Convention.

The Committee recalls that since 1952 it has drawn attention to the fact that national legal provisions do not ensure the application of the Convention. It also recalls that on three occasions committees have been set up with the aim of preparing legislation in conformity with the Convention; the last such committee was established in 1973 following direct contacts between the competent national services and a representative of the Director-General of the ILO.

The Committee trusts that measures will be taken in the very near future to give effect to the Convention, which was ratified 27 years ago.<sup>3</sup>

Belgium (ratification: 1932)

Further to its previous comments, the Committee notes that the Royal Order dated 9 October 1975 has amended Section 541 of the General Regulations on Labour Protection so as to limit the exemption from the provisions of Article 6 of the Convention to ships engaged in inland navigation not exceeding 500 gross registered tons.

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1978.

<sup>2</sup> The Government is asked to report in detail for the period ending 30 June 1977.

<sup>3</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session and to report in detail for the period ending 30 June 1977.

Bulgaria (ratification: 1949)

The Committee notes with satisfaction that the Safety Regulations for the Operation of Ships which were adopted in 1976 and the standards for ladders No. 12119-74 contain provisions relating to ladders providing access to holds which give effect to Article 5, paragraphs 2(c) and 5 of the Convention, which had been the subject of comments by the Committee.

Chile (ratification: 1935)

The Committee notes with regret that no action has been taken to amend Decree No. 655 of 7 March 1941 so as to give effect to the following provisions of the Convention: 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.

As comments on this matter have been made repeatedly since 1963, the Committee urges the Government to adopt measures to ensure the full application of the Convention at the earliest possible date.<sup>1</sup>

Honduras (ratification: 1964)

See General Observation. Honduras.<sup>1</sup>

Italy (ratification: 1933)

The Committee notes, from the information provided in the Government's report in answer to its previous observations, that draft general regulations on the prevention of accidents in port work have been prepared, which are in conformity with Convention No. 32 and are intended to replace, throughout the national territory, the local regulations issued by individual port authorities through which at present the Convention is implemented. The Government states that, in this manner, full and complete application of the Convention will be ensured.

The Committee notes this information with interest. As the Government has referred for a number of years to its intention of adopting general regulations of this kind, the Committee hopes that they will be issued at an early date and that the Government will be able to supply a copy thereof with its next report. If, at that time, the general regulations have not yet been adopted, the Committee would be grateful if the Government would supply a complete list of the local port regulations concerning prevention of accidents still in force, together with copies of those regulations.<sup>2</sup>

Mexico (ratification: 1934)

The Committee recalls that, in previous reports, the Government had indicated that, although there were no national laws or regulations

<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.

<sup>2</sup> The Government is asked to report in detail for the period ending 30 June 1978.



to give effect to the Convention, its terms were incorporated into national law as a result of ratification, and that a ministerial circular had been issued to give effect to those provisions of Articles 4, 6, 11 and 13 of the Convention which required national implementing laws or regulations.

The Committee had however pointed out in previous observations that the effective observance of the Convention could not be assured in the absence of specific national provisions laying down penalties for breaches of the detailed requirements of the Convention and of the ministerial circular referred to above, as required by Article 17, paragraph 2, of the Convention.

The Committee recalls in this regard that the Government has stated since 1970 that regulations would be made under the Federal Labour Act, 1969, to give effect to this Convention. The Committee notes from the Government's last report that draft occupational safety and health regulations have been completed but that they have not yet been submitted to the national Congress.

The Committee trusts that regulations meeting the detailed requirements of the Convention will be adopted in the near future, including provisions for inspection and penalties in cases of non-compliance.<sup>1</sup>

#### Peru (ratification: 1962)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

In its previous direct requests the Committee noted that there appeared to be no legislative provisions or regulations concerning the protection of dockers against accidents, corresponding to the detailed provisions of the Convention, and it expressed the hope that appropriate measures would be adopted for this purpose. As the Government indicates in its report that no legislation has been adopted in this connection, the Committee trusts that the Government will soon take the necessary measures to ensure full application of the Convention.

#### Singapore (ratification: 1965)

For a number of years, the Committee has been drawing attention to the need to adopt legally binding provisions to give effect to the Convention, which has hitherto been the subject only of administrative instructions issued by the Port of Singapore Authority.

The Committee notes that the most recent provisions on the subject are the Safety Code for Port Operations issued by the above-mentioned authority, but that once again this appears to be a document without binding force. The Committee therefore trusts that the Government will take steps for the issue of binding provisions to give effect to the Convention, the observance of which is made subject to

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.

inspection and for the breach of which appropriate penalties are prescribed, in accordance with Article 17(2) of the Convention.<sup>1</sup>

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In addition, requests regarding certain points are being addressed directly to the following States: Bangladesh, Denmark, France, Mauritius, Netherlands, Panama, Singapore.

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

#### Central African Empire (ratification: 1962)

With reference to its earlier observations, the Committee notes that no measures have been taken to give effect to the following provisions of the Convention.

Article 3, paragraph 1(c) and 4(b) of the Convention. Provision should be made to ensure that the duration of light work on which children attending school may be employed does not exceed two hours a day, the total number of hours spent at school and on light work does not exceed seven and, in the case of children who do not attend school, the duration of light work does not exceed four-and-a-half hours a day.

Article 3, paragraph 2(b). Provision should be made to extend to the non-industrial employment covered by the Convention the prohibition of the employment of children between 12 and 14 years during the night, that is to say, during a period of at least 12 consecutive hours comprising the interval between 8 p.m. and 8 a.m.

The Committee hopes that the necessary measures will be taken in the near future to give effect to these provisions.

#### Mali (ratification: 1960)

Article 3 of the Convention. In connection with its previous comments the Committee noted with satisfaction the adoption of Decree No. 98/PG-RM of 5 June 1975, clause 3 of which limits the hours for which children from 12 to 14 years of age may be employed on light work, in accordance with the provisions of the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: Benin, Guinea, Niger.

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1978.

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

Chile (ratification: 1935)

Further to its previous observations, the Committee notes with satisfaction that by virtue of sections 37 and 38 of Legislative Decree No. 1446 of 1 May 1976, which came into force on 1 January 1977, fee-charging employment agencies conducted with a view to profit have been abolished.

Certain matters relating to the application of Legislative Decree No. 1446 are being raised in a direct request.

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

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

Ecuador (ratification: 1962)

1. The Committee notes from the information provided by the Government that the coming into force of the new Social Security Code (Decree No. 20-A of 8 January 1976) had been suspended by Decree No. 60 of 9 February 1976.

2. The Committee had in its earlier comments pointed out that the national law (the Compulsory Social Insurance Act and its implementing decrees, now brought into operation again) is not consistent with the Convention on two points, namely: (a) it exempts domestic servants and outworkers from the pension insurance scheme (Article 2, paragraph 1, of the Convention); and (b) it exempts from the social security system certain classes of foreign employed persons where they have insurance coverage ensuring benefits of at least equivalent to those under Ecuador's system (Article 12, paragraph 1, of the Convention).

3. On the first of these points the Committee notes with satisfaction the information given by the Government both in its report and during the direct contacts mission to the Andean Group countries, indicating that outworkers and domestic servants are now covered by the social security system under regulations dealing with special participant groups. The Committee hopes that the next report will give more detailed information on the number of workers of these types who are covered by the pension scheme and the way in which it is applied to them.

4. On the second point, the Committee notes that the new Social Security Code still exempts such foreign workers. As foreign employed persons must under the Convention be insured in the same way as nationals, the Committee trusts that steps will be taken either to remove this provision from the law or to eliminate from it any reference to nationality. It appears, moreover, that the removal of the provision at issue would not present any great difficulty, as indicated in the course of the direct contacts mission to the Andean Group countries.

Finally, the Committee hopes that the new Social Security Code can be brought into force in the near future and that it will take the above point into account.

France (ratification: 1939)

Article 12 of the Convention. Referring to its earlier comments concerning the "supplementary allowance" payable under sections L.685 and L.707 of the Social Security Code only to French nationals and to nationals of other countries with which an international reciprocity convention has been signed, the Committee notes that the difficulties in the implementation of the above provision of the Convention still exist and that the Government maintains its position, that this benefit is in the nature of an assistance allowance and does not fall within the scope of the Convention.

The Committee must repeat that it does not share this view. It feels moreover that the trend towards a broader conception of social security no longer permits such a clear distinction to be made between social insurance and assistance, in spite of the difference in the methods of financing and acquiring entitlement to benefit.

The Committee has been informed, furthermore, that the French Council of State - in its rulings on 25 July 1975 in a similar context (the granting of certain welfare privileges to foreign victims of industrial accidents who are nationals of States that are parties to Convention No. 19) - held that Act No. 64-1330 of 26 December 1964 (assumption of responsibility for and revalorisation of the welfare rights and privileges of French nationals formerly resident in Algeria) formed part of the social security structure, and that the concepts of assistance and national solidarity underlying this Act did not justify the exclusion from its coverage of foreign nationals "who for a particular type of benefit are in a position to avail themselves of an international convention giving them the same right as French nationals to the welfare privileges established by the French Act."

The Committee hopes that the difficulties involved in the application of the above Article of the Convention can be overcome, and that nationals of States bound by this instrument which establishes a multilateral reciprocity system will also be able to receive the allowances in question, unless the Government decides to ratify - as regards Parts II and III relating to invalidity and old-age benefits - the Invalidity, Old Age and Survivors' Benefits Convention, 1967 (No. 128), which revises, inter alia, Conventions Nos. 35, 36, 37 and 38.<sup>1</sup>

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In addition, requests regarding certain points are being addressed directly to the following States: Chile, Peru, Poland.

**Convention No. 36: Old-Age Insurance (Agriculture), 1933**France (ratification: 1939)

Article 12 of the Convention. See under Convention No. 35.

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1978.

In addition, requests regarding certain points are being addressed directly to the following States: Chile, Peru, Poland.

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

Ecuador (ratification: 1962)

1. See under Convention No. 35. The comments relating to Articles 2 (paragraph 1) and 12 (paragraph 1) of that Convention also apply respectively to Articles 2 (paragraph 1) and 13 (paragraph 1) of Convention No. 37.

2. In its earlier comments relating to Article 6 of the Convention, the Committee had also indicated that under section 72 of the Compulsory Insurance Act and section 76 of the Provident Fund Rules (as amended up to 1967), a worker who ceases to be liable to compulsory insurance without being entitled to benefit retains his rights only for a period equal to one-tenth of the contribution periods up to a maximum of six months, whereas the Convention requires maintenance of rights in respect of contributions for either a variable period not less than one-third of the total contribution periods (less any periods for which contributions were not credited) or for a fixed period of not less than 18 months.

The Committee notes however that the new Social Security Code, whose coming into force was suspended in February 1976, contains a provision (section 67) corresponding to that in the Convention. It also notes with interest the statements given in the Government's report, indicating that the necessary amendments of the national law on this point are currently being examined by the Governing Council of the Equatorial Social Insurance Institute in connection with special regulations.

The Committee trusts that the law can be brought into line with the Convention shortly, either by bringing the Social Security into force again or through adoption of the special regulations referred to.

France (ratification: 1939)

Article 13 of the Convention. See under Convention No. 35 (Article 12).

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In addition, requests regarding certain points are being addressed directly to the following States: Chile, Peru, Poland.

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

France (ratification: 1939)

Article 13 of the Convention. See under Convention No. 35 (Article 12).

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In addition, requests regarding certain points are being addressed directly to the following States: Chile, Peru, Poland.

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

Ecuador (ratification: 1962)

1. See under Convention No. 37. The comments relating to Article 2, paragraph 1, Article 6 and Article 13, paragraph 1, of that Convention also apply respectively to Article 2, paragraph 1, Article 5 and Article 15 of this Convention.

2. The Committee had also indicated, in its earlier comments with reference to Article 7, paragraph 4, of the Convention, that the provision in clause 56(c) of the Provident Fund Rules, under which a surviving spouse has no right to a pension if at the date of the death he or she was legally separated as the guilty party or had been separated de facto for more than 10 years, was not fully in accordance with the Convention which only permits disqualification where the marriage had been dissolved or a separation pronounced in proceedings in which the wife alone was found at fault. The Committee notes that the new Social Security Code whose coming into force was suspended in February 1976 no longer contains the provisions conflicting with the Convention; it also notes with interest the statements in the Government's report indicating that a draft amendment of the current law is before the Governing Council of the Equatorial Social Insurance Institute. The Committee hopes that full compliance with the Convention also on this point will be achieved shortly.

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In addition, requests regarding certain points are being addressed directly to the following States: Peru, Poland.

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

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

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

Requests regarding certain points are being addressed directly to the following States: Chad, Gabon.

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

Bolivia (ratification: 1954)

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 representatives of the Director-General of the ILO, a list of occupational diseases and of the trades, industries or processes liable to cause such diseases, which corresponds to the Schedule to Article 2 of the Convention, has been adopted under section 2 of Presidential Decree No. 14228 of 23 December 1976.

Haiti (ratification: 1955)

With reference to its earlier comments, the Committee notes with interest that, following the direct contacts which took place between the competent national services and a representative of the Director-General of the ILO, the Secretary of State for Social Affairs gave specific instructions, on 17 November 1976, to the Director of the Occupational Accident, Sickness and Maternity Insurance Office (OFATMA) that statistical data by which it would be possible to judge the degree to which the Convention is applied in practice should be provided in accordance with point V of the report form adopted by the Governing Body.

The Committee hopes that the Government's next reports will contain the necessary statistical data.

Surinam (ratification: 1976)

With reference to its earlier comments, the Committee notes with satisfaction that the new section 25 of Decree No. 145 of 1947 on industrial accidents and occupational diseases, as amended by the Ordinance of 24 November 1975, includes a list of occupational diseases which contains most of the diseases referred to in Article 2 of the Convention as well as the work process liable to cause them.

The points on which there remain certain discrepancies between the national legislation and the Convention, or on which additional information is required, are dealt with in a direct request to the Government.

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

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

Mexico (ratification: 1938)

As the Government's report gives no further particulars in reply to the earlier direct requests, the Committee must return to the question in a new direct request. It hopes that the Government will without fail take the necessary steps and supply the information requested.<sup>1</sup>

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.

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

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

#### Cyprus (ratification: 1965)

See under Convention No. 2.

#### Peru (ratification: 1962)

The Committee has noted from the Government's reply to its previous observations the various measures taken to ensure stability of employment and reduce unemployment. The Committee hopes the Government will also be able to re-examine the possibility of granting to the involuntarily unemployed persons who come within the scope of the Convention (with the possible exclusion of the categories listed in Article 2, paragraph 2 of the instrument) either benefits under the social security scheme or an allowance which would not be an insurance benefit but which might be remuneration for employment on relief works organised by a public authority under conditions prescribed by national laws or regulations (Articles 1 and 9 of the Convention).

#### Switzerland (ratification: 1939)

The Committee has noted with interest the various improvements made in the unemployment insurance scheme during the period 1975-76, as mentioned in the Government's general report. The Committee has noted in particular that the period that must elapse before foreign workers may become insured under this scheme has been shortened to one year by the Federal Council's Ordinance of 9 July 1975 and Amending Circular No. 186 of 29 December 1975.

In its earlier comments, the Committee requested information concerning the application in practice of section 9, subsection 4, of the regulations for the administration of the Federal Unemployment Insurance Act (amendment of 19 November 1975) and the corresponding explanatory provision No. 4.1 of Circular No. 22 of the Federal Office of Industry, Arts, Trades and Labour, dated 25 November 1975; under the terms of these provisions an offer of employment is deemed to be suitable - thus entailing disqualification from entitlement to unemployment benefit of a claimant who refuses it - if the remuneration offered is not more than 15 per cent lower than the unemployment allowance for which the claimant qualifies.

The Committee pointed out that these provisions were not compatible with Article 10, paragraph 1(b), of the Convention, which requires the "suitability" of an offer of employment to be assessed by comparing the rate of wages offered either with the wages the claimant obtained or could have obtained in his usual occupation and in the district where he was ordinarily employed, or with the standard generally observed at the time in the occupation and district in which the employment is offered. The Committee also noted in this connection observations made by the World Confederation of Labour, which were forwarded to the Government for comment.

The Committee has however been informed that a further amendment to the regulations for the administration of the Federal Unemployment



Insurance Act was adopted recently and is due to come into force on 1 April 1977. The Committee hopes that the Government will supply in its next report full information as to the manner in which this new legislation is applied.

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

Guinea (ratification: 1966)

The Committee regrets to note that the Government's report contains no reply to its previous comments. It recalls that in its previous comments it has noted since 1968 that there is a draft Order to regulate the employment of women and children, sections 8 and 9 of which would give effect to the Convention. The Committee can only hope that this text will be adopted in the near future and requests the Government to indicate any decision made in this respect.

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Information supplied by Sri Lanka in answer to a direct request has been noted by the Committee.

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

Mexico (ratification: 1938)

See under Convention No. 43.<sup>1</sup>

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

### Convention No. 50: Recruiting of Indigenous Workers, 1936

Tanzania (ratification: 1964)

Zanzibar

See General Observation.

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In addition, requests regarding certain points are being addressed directly to the following States: Fiji, Ghana, Guyana, New Zealand, Uganda, Western Samoa.

<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.

Information supplied by Burundi and the United Republic of Cameroon, in answer to direct requests has been noted by the Committee.

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

With regard to the observations concerning USSR and Byelorussian SSR, Mr. Tunkin expressed the following opinion. He indicated that there was a case when in fact the cumulation of annual holidays permitted in exceptional cases was advantageous to the workers, taking into account great distances separating the place of work in the far north from the districts where the workers normally spend their holidays and the privileges connected with the accumulation of holidays. All this resulted in the fact that most of the workers falling under the exception in question preferred to use their right to accumulate their holidays without using part of them at the place of their work, which they had the right to do.

#### Burma (ratification: 1954)

Referring to its earlier comments, the Committee notes from the report and the information given at the 1976 Conference that new legislation is in preparation to give full effect to the Convention. The Committee wishes in this connection to remind the Government of the following points:

Article 1 of the Convention. The provisions of the Leave and Holidays Act, 1951, do not apply to all the undertakings covered by the Convention, and especially, for example, to small establishments exempted from the Factories Act, to shops and offices situated in places to which the Shops and Offices Act has not yet been extended, to hotels, to building and public works undertakings, and to road transport undertakings.

Article 2, paragraph 2. While the employees under 15 years of age receive a holiday of 14 consecutive days, those between 15 and 16 years only receive a holiday of 10 consecutive days, whereas under this provision of the Convention every person under the age of 16 years is entitled to an annual holiday with pay of at least 12 working days.

Article 4. Section 4(3) of the Leave and Holidays Act allows holidays to be accumulated provided that the whole period is granted within three years, whereas the Convention requires a holiday of at least six working days to be given each year to workers aged 16 years or over, and a holiday of at least 12 working days for workers under 16 years of age; and it does not permit any postponement of the holiday.

The Committee hopes that necessary steps will soon be taken to bring the national law into line with the Convention.

#### Byelorussian SSR (ratification: 1956)

Referring to the Committee's earlier observations, the Government states that postponement of the annual holiday to the following year under section 74 of the Labour Code (in exceptional cases when the granting of a holiday during the current year may have adverse effects on the running of the undertaking) is not regarded in Byelorussian law or practice as a suppression of the worker's right, since the holiday can only be postponed in exceptional cases, with the consent of the

worker himself, and in agreement with the trade union committee. While noting these explanations, the Committee recalls that, according to the Convention, persons to whom it applies shall be entitled to an annual holiday of at least six working days and that consequently only the fraction of the holiday which exceeds this minimum may be postponed (Article 2, paragraphs 1 and 4). It would again ask the Government to take the necessary steps to bring the law into line with the Convention on this point.

Gabon (ratification: 1961)

In its previous comments, the Committee noted that, contrary to Articles 2 and 4 of the Convention, the Labour Code permits the total period of service giving rise to leave entitlement to be increased by collective agreement or individual contract to 24 or 30 months in the case of non-national workers, and also permits it to be prolonged by one year so as to amount to 24 months, with the authorisation of the labour inspector at the express request of the worker and with the consent of the employer. It notes with interest the Government's statement that the adoption of a law or ordinance to bring the legislation into conformity with the Convention on these points is envisaged. It hopes that the text in question will be adopted in the near future.

Peru (ratification: 1960)

Referring to its earlier observations, the Committee noted the information from the Government that the latter is appointing a tripartite committee to make proposals for amending the country's social legislation. It trusts that steps will be taken on this occasion to give effect to the Convention as regards the following points which have been raised by the Committee since 1963:

Article 3(a) of the Convention. Under the provisions in force at present (sections 8 and 9 of Supreme Decree dated 24 October 1961), holiday remuneration only includes the cash equivalent of food, whereas it should include the cash equivalent of all remuneration in kind.

Article 4. The single section in Supreme Decree No. 4 DT (26 November 1957) and section 13 of Supreme Decree No. 17 (24 October 1961) allow the holidays for two consecutive years to be taken together. The Committee draws attention to the fact that persons covered by the Convention are entitled to a compulsory annual holiday of at least six working days, and that any agreement to relinquish the right is void.

USSR (ratification: 1956)

The Committee noted the information provided by the Government in reply to its previous comments.

1. As regards the postponement of the annual holiday to the following year (under section 74(2) of the Labour Code of Russian SFSR and similar provisions in the Codes of the other Republics of the Union), the Government indicates that law and practice in the USSR does not regard it as a suppression of the worker's right to an annual holiday, since the holiday can only be postponed in exceptional cases, with the worker's consent and in agreement with the trade union committee. While noting these explanations, the Committee recalls that, according to the Convention, persons to whom it applies shall be

entitled to an annual holiday of at least six working days and that consequently only the fraction of the holiday which exceeds this minimum may be postponed (Article 2, paragraphs 2 and 4). It again asks the Government therefore to take the necessary steps to bring the law into conformity with the Convention in this respect.

2. The Government states that the option of accumulating annual leave, in whole or in part, for a maximum of three years, (under section 251 of the Labour Code of the Russian SFSR) is one of the advantages given to workers employed in the harsh conditions of the Far North, and that to abolish this would represent a substantial restriction of their rights, would be prejudicial to their interests and would conflict with the principle in article 19 of the Constitution of the ILO that ratification of any Convention by any Member shall in no case be deemed to affect any law, award, custom or agreement which ensures more favourable conditions to the workers concerned than those provided for in the Convention. In this connection, the Committee must emphasise that the aim of the holiday is to enable the organism to recover the bodily and mental powers expended during the year; it is difficult therefore to regard statutory provisions allowing postponement of the minimum holiday judged necessary for the worker's health in the Convention as being more favourable to workers than the provisions of the Convention. The Committee recalls also that it is not possible to rely on the argument that a national situation is designed to favour the worker "to justify non-compliance with an express term of the Convention", article 19, paragraph 8, of the Constitution of the ILO being applicable to national provisions "which go beyond the requirements of a Convention without contradicting them" (see the conclusions of the examination of a complaint submitted under article 24 of the Constitution of the ILO, Official Bulletin, Vol. LV, 1972, Nos. 2, 3 and 4, p. 147, paragraphs 82 and 83). The Committee therefore expresses the hope that appropriate measures will be taken to ensure that only those parts of the holidays in excess of the minimum prescribed by the Convention can be carried over to a later date.

3. The Committee noted from the Government's report that the law in some of the Republics only permits splitting of the annual holiday in exceptional cases, at the request of the worker and on condition that each part taken is at least seven days in the case of adult workers and 15 days in the case of persons under 18 years. To ensure compliance with Article 2, paragraph 4, of the Convention, it hopes that similar provisions can be laid down in the Labour Codes of all the Republics of the Union.

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In addition, requests regarding certain points are being addressed directly to the following States: Chad, Guinea, Peru.

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

Finland (ratification: 1947)

In its earlier comments, the Committee referred to the observations which the Finnish Union of Ships' Officers made to the Government concerning the growing number of exemptions granted to masters and officers who did not possess the prescribed competence. It notes with interest the Government's statement in its latest report to the effect that the exemptions granted to masters apply to small ships

used in inland navigation and that no master without the prescribed competence is assigned to ships on the transatlantic route. The Committee also notes with interest that the number of exemptions has dropped by comparison with the period covered in the previous report and that, according to the seafarers' organisations, co-operation in the matter between the Finnish Union of Ships' Officers and the National Board of Navigation has improved although, in the opinion of these organisations, the number of such exemptions is still too high. The Committee would be grateful if the Government could continue to provide, in future reports, detailed information on the circumstances, categories and number of exemptions granted.

The Committee further notes that the seafarers' organisations have expressed concern about the practice of lowering the machine power so as to influence the requirements with regard to manning and engineer officers' capacity, which could impair safety on board ships. The Committee requests the Government to provide all relevant information on the matter.

Mauritania (ratification: 1963)

The Committee notes with regret that for the fourth year in succession no report has been received from the Government. It is bound therefore to repeat previous comments which were as follows:

Article 4 of the Convention. The Committee recalls that a decree to be issued under the Merchant Shipping Code (Part III, Chapter XIII, sections 2 and 3) was to prescribe the conditions for obtaining various kinds of officers' competency certificates. It trusts that the Government will take the necessary action to issue the decree in the near future.

Article 5, paragraphs 2 and 3. The Committee had noted from the Government's report for the period 1968-70 that the national authorities may detain vessels on account of a breach of the provisions of the Convention and that in the case of a breach on a vessel registered in the territory of another member State which has ratified this Convention, the national authorities may communicate with the consul of that Member. It again requests the Government to indicate which provisions of the national legislation regulate these questions.

Panama (ratification: 1970)

Article 3 of the Convention. Further to its earlier comments, the Committee notes with interest from the Government's report that a Bill provides for the issuance or approval of an officers' competency certificate, in accordance with the provisions of the Convention, and that it is the Government's intention, once this Bill has been adopted, to ask that an ILO expert be sent to draw up additional regulations in this connection. The Committee hopes that the necessary provisions will be adopted in the near future.

Article 5. The Committee notes with satisfaction the adoption of Act No. 39 of 8 July 1976 and the regulations made under it (Decree No. 56 of 8 October 1976) providing for a system of inspection of ships sailing under the Panamanian flag and engaged in international trade with a view to supervising compliance with the safety standards laid down by current national and international laws and regulations, especially as regards officers' competency certificates and enforcement of the working conditions specified in the Conventions ratified by Panama. It hopes that the Government will provide information in its

next report with regard to the regulations made under section 6 of the Act and to the practical measures taken to ensure the effective operation of the inspection service.<sup>1</sup>

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

Information supplied by Brazil and Israel in answer to direct requests has been noted by the Committee.

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

Liberia (ratification: 1960)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

Article 1, paragraph 2, of the Convention. The Government indicates that an amendment of section 290, paragraph 2(a), of the Maritime Law of 1964 is being prepared for the purpose of extending the scope of the Act to cover vessels of 20 tons or more (under the present wording of section 290 of this Act only vessels of 75 tons and more are covered), and that it is hoped that this amendment will come into force before the end of 1976.

The Committee notes the statement with interest and hopes that the Government will be able in its next report to indicate the adoption and entry into force of this amendment.

Article 2, paragraph 1. The Committee notes the Government's view that section 336 of the Maritime Law provides for payment of the wages, maintenance and medical care of the seaman in case of sickness while he is off the vessel by the authority of the Master. However, this section refers to only a seaman who is "off the vessel pursuant to an actual mission assigned to him by, or by the authority of, the Master" and it seems clear that this wording is intended to cover only seamen who are off the vessel pursuant to a mission assigned to them either by the Master or by some other person acting with the authority of the Master. The Committee therefore hopes that advantage will be taken of the steps currently being taken to amend the Maritime Law to amend also section 336, so as to provide that the shipowner will be liable in all cases of sickness and injury occurring between the dates specified in the articles of agreement for reporting for duty and the termination of engagement, in accordance with Article 2 of the Convention.

Article 6, paragraph 2(d). In its previous observations and direct requests, the Committee called the Government's attention to the fact that section 342, subsection 1(b), of the above-mentioned law does not provide for the necessity of obtaining the competent authority's approval when repatriation has to be made to a port other than where the sick or injured person was engaged or the voyage commenced. The Committee duly

<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1978.

notes the Government's statement that although this matter had not been the subject of complaints, these comments were being considered at present. Since this point has been raised since 1969, the Committee hopes that section 342, subsection 1(b), of the Maritime Law of 1964 will be amended in the near future, when the amendment to section 290 mentioned above is effected, for example, in order to give full effect to this provision of the Convention.

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

#### Panama (ratification: 1971)

Further to its earlier comments, the Committee has noted with satisfaction the adoption, on 18 August 1976, of Resolution No. 738 of the Governing Body of the Social Insurance Fund, article 1 of which prescribes the compulsory insurance of seafarers under the general social security scheme.

The points on which there are still certain discrepancies between the legislation and the provisions of the Convention, or on which additional information is requested, are being dealt with in a direct request to the Government.

#### Peru (ratification: 1962)

Article 3 of the Convention. See under Convention No. 24, Article 4.

Article 7. In reply to the Committee's earlier comments concerning the need to provide for the maintenance of the right to compulsory insurance benefit after the termination of the last engagement for a period to be fixed by national laws or regulations in such a way as to cover the normal interval between successive engagements, the Government states in its report that the preliminary draft of a Legislative Decree concerning the institution of a national social security scheme provides that assistance benefits shall be granted to insured persons and their wives and children for a specified period after the payment of the last contribution. The Committee notes this statement with interest. It consequently hopes that the Legislative Decree in question will be adopted shortly so as to ensure the full application of this provision of the Convention, and that the period during which assistance benefit will continue to be due will be fixed in such a way as to cover the normal interval between successive engagements.

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

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

**Convention No. 58: Minimum Age (Sea) (Revised), 1936**Algeria (ratification: 1962)

The Committee notes that under Ordinance No. 73-29 of 5 July 1973, which repealed Act No. 62-157 of 31 December 1962 and came into force on 5 July 1975, all laws and regulations prior to 3 July 1962 were repealed including those which formerly governed the application of Conventions Nos. 58, 68 and 91. Further, the Government's reports for 1974-75 indicated that a new Maritime Shipping Code would shortly come into force.

The Committee would be grateful if the Government could indicate the manner in which effect is now given to the Conventions mentioned, and if it could provide a copy of the Maritime Shipping Code as soon as it has been adopted or of any other legislative text governing the application of these Conventions.<sup>1</sup>

Liberia (ratification: 1960)

The Committee refers to its previous observations and recalls that, under section 290(2) (a) of the Maritime Law (as amended by the Merchant Seamen's Act, 1964), the provisions laying down the minimum age for admission to employment at sea do not apply to vessels of less than 75 net tons and that, under section 326 of the same Law, those provisions apply only to vessels engaged in foreign trade. These exclusions are not in conformity with the Convention, which applies to all ships and boats, of any nature whatsoever, engaged in maritime navigation.

The Government has stated since 1973 that a new Labour Code would ensure the full application of the Convention. The Committee regrets, however, that the report due this year has not been supplied and that no information is accordingly available on the progress made in eliminating the above-mentioned discrepancies. It trusts that the necessary provisions will be adopted at an early date.

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In addition, requests regarding certain points are being addressed directly to the following States: Democratic Yemen, Fiji, Mauritius, Sri Lanka, Tunisia.

**Convention No. 59: Minimum Age (Industry) (Revised), 1937**Philippines (ratification: 1960)

Article 2 of the Convention. In previous observations, the Committee had noted that sections 137 and 138 of the Labour Code adopted in 1974 set the minimum age for admission to industrial employment at 14 years, whereas the Convention prescribes a minimum age of 15 years for such employment. The Committee notes with satisfaction that, by virtue of Presidential Decree No. 850 of 16 December 1975, section 138 of the Labour Code has been amended so as to establish a minimum age of 15 years for admission to employment.

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.



The Committee notes, however, that the amended section, and also Book Three, Rule XI, section 2 of the Rules and Regulations implementing the Labour Code, by way of exception, permit children under 15 years to work under the direct responsibility of their parents or guardians in any non-hazardous undertaking where the work will not in any way interfere with their schooling. The Committee wishes to point out that Article 2, paragraph 2 of the Convention permits an exception of this nature solely in respect of undertakings in which only members of the employer's family are employed. It hopes that the legislation will be amended accordingly.

Sierra Leone (ratification: 1961)

Referring to its previous observations, the Committee notes with regret that the Government has not yet taken action to bring the national law into line with the following provisions of the Convention.

Article 4 of the Convention. Obligation of the 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. The requirement that an age higher than 15 years be prescribed for the admission of young persons and adolescents to jobs that are dangerous.

The Committee hopes that appropriate action will be taken shortly to give effect to these provisions of the Convention.<sup>1</sup>

Spain (ratification: 1970)

Article 2(1) of the Convention. In its earlier comments the Committee pointed out that section 171 of the Contracts of Employment Act, 1944, which prohibits the admission of persons under 14 years of age to any type of employment, was not in conformity with this Article which requires the age to be 15 years.

The Committee notes with interest that section 6(1) of the Labour Relations Act of 8 April 1976 prescribes a minimum age for admission to employment of 16 years; it notes further that, under the first supplementary provision in that Act, the minimum age for admission to employment will be introduced progressively by the Government as the General Education Act comes into operation and expands in the area of vocational training.

While the Committee considers that a higher minimum age than that indicated in the Convention may be achieved gradually, it notes that the discrepancies will continue as long as the 1944 Act remains in force, and would therefore ask the Government to indicate the extent to which the provisions of the new Act will take effect progressively or the steps that may have been taken to eliminate the divergencies between the national law and the basic provisions of the Convention.

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<sup>1</sup> The Government is asked to provide a detailed report for the period ending 30 June 1977.

In addition, requests regarding certain points are being addressed directly to the following States: Burundi, Fiji, Iraq, Libyan Arab Republic, Mongolia, Peru, Tunisia.

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

Spain (ratification: 1970)

See under Convention No. 59.

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

Algeria (ratification: 1962)

See under Convention No. 13.<sup>1</sup>

Colombia (ratification: 1967)

The Committee notes from the Government's report that the only national provisions concerning the subject matter of the Convention - the recommendations of the Colombian Social Security Institute - are not legally binding and that there are consequently no laws or regulations which ensure the application of the Convention.

The Committee further notes that the proposed Pilot Plan for Occupational Safety will deal, in the first place, with safety provisions in building and construction, leading to legally binding standards. The Committee trusts that the relevant laws and regulations will be adopted shortly and will give effect to all the provisions of the Convention, and that the Government will be able to supply in its next report information, for each of the Articles of the Convention, on the national provisions which apply them, as requested in the report form adopted by the Governing Body.<sup>2</sup>

Honduras (ratification: 1964)

See General Observation. Honduras.<sup>1</sup>

Mauritania (ratification: 1963)

The Committee regrets that for the fifth consecutive year no report has been received. It must once more repeat the following point raised in its previous observation and direct requests:

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.

<sup>2</sup> The Government is asked to report in detail for the period ending 30 June 1978.

Article 13, paragraph 2 of the Convention. The Committee has pointed out since 1966 the need for measures to ensure the application of this provision of the Convention (the minimum age of persons to be employed as crane operators and signallers). According to the Government's report for the period 1968-70, section 42 of Order No. 10281 of 2 June 1965 was to be amended to that effect. The Committee trusts that appropriate measures will be taken in the near future and that the Government will supply information in this connection.

Mexico (ratification: 1941)

The Committee notes with interest, from the Government's last report, that the Government intended to publish in October 1976 the new building regulations and supplementary technical standards for the Federal District, which were to give effect to Articles 11, 12, 14 and 15 of the Convention.

The Committee also notes the Government's statement that action to bring the building regulations in force in the States of the Republic into conformity with the requirements of the Convention was practically completed.

As these matters have been the subject of comments for the past 20 years, the Committee trusts that the application of the Convention will be ensured throughout the country at an early date, and that copies of all regulations adopted to that end for the Federal District and in various States will be supplied.<sup>1</sup>

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In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Central African Empire, Denmark, Guatemala, Guinea, Peru, Rwanda, Surinam, Zaire.

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

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

Requests regarding certain points are being addressed directly to the following States: Ireland, Kenya.

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

Guyana (ratification: 1966)

In previous comments the Committee had drawn attention to the absence of provisions giving effect to the following Articles of the

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session and to report in detail for the period ending 30 June 1977.

Convention: Articles 7 (medical examination); 8 (minimum age); 13 (repatriation); 15 (transport) and 19 (responsibilities of different authorities).

For a number of years the Government had indicated in its reports its intention to amend the Amerindian Act (Chapter 29:01 of the Revised Laws of Guyana, 1973) to bring it into conformity with the Convention. However, in its latest report, the Government states that it sees no need to amend this Act since the protective provisions of the Recruiting of Workers Act (Cap. 98:06) apply also to Amerindians.

The Committee observes however that the Recruiting of Workers Act, which contains certain provisions concerning medical examination of workers and payment by the recruiter or employer of the expenses of the journey of the workers and their families to the place of employment, applies only to the recruiting of workers by or on behalf of employers who do not employ more than 50 workers.

The Committee therefore hopes that the necessary legislative action will be taken in the near future to ensure full compliance with the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: Fiji, Ghana, Lesotho, Mauritius, New Zealand, Panama, Uganda, Western Samoa.

Information supplied by Burundi and the United Republic of Cameroon in answer to direct requests has been noted by the Committee.

### Convention No. 65: Penal Sanctions (Indigenous Workers), 1939

Kenya (ratification: 1964)

The Committee notes with satisfaction that section 45(1) of the Employment Act (cap. 226), which authorised the imposition of penal sanctions for breach of contract, has been repealed by section 57 of the Employment Act which entered into force on 3 May 1976.

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

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

Cuba (ratification: 1953)

Article 18, paragraph 3, of the Convention. Referring to its previous observations, the Committee noted from the Government's report that no regulations have yet been made for introducing the control books mentioned in this provision of the Convention, but that the matter was still being considered by the competent organs and services.

The Committee also noted the Government's statement that the provisions of the Convention relating to controls are applied in practice. It would nevertheless point out that there can be no check on the working conditions of persons covered by the Convention unless they are in possession of individual control books during their hours of work. It therefore hopes that the Government will in the near future take the necessary steps to give effect to this provision of the Convention.<sup>1</sup>

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In addition, requests regarding certain points are being addressed directly to the following States: Central African Empire, Peru, Uruguay.

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

Algeria (ratification: 1962)

See under Convention No. 58.<sup>2</sup>

Argentina (ratification: 1956)

The Committee notes with regret that legislative measures to give effect to the Convention, which have been under consideration ever since the entry into force of the Convention for Argentina, have not yet been adopted. It recalls that, following direct contacts between the competent government services and a representative of the Director-General of the ILO, a special committee was established by ministerial decision of 27 April 1973 to draw up the legislative provisions necessary to give effect to the Convention. However, the Government's last report merely refers to continuing studies in relation to maritime labour legislation generally.

As the provisions relating to food and catering for crews on board ship contained in collective agreements, to which the Government has referred in recent reports, give only very limited effect to the requirements of the Convention, the Committee trusts that measures to ensure the full observance of the Convention will be adopted at a very early date.<sup>1</sup>

Panama (ratification: 1970)

Further to its previous comments, the Committee notes with interest from the Government's report that it intends to obtain the assistance of an ILO expert with a view to bringing the national legislation into conformity, inter alia, with the provisions of this

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1978.

<sup>2</sup> The Government is asked to report in detail for the period ending 30 June 1977.

Convention. The Committee hopes that the Government will take the appropriate measures at an early date and that the necessary legislation will be adopted.

Articles 6, 8, 9 and 10 of the Convention. With regard to the introduction of a system of inspection to ensure the application of the relevant legislation, see under Convention No. 53, Article 5.<sup>1</sup>

Peru (ratification: 1962)

The Committee regrets to note that no report has been received from the Government. It recalls that Supreme Resolution No. 213-74-TR of 21 May 1974 (adopted following direct contacts in 1972) provided for the creation of an Interministerial Committee responsible for preparing draft regulations on food and table service on board ships.

The Committee hopes that provisions will be adopted in the near future to give effect to the Convention which was ratified 15 years ago.

Spain (ratification: 1971)

The Committee notes the information provided by the Government in response to its previous comments.

Article 2(a) of the Convention. The Committee notes that the special annex to the General Order on occupational safety and health in the merchant shipping sector, which is to contain provisions giving effect to this paragraph of the Convention, has not yet been adopted but that it is now at an advanced stage of preparation. The Committee hopes that the text will be adopted very shortly and will include the necessary regulations concerning the construction, location, ventilation, heating, lighting, water system and equipment of galleys.

Article 2(d) and Article 12. The Committee asks the Government to indicate in its next report the progress made in implementing these Articles (research, collection and dissemination of information, and the issue of recommendations on catering for ships' crews).<sup>1</sup>

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

A request regarding certain points is being addressed directly to Peru.

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

A request regarding certain points is being addressed directly to Peru.

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1978.

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

Philippines (ratification: 1960)

In its previous observation, the Committee had noted that the legislation which gave effect to the Convention had been repealed following the adoption of the Labor Code of 1974 and its implementing regulations, but that the latter did not contain any provisions relating to the medical examination of young persons.

In information supplied to the Conference in 1976 and in its latest report, the Government refers to certain provisions of the Labor Code and the Rules issued thereunder by virtue of which medical examinations are required for certain young persons. It also refers to a new section 3A of Book III, Rule XI of the Rules and Regulations implementing the Labor Code which would prohibit the employment of children and young persons under 18 years of age unless they have been found fit for the work on which they are to be employed. As this provision is not included in the most recent edition of the said Rules and Regulations available to the Committee (published by the Department of Labor in June 1976), the Committee hopes that the Government will indicate the legislative text by which this Rule was introduced and will provide a copy thereof.<sup>1</sup>

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In addition, requests regarding certain points are being addressed directly to the following States: Paraguay, Peru, Philippines.

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

A request regarding certain points is being addressed directly to Peru.

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

Peru (ratification: 1962)

With reference to its previous observations, the Committee notes with regret that the necessary measures have not been adopted to give effect to the following provisions of the Convention:

Article 2 of the Convention. For children from 12 to 14 years of age who are authorised to work, a night rest period of at least 14 consecutive hours including the interval between 8 p.m. and 8 a.m., should be prescribed.

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<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session and to report in detail for the period ending 30 June 1977.

Article 3, paragraph 1. Section 39 of the Code of Minors, under which the period of night rest may in certain cases be reduced to 9 hours, should be amended to provide for a rest of at least 12 consecutive hours.

Article 5, paragraph 4(a) and (c). Provisions should be adopted to ensure that children and young persons who can appear at night as performers by virtue of section 43 of the Code of Minors do not continue to work after midnight and are allowed a rest period of at least 14 consecutive hours.

Article 6, paragraph 1(c). Provisions should be adopted to guarantee suitable means of identification of children and young persons engaged in employment carried out in public places.

The Committee recalls that a draft decree was prepared, during the direct contacts held in 1972, to give effect to the provisions of the Convention. It reiterates the hope that the decree will be adopted in the near future.

### **Convention No. 81: Labour Inspection, 1947**

#### United Republic of Cameroon (ratification: 1962)

Articles 20 and 21 of the Convention. The Committee must again draw attention to the fact that, since the ratification of the Convention, no annual inspection report has been received by the ILO, whereas under Article 20 of the Convention, such a report is to be published and sent to the ILO each year. The last report from the Government on the application of the Convention contained no reply to the Committee's earlier observation on this point, and the Committee can only urge once more that the inspection reports required under Article 20 be published and sent to the ILO and that they should contain all the information required by Article 21.<sup>1</sup>

#### Central African Empire (ratification: 1964)

Article 11, paragraph 2, of the Convention. The Committee notes with interest, from the Government's reply to its previous observations, that provisions relating to expenses are contained in the draft decree laying down internal regulations for the labour administration service. It also takes note of the statement made by a Government representative to the Conference Committee in 1976 to the effect that the Government was envisaging the re-establishment of travelling expenses for labour inspectors, in the form of lump-sum service indemnities. The Committee hopes that the draft decree in question will shortly be adopted, and requests the Government to send a copy thereof as soon as it has been promulgated.

Articles 20 and 21. Further to its previous observations, the Committee has noted the statement made by a Government representative to the Conference Committee in 1976 to the effect that measures had been taken for the publication of full inspection reports and for their communication to the ILO. It recalls once again that so far only one report, for 1969, which did not cover certain aspects of labour

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<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session.



inspection, has hitherto been communicated to the ILO. The Committee hopes that the annual reports required under Articles 20 and 21 of the Convention will shortly be published and sent to the ILO.

Chad (ratification: 1964)

The Committee regrets to note that since 1971 no report has been provided by the Government and that consequently the Committee does not have available to it sufficient information to measure the application of Articles 7, paragraph 3; 11, paragraph 2; 12, paragraph 2; 13, paragraph 2(b); 20 and 21 of the Convention.

The Committee is bound therefore to raise these points again in a fresh direct request and hopes that the Government will not fail to provide the information requested with its next report.

France (ratification: 1950)

Articles 20 and 21 of the Convention. Further to its earlier observations the Committee notes with interest the Government's statement in the Conference Committee in 1976 that it had recently been decided to resume the annual publication of the labour inspection report (which had not been published since 1964). It also noted from the Government's report that the preparation of the annual inspection report in question - which was to have been forwarded to the ILO by the end of 1976 - has been delayed because of the Government's decision to publish a fully comprehensive report covering the many new and complex activities of the labour inspectorate. The Committee appreciates the measures being taken by the Government, and trusts that annual reports containing all the information required by the Convention will henceforth be regularly published and forwarded to the ILO.

Guinea (ratification: 1959)

The Committee notes with regret that the Government's report contains no reply to its previous comments. It must therefore repeat its previous observation which read as follows:

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 can only 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.<sup>1</sup>

Haiti (ratification: 1952)

The Committee refers to its previous observations and notes with satisfaction that, as a result of the direct contacts which took place between the national competent services and a representative of the Director-General of the ILO in November 1976, section 367 of the Act of 28 August 1967 and sections 497 and 503 of the Labour Code have been amended with a view to vesting in labour inspectors the powers provided for under Articles 12, paragraphs 1(a) and 2, and 13, paragraphs 2(b) and 3, of the Convention.

Article 6 of the Convention. The Committee notes that the Government again refers to the legislative provisions which provide that "labour inspectors shall be guaranteed security of tenure to protect them from any outside influence liable to prejudice their impartiality and independence" (section 366 of the Act of 18 September 1967 and section 496 of the Labour Code). It hopes, however, that the Government will provide the text of any other provisions governing the status and conditions of service of the staff of the labour inspectorate.

Articles 20 and 21. The Committee notes the information provided by the Government on the work of the labour inspection services for the years 1974-75, which has apparently not been published. It would, however, again point out that the last inspection report published and sent to the ILO relates to the years 1963-64, whereas Article 20 provides that an annual report on the work of the labour inspection services must be published within 12 months of the end of the year to which it relates and must be transmitted to the ILO within three months after publication. It therefore requests the Government to take the necessary measures to ensure that these reports are published regularly and sent to the ILO, that they contain all the information provided for under Article 21 of the Convention and that, in future, the time limits laid down under Article 20 of the Convention are observed.

Ireland (ratification: 1951)

I. Further to its previous comments, the Committee takes note with satisfaction of the Memorandum of December 1976 which provides that an inspector must not disclose the source of any complaint (Article 15(c) of the Convention) and that an inspector is free not to notify the employer on arrival of his intention to carry out an inspection (Article 12(2)).

II. The Committee takes note of the various comments made by the Irish Congress of Trade Unions on the application of the Convention, and of the remarks communicated by the Government in this regard.

1. The Congress requests that detailed results of surveys into lead concentration in the factory environment and into hazards associated with polyvinyl chloride carried out by the Industrial Inspectorate (Article 3 of the Convention) together with the expert

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<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session.

advice of the Inspectorate should be made available to it and to the trade unions concerned. The Committee notes from the Government's reply that the Annual Report of the Industrial Inspectorate for the year 1974 gives the over-all results of the surveys on lead and PVC hazards and that the Inspectorate is available at all times to furnish advice on these hazards; but that detailed reports in respect of individual firms are confidential and that there are legal complications in this area. The Committee notes that the Annual Report for 1974 is drafted in very general terms and hopes that the Government will indicate in its next report whether further measures could be introduced, without violating the confidential nature of the reports on individual firms, to supply more detailed information on the results of these surveys to the trade unions and employers' organisations concerned, in the framework of the collaboration provided for in Article 5(b) of the Convention.

2. The Congress expresses the hope that the Inspectorate will carry out further surveys in the context of Article 3 of the Convention including in particular a survey on problems due to exposure to high noise levels. The Committee notes from the Government's reply that regulations for the reduction of noise levels came into force on 1 December 1975; it also notes with interest that an Occupational Hygiene Group has been set up within the Industrial Inspectorate and that the suggestion of the Congress as to a survey on occupational health problems will be considered by the Group. The Committee would be grateful if the Government would supply information on any action which may be taken in this regard, and would indicate any further measures taken or contemplated with a view to keeping the trade unions and employers' organisations concerned fully informed about surveys being contemplated or carried out.

3. The Congress expresses the hope that after an inspection visit the employer and trade union concerned, or a works safety committee, should be informed of the inspector's report and of any remedial action required by the inspector. The Government indicates, in reply, that the reports of inspectors, being confidential documents arising out of the execution of statutory functions, cannot be made available to trade unions or safety committees. The Committee notes that the Convention does not provide specifically for such measures. It hopes however that the Government will indicate whether some other means could be introduced with a view to informing the organisations concerned of the remedial action required by the labour inspectors, thus facilitating the collaboration between labour inspectors and employers and workers which is provided for in Article 5(b) of the Convention.

4. The Congress refers, in relation to Article 9 of the Convention, to the recent appointment of a medical doctor to the Industrial Inspectorate and expresses the hope that this may lead to the establishment of a division specialising in occupational health problems. The Committee notes with interest the Government's statement that consideration would be given to this recommendation of the Congress and hopes that information on any measures taken in this regard will be supplied.

5. The Congress refers to motions adopted at its Conference relating, inter alia, to the inspection of office premises. The Committee recalls that Ireland, when ratifying Convention No. 81, made a declaration excluding the part relating to labour inspection in commerce, and that in its latest report the Government indicated that it was not yet in a position to cancel this declaration in spite of the increasing awareness of the need for the implementation of all the provisions of the Convention. It also notes the Government's statement

that the detailed comments of the Congress are being examined by the Department of Labour and hopes that information will be supplied in future reports on any measures which may be taken in this connection.

Italy (ratification: 1952)

Articles 10 and 11, paragraph 2, of the Convention. The Committee notes the terms of the communication from the Provincial Labour Inspectors (Syracuse Division) referring to certain difficulties in labour inspection activities arising from the inadequacy of reimbursement to labour inspectors of travel costs and other expenses occasioned in the exercise of their functions. The Committee recalls that comments concerning this matter had already been received from several associations of labour inspectors and refers to its observation of 1976 in this connection. It hopes that in its next report the Government will provide information on the steps taken or contemplated in order to ensure full application of the Convention on this point.

Jamaica (ratification: 1962)

Article 13, paragraph 2(b) of the Convention. The Committee notes from the Government's reply to its previous observation that, owing to the priority given to other parts of the labour legislation new regulations have not been issued on labour inspection in industrial establishments. The Committee would point out that in 1972 and 1974 the Government indicated that steps had been taken with a view to implementing Article 13, paragraph 2(b) of the Convention. It hopes that a provision will shortly be adopted empowering the labour inspector to have an order made requiring measures with immediate executory force in the event of imminent danger, so as to cover operations in all factories (the inspector's present powers under the Factories Act relate only to building sites and docks).

Article 14. The Committee notes the Government's reply indicating that the draft regulations on safety and health in mines had been revised and that the new draft would shortly be sent to mining companies, government services and unions for comment. It hopes that the provisions on the reporting of occupational diseases to the labour inspectorate in this sector will shortly be approved.

Article 20. The Committee notes from the Government's reply that the annual reports of the Ministry of Labour for the years 1965, 1966 and 1967-1971 have been published, that the reports for 1972 and 1973 were in proof and that the report for 1974 had been drafted and would soon be published. However it wishes to point out again that the last annual report of the Ministry of Labour received in the International Labour Office related to the year 1964. It hopes therefore that the Government will forward the subsequent reports to the Office and that the time limits for the publication and dispatch of annual inspection reports to the Office indicated in this provision of the Convention will in future be respected.

Kenya (ratification: 1964)

Article 15, paragraph (c) of the Convention. Further to its previous observation, the Committee notes with satisfaction that section 55 of the Labour Law of 1976 requires labour inspectors to treat as absolutely confidential the source of any complaint, in accordance with the present provision of the Convention.

Mauritania (ratification: 1963)

The Committee notes with regret that for the second year in succession no report has been received. It therefore has no information on the progress made in adopting the draft regulations governing the labour inspection staff, the preparation of which was mentioned in the Government's report for 1972-74 (Article 6 of the Convention) or on the application of Articles 7, 9, 10, 16 and 19 which have been the subject of requests for a number of years. Moreover, the Government has never, since it ratified the Convention, published or sent to the ILO the annual labour inspection reports required under Articles 20 and 21 of the Convention.

The Committee hopes that the Government will shortly take the necessary steps to give effect to the above-mentioned provisions of the Convention.

Peru (ratification: 1960)

Further to its earlier observations, the Committee notes the information provided by the Government with regard to Article 12, paragraph 1 of the Convention. It wishes, however, to draw the Government's attention to the following points:

Article 10 of the Convention. The Committee recalls that the Government, according to its report for the period 1972-74, had provided in its budget estimates for an increase in the number of labour inspectors, and that measures for training new labour inspectors were being considered. As the Government's last report does not contain any information in this regard, the Committee would be grateful if the Government would indicate what progress has been made in strengthening the labour inspection services.

Article 13, paragraphs 2(b) and 3, and Article 15, paragraph (a). The Committee notes with interest from the information provided to the representatives of the Director-General during the direct contacts which took place in October 1976 that regulations governing the application of the Decree of 12 July 1971 were to be adopted with a view to bringing the legislation into line with the present provisions of the Convention (enabling orders to be made requiring measures with immediate executory force in the event of imminent danger, and prohibiting inspectors from having any direct or indirect interest in the undertakings under their supervision). It hopes that the Government will shortly be in a position to indicate that the measures in question have been taken.

Articles 20 and 21. The Committee would again refer to the Government's statement, in its report for the period 1972-74, that administrative and budgetary arrangements had been made for the publication of the annual reports of the labour inspectorate. Since that time, however, no such report has been received, the last to reach the ILO being for the year 1969. The Committee hopes that the Government will take the necessary measures to ensure that these reports are published regularly, within the time limits laid down by Article 20 of the Convention, and that they contain all the information required under Article 21 of the Convention.

Surinam (ratification: 1976)

In previous comments the Committee had noted that, although certain provisions relating to inspection were contained in several

legislative texts dealing with conditions of employment and safety, there was no legislation regulating the working of inspection services, and that a number of requirements of the Convention were not met. The Committee notes the statement in the Government's last report that an ordinance on labour inspection was being drafted.

As reference has been made since 1971 to the intention to adopt such an ordinance, the Committee hopes that it will be enacted at an early date and that the Government's next report, in addition to providing information on the legislative position, will provide details of the organisation and functioning of the inspection services.

The Committee trusts that the Government will also take measures to publish an annual report on the activities of the labour inspectorate and to communicate copies thereof to the ILO, in accordance with Articles 20 and 21 of the Convention.

Turkey (ratification: 1951)

Articles 20 and 21 of the Convention. Further to its previous observation, the Committee has noted the statement made by a Government representative to the Conference Committee in 1976 to the effect that a complete report on inspection would soon be published. It notes with regret that no inspection report and no more recent information on the progress made in the matter have been received. It recalls that the last inspection report, published in 1963, related to 1959, whereas under Article 20 of the Convention a general report must be published annually within 12 months of the end of the year to which it relates and communicated to the ILO within three months of its publication. The Committee hopes that the Government will take the necessary steps to have the annual inspection reports published and sent to the ILO, and that these reports will contain all the information required under Article 21 of the Convention.<sup>1</sup>

Yugoslavia (ratification: 1959)

The Committee notes with regret that for the second 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:

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

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session.

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 these 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.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

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In addition, requests regarding certain points are being addressed directly to the following States: Banladesh, Bolivia, Burundi, United Republic of Cameroon, Chad, Costa Rica, France, Gabon, India, Iraq, Ireland, Israel, Jamaica, Madagascar, Malawi, Mauritius, Norway, Paraguay, Tunisia, Turkey, Uruguay, Yugoslavia.

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

Requests regarding certain points are being addressed directly to the following States: Fiji, Mauritania, Somalia, Zaire.

### **Convention No. 86: Contracts of Employment (Indigenous Workers), 1947**

A request regarding certain points is being addressed directly to Malawi.

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

One member of the Committee, Mr. Gubinski, stated that he insisted on the fact that he could not associate himself with the Committee's observations regarding the application of the freedom of association Conventions in several socialist countries since, in his opinion, account should be taken of the economic and social systems existing in these countries. If sufficient account was taken of these factors, the role fulfilled by the trade unions in many social fields as well as the conformity of the trade union situation with the principles laid down in the Convention would be brought into perspective.

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1 See also paras. 63 and 64 of the General Report.

Another member of the Committee, Mr. Tunkin, stated that he could not agree with some observations of the Committee in relation to the USSR, the Ukrainian SSR, the Byelorussian SSR and several other socialist countries. He emphasised that in the world of today characterised by the existence of opposing social, economic, political and legal systems, norms of universal international Conventions, which were generally democratic in their social nature, might engender in the course of their implementation norms of municipal legal systems which might be socialist or capitalist. This meant that social realities produced as a result of the implementation of international labour Conventions or social realities with which these Conventions were confronted might be different in the capitalist and socialist countries, although in both cases these realities might be in conformity with the Conventions. It was especially true of those Conventions that touched upon fundamental principles and structures of the existing social systems, as Convention No. 87. In this situation there was a tendency to assume that the methods and results of the implementation of these Conventions in the capitalist countries were the only ones which were in conformity with the Conventions. This approach to the implementation of these Conventions made itself felt on some occasions and in particular in some of the Committee's observations relating to the application of Convention No. 87 in several socialist countries. Mr. Tunkin stated further that such an approach was incompatible with the very foundation of contemporary international law, which was peaceful co-existence of States with differing social and economic systems. He also stated that the Committee's observations did not reflect the actual situation.

The Committee recognises that social realities in countries based on different social and political systems, although differing from one another, may be in full conformity with particular ILO Conventions. Divergencies between national legislation or practice and a ratified Convention may, however, occur in any country. In compliance with its terms of reference, while noting the various political, economic and social conditions existing in different countries, the Committee has to examine and has examined, from a legal point of view, to what extent countries which have ratified Conventions give effect in their legislation and practice to the obligations which derive therefrom, irrespective of their political, social or economic systems. The Committee's observations are the conclusions drawn by it from a uniform application of this objective approach.

The Committee has made no assumptions about capitalist, socialist or Third World countries. It applies to all, impartially, the same test of conformity to the obligations undertaken by each country under ratified Conventions. Furthermore, the Committee has no indications which might lead it to consider that its observations concerning socialist countries did not reflect the actual situation.

#### Algeria (ratification: 1963)

The Committee notes the information supplied by the Government in its latest report.

Following its previous direct requests, the Committee notes in particular the Government's statement that new measures will be taken concerning the practices and measures established by national legislation with a view to fully implementing the provisions on freedom of association.

However, the Committee notes that the Government's report contains no new information in reply to its previous comments. It is therefore obliged to repeat the points raised previously.



1. In its previous direct requests, the Committee had noted section 2 of Ordinance No. 71-75 of 16 November 1971 on collective labour relations in the private sector, dealing with the establishment of union sections by the General Union of Algerian Workers (UGTA). The Committee had observed that according to the Government, organisations or federations affiliated to the UGTA would be responsible under the law for establishing a union section in every unit, undertaking or holding employing more than nine permanent workers. Also, according to section 3 of the above-mentioned Ordinance the election procedure, conduct of business and the number of officers of a union section are laid down by the UGTA statutes. The Committee considers that this situation is not compatible with Articles 3 and 6 of the Convention, under which workers' organisations and their federations have the right to draw up their constitutions and organise their activities, and the public authorities should refrain from any interference which would restrict this right or impede the lawful exercise thereof.

2. The Committee also pointed out that, if the purpose of section 2 and other provisions of the Ordinance was to authorise the establishment in each undertaking of only one trade union body affiliated to the UGTA, these provisions would be contrary to Articles 2 and 11 of the Convention.

The Committee had noted in this connection that it is in pursuance of the Ordinance that the union sections are to be established by the UGTA in every undertaking covered by section 2 thereof, and are given the main union functions in the undertakings, in particular the negotiation of collective agreements and the presentation of individual or group grievances. The Committee still considers that the establishment by law of such a monopoly in favour of trade union sections of a specific central organisation deprives the workers of the free exercise of their right to association and conflicts with the above-mentioned Articles of the Convention.

The Committee notes the Government's statement that the law has established no monopoly in favour of trade union sections which would restrain the free exercise of trade union rights, and that on the contrary it is only a logical development forcefully reinforcing and reaffirming the historically recognised and established trade union freedom.

The Committee points out that the law expressly confers on the UGTA an exclusive role (for example, as regards collective agreements, Ordinance No. 75-31 on general conditions of work in the private sector, sections 85 et seq.), and thus confers a monopoly on the UGTA.

The Committee considers that the explicit establishment and maintenance by law of a single trade union is contradictory to the Convention's principles.

3. The Committee notes that Decree No. 72-177 of 27 July 1972 containing common statutory provisions for associations, provides in section 24 for the succession to the property of an association, in particular in case of its dissolution by the public authorities. The Committee requests the Government to specify in what cases the public authorities may proclaim the dissolution of a trade union, and recalls that Article 4 of the Convention provides that workers' organisations shall not be liable to be dissolved or suspended by administrative authority.

The Committee requests the Government to re-examine its legislation in the light of the considerations set forth in paragraphs 1 and 2 above in order to bring it into harmony with the Convention.

Argentina (ratification: 1960)

The Committee notes the information supplied by the Government in its most recent report, as well as the reports submitted by the Committee on Freedom of Association with respect to Case No. 842 concerning Argentina.

The Committee notes on the basis of the available information that since the change in government in March 1976 the new Government has placed the General Confederation of Labour and other trade union organisations under its control, temporarily suspended the activities of employers' and workers' organisations except as regards their internal administration and their social activities (Decree No. 9 of 24 March 1976) and ordered that the holding of elections and of meetings were included under restricted activities (Law No. 21356 of 22 July 1976).

In its report the Government states that in recent years anomalies in the Argentinian trade union movement have become evident and have resulted in the relegation of the defence of occupational interests and an increasing divergence between the wishes of members and the activities of officers. The lack of effective participation by workers in the life of the organisations and the discretionary use made of trade union property have affected the normal development of trade union activities. The Government was obliged to take measures to rectify these distortions so that workers could depend on their organisations to defend effectively their interests. As a result, the General Confederation of Labour was placed under government control. At present a reform of trade union legislation (Law No. 20615) is under consideration and the Government has taken due note of the comments made by the Committee of Experts with respect to those provisions of the legislation which are in contradiction with the Convention. The Government adds that it will supply the text of the new legislation once it has been approved by the competent authorities.

The Committee notes the Government's comments, but can only observe that the measures taken by the Government seriously infringe the right, guaranteed by Article 3 of the Convention, of workers' and employers' organisations to elect their representatives freely, to organise their administration and activities, and to formulate their programmes.

The Committee trusts that the Government will proceed at the earliest possible date with a normalisation of the trade union situation and will adopt new legislation in the field in full harmony with the standards contained in the Convention due account being taken of the comments made by the Committee in its previous observations and direct requests, particularly as regards the scope of the exclusive rights granted to organisations with trade union status, interference by the administrative authorities in trade union activities and compulsory arbitration in cases of labour disputes.<sup>1</sup>

Bolivia (ratification: 1965)

The Committee notes the information supplied by the Government in its most recent report, as well as the reports submitted by the Committee on Freedom of Association with respect to various cases concerning Bolivia (Cases Nos. 685, 781, 806 and 814) and the complaint relating to the observance by Bolivia of Convention No. 87 presented by

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.

various delegates at the 60th (1975) Session of the International Labour Conference pursuant to article 26 of the Constitution.

The Committee notes on the basis of the information available that, by various legal provisions adopted by the Government in November 1974, the termination of the office of trade union leaders was ordered and the authorities appointed in their place Labour Co-ordinators to represent workers (Law No. 11947, section 12, and Supreme Decree No. 11952), the intervention of the administrative authorities was ordered with regard to the administration of trade union funds, members' dues payable to their unions were cancelled (Supreme Decree No. 11952 and various Ministerial Resolutions) and strikes were prohibited (Legislative Decree No. 11947, section 12, and Supreme Decree No. 11952).

The Committee recalls that in 1975 it had noted with interest the information contained in the Government's report according to which a Codification Committee was drawing up new trade union legislation and that the comments made previously by the Committee of Experts with respect to general labour legislation would be taken into account. Further, in the above-mentioned reports of the Committee on Freedom of Association it is stated that in April 1976 the International Labour Office sent comments on the draft trade union legislation prepared by the Codification Committee. At its meetings in November 1976 and March 1977 the Governing Body, following the recommendations made by the Committee on Freedom of Association, called upon the Government to adopt at the earliest possible date new trade union legislation in conformity with the Conventions ratified by Bolivia in the preparation of which the various comments made by the Committee of Experts and by the International Labour Office would be taken into account, and that all provisions contrary to the principles and standards of the ILO in this field should be repealed.

The Committee notes the statement contained in the Government's most recent report according to which the Codification Committee will consider the comments made by the Committee of Experts for the purpose of bringing the draft trade union legislation into line with the Convention. The Committee also notes the information supplied by the Government relating to the cases dealt with by the Committee on Freedom of Association to the effect that a special committee at Cabinet level has been constituted and entrusted with the study and final revision of a social and labour plan in which provision is made, amongst other measures, for the issuing of new labour legislation based on the Draft Labour Code commented on by the ILO, whose observations thereon had been brought to their attention.

The Committee trusts that the Government will normalise at the earliest possible date the trade union situation by adopting new legislation in this field which will take into consideration the comments mentioned above and which will be in full conformity with the standards of the Convention.<sup>1</sup>

#### Burma (ratification: 1955)

The Committee has taken note of the Government representative's statement and the information supplied to the Conference Committee in 1976, as well as of the Government's reports.

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.

In its previous observations, the Committee commented on the 1964 Law which defines the Fundamental Rights and Responsibilities of the People's Workers and on the Rules concerning the formation of people's workers' councils. In particular, it observed that the guarantees provided for in the Convention are not enjoyed under the compulsory system for the organisation and representation of workers, based on the above-mentioned councils which have to be set up at the level of the undertaking or township and headed by the Central People's Workers' Council.

According to the latest information supplied by the Government, the 1964 Law was amended in November 1976 to permit workers to set up their own organisations in place of people's workers' councils. In addition, the Rules concerning the formation of these councils have been rescinded by Parliament and rules relating to the organisation of workers adopted.

The Committee has examined the amendments and rules adopted. It notes that, under section 2 of the new Rules, workers of all races or religions may voluntarily form and join a single workers' organisation in accordance with statutes drafted by themselves.

The Committee notes with interest the repeal of the system of people's workers' councils, on which it has made comments over a number of years.

The Committee notes, however, that the new legislation imposes a single trade union system contrary to Article 2 of the Convention under which workers have the right to form organisations of their own choosing. The Committee recalls in this connection that, while it may be to the general advantage of workers to avoid a multiplicity of trade union organisations, a single trade union movement should not be imposed by the State by legislative means.

The Committee expresses the hope that this legislation will be re-examined in the light of the above comments. It requests the Government to provide information on any developments in this regard.

#### Byelorussian SSR (ratification: 1956)

The Committee notes the Government's report. As the legislation of the Byelorussian SSR on the matters to which the Committee has referred is similar to those of the USSR, the Committee considers it appropriate to refer to the observations formulated this year with respect to the USSR.

As regards the other questions concerning which the Committee has already made comments (including in particular the right to hold meetings 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.

#### Central African Empire (ratification: 1960)

The Committee has taken note of the Government's report. It has also noted the Government's statement to the Conference Committee in 1976 confirming that measures are envisaged for bringing section 10 of the Labour Code into line with the Convention in the draft of the new Labour Code. The Committee notes with regret that the Government's report refers neither to this question nor to the other questions which it raised in its earlier observations.

The comments made by the Committee over a number of years concern section 10 of the Code, which provides that officers of the union must have been in the trade or occupation for five years; section 22, which provides that collective agreements must be discussed by delegates from the unions of employers or workers belonging to the occupation or occupations; and section 6, which imposes restrictions on the trade union rights of aliens.

The Committee expresses the hope that the aforementioned provisions will be amended in the near future in order to bring them into full conformity with the Convention. It requests the Government to communicate all information on any progress made in this connection.<sup>1</sup>

Chad (ratification: 1960)

The Committee notes with regret that once again the Government's report has not been received.

In its previous observations, the Committee had made comments on section 36 of the Labour Code, which prohibits trade unions from undertaking any political activities. The Committee had, in particular, stated that a wide interpretation of this provision could lead to the conclusion that trade unions were going beyond their statutory competence if they ventured to make suggestions or criticisms concerning the Government's economic and social policy, for instance, the Government's wages policy. The Committee considered that it would be desirable 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.

In addition, the Committee takes note of Ordinance No. 001 of 8 January 1976. This Ordinance provides that the exercise of trade union rights is exclusively reserved for the private sector and is prohibited in regard to public officials and equivalents. The Committee recalls in this connection that under Article 2 of the Convention, workers, without distinction whatsoever, including public officials, have the right to establish and to join organisations of their own choosing.

The Committee has also taken note of Ordinance No. 30 of 26 November 1975. This Ordinance provides that by reason of the overriding necessity to maintain order and in view of the abuses which characterise freedom of association, all strike activity on the entire national territory is suspended until further order. The Committee considers in this connection that, to be permissible, a prohibition based on special circumstances for all workers to strike, should not last longer than is strictly necessary. In addition, the Committee recalls that a general prohibition to strike restricts considerably the possibilities of trade unions to further and defend the interests of their members (Article 10 of the Convention) and to organise their activities (Article 3).

The Committee trusts that the Government will take, in the very near future, the action necessary to modify the legislation in the light of the comments made above.

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.

Costa Rica (ratification: 1960)

The Committee notes with regret from the information supplied in the Government's latest report that the Bill to guarantee the right of unions to hold meetings on plantations, which has been submitted several times to the Legislative Assembly, has not been adopted.

In its earlier comments the Committee had expressed the hope that the Government would as soon as possible take such legislative and administrative action as was needed to give union officials full and effective rights of entry to the plantations and to give workers similar rights to hold meetings on the plantations.

The Committee wishes to emphasise once more the importance that it attaches to respect for civil liberties within the plantations, particularly the right of entry for union officials and the workers' right of assembly, which are both given express recognition in the conclusions adopted by the ILO Committee on Labour on Plantations at its last session in 1976. The Committee trusts that the Government will reconsider this matter so that the free exercise of these rights may be expressly provided for in the national law.

The Committee also notes that the Bill to amend Part V of the Labour Code concerning trade union organisations is still being considered by the committee of the Legislative Assembly.

The Committee is addressing a direct request to the Government with regard to this Bill.

Cuba (ratification: 1952)

The Committee notes once again that the Government's latest report contains no new information.

The Committee remains prepared to consider further the points raised in previous 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 notes the Government's report in reply to its previous observations.

The Committee had observed that pursuant to Article 5 of the Constitution, to Act No. 37 of 1959 and to the Labour Code, it would appear that the only recognised trade union organisations are the Revolutionary Trade Union Movement and its constituent organisations.

According to the Government, the list of voluntary organisations in Article 5 of the Constitution is purely by way of example and that this provision does not preclude the possibility of creating trade union organisations independent of the Revolutionary Trade Union Movement. In order to preclude any doubt concerning the free establishment of unions, Act No. 74 of 1973 was adopted, which deprived the provisions of Act No. 68 of 1951 of all effect. The latter provided for the formation of a single unified trade union organisation. The Revolutionary Trade Union Movement, the Government stated, is the only trade union organisation in the country and the workers have formed no others although they are empowered to do so.

Owing to the highly representative character of the Movement and its basic units, the legislation conferred on them a series of rights. If this representative character of the Movement were altered, the authorities would propose appropriate amendments to the legislation in force.

The Committee observed that even if workers could constitute other trade union organisations in accordance with the Government's explanations, these would not be able to exercise any trade union functions because the legislation grants these powers exclusively to the Revolutionary Trade Union Movement and to its constituent units. The Committee considered that the practical effect of the legislation appeared to preclude workers in a particular category from being able to establish another organisation besides that already existing, a situation which is incompatible with Article 2 of the Convention.

In its most recent report the Government explains that one of the principles of the Revolutionary Trade Union Movement is the existence of a single trade union organisation in each undertaking. It repeats that the Movement at present constitutes a single trade union organisation but that under the Constitution and the Freedom of Association Conventions ratified by Czechoslovakia, as well as under Act No. 74 of 1973, other organisations can be created freely without the necessity of approval on the part of any state body. Such organisations would be established as legal corporations upon adoption of their constitutions and election of their executive committees. In this way new organisations of workers, including managers of undertakings and agricultural co-operatives can be created if the workers concerned wish to found them.

The Committee wishes to point out in the first place that even if it may be desirable for workers to avoid a multiplicity of trade union organisations, unification imposed by legislative means is contrary to the principles of the Convention. This is the situation which arises when under the Labour Code trade union functions can only be exercised by the Revolutionary Trade Union Movement and its constituent units since any other trade union organisation which might be legally established could not function as such, since it would not be possible, as a result of the legislation, to promote and defend its members' interests.

As regards, in particular, members of collective farms, who are in principle excluded from the Labour Code, the Committee requests the Government to examine the possibility of adopting legislative provisions so that these workers can not only form trade unions if they so wish, but also so that such organisations can function effectively to represent, further and defend the interests of their members.

#### Dominican Republic (ratification: 1956)

The Committee had referred in its previous observations to the position of various groups of workers - such as civil servants and other workers employed by the State as well as certain classes of agricultural workers - which are excluded from the Labour Code and therefore from the guarantees in the field of freedom of association there set out. It noted also 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 noted in 1976 that the Government had requested direct contacts with the ILO in order to resolve in particular the

problems which had arisen in the application of Conventions Nos. 87 and 98. The Governing Body also at its 200th Session (May-June 1976) and at the recommendation of the Committee on Freedom of Association requested the Government to consider the possibility of having recourse to the direct contacts procedure in respect of complaints of infringements of freedom of association of which the Committee had been seized. Subsequently the Government stated its intention, on the occasion of a mission carried out in the country in November 1976 by a representative of the Director-General, of giving its consent to the establishment of such direct contacts.

The Committee expresses the hope that the Government will communicate its consent in the near future and that these direct contacts will result in a solution of the problems indicated in its earlier comments.<sup>1</sup>

Egypt (ratification: 1957)

The Committee notes the information supplied by the Government in its latest report, and has examined the new legislation on trade unions (Act No. 35 of 1976).

It notes with satisfaction that a provision requiring notification for the holding of general meetings, on which it had made certain comments, had been dropped from the new legislation.

The Committee nevertheless notes with regret that, among other things, a number of points of divergence to which attention was drawn earlier have not been eliminated in the new legislation.

1. The law lays down certain conditions which a person must fulfil in order to be able to join a union, one of which is that he has not been convicted of an offence (section 19(d)) even for one unconnected with trade union activities. Furthermore, certain groups of persons specified by law after consulting the Federation (such as managerial personnel and persons with higher responsibilities in the public administration or private management) have, under the legislation, no right of unionisation (section 19(e)) even in organisations of their own. Such provisions run counter to Article 2 of the Convention which provides that workers without distinction whatsoever shall have the right to establish and join organisations.

2. The union structure imposed by the Act under which only one "union committee" can be set up for any undertaking, town, village or region, only one general union for each industry or trade (as specified in a schedule to the Act) and only one general federation of trade unions (sections 9, 10, 13, 15 and 17) does not comply with the guarantees of Articles 2, 5 and 6 of the Convention for the right of workers to establish organisations of their own choosing. As the Committee has pointed out on a number of occasions, it is generally to the advantage of the workers if a multiplicity of unions can be avoided, but the unity of the trade union movement must not be imposed by the State through legislative means.

3. A minimum number - as a rule 50 - is required for the establishment of a "union committee" (sections 9 and 10). The Committee of Experts would point out that if such a large number of

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session and to report in detail for the period ending 30 June 1977.



foundation members is required, this may well be an obstacle to the formation of a union and so conflict with the guarantees in Article 2 of the Convention.

4. Model constitutions for all organisations and rules governing procedure and representation are to be prepared by the general federation and approved by the minister concerned (section 61). These provisions, which limit the right of organisations to draw up their constitutions and rules, are inconsistent with Article 3 of the Convention.

5. The unemployed and retired workers are deprived by the Act of the right of electing or being elected (section 23).

In addition members of an organisation must be employed in the industry, trade, undertaking, town or village in question (sections 9, 10 and 21(a)) and the members of the executive committee must have belonged to the organisation for at least one year (Article 36(c)). The effect of these two provisions taken together is that no person can become a union officer unless he is working in the industry, trade, undertaking, town or village concerned.

Such provisions are contrary to the right to elect representatives in full freedom laid down in Article 3 of the Convention.

6. The procedures, dates and forms for carrying out elections are to be specified by the Minister after consulting the federation (section 41).

The Committee considers that provisions regulating in detail internal election procedures in unions are incompatible with Article 3 of the Convention; such operations are a matter which should be decided by the unions themselves.

7. The Committee drew attention in an earlier observation to section 231 bis of Part VII of the Labour Code, which was added in 1974 and seems to be still in force. It noted that this section provides for a fine to be imposed on a worker who fails to vote at a union election and that it was incompatible with Article 3 of the Convention guaranteeing free election of representatives.

8. Financial rules that are binding for all organisations are to be prepared by the general federation and approved by the minister (section 61). Such a provision is incompatible with Article 3 of the Convention which guarantees organisations the right to organise their administration.

9. The Act lays down certain rules for allocation of the organisations' income (section 62(2)). The Committee would repeat that it considers that such a provision leads to interference in the administration of union finances, and conflicts with the right of unions under Article 3 of the Convention to organise their administration and activities.

10. The Committee also noted that under sections 189 and 209 of Part V of the Code, employers can unilaterally avoid strikes by submitting to the competent authority an application for settlement of the dispute. If conciliation fails, the dispute must go to the arbitration board and its award is directly enforceable and binding (sections 203, 205 and 232). These provisions have not been repealed in the new legislation, which consequently appears likely to lead in practice to a denial of the organisations' right to strike, thus

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restricting the right of unions to organise their activities, which is contrary to Article 3 and 8(2) of the Convention.

11. The Committee also examined the legislation sent to it by the Government dealing with employers' organisations. This lays down, inter alia, a structure which appears to prevent employers from establishing organisations of their own choosing. It also provides for representatives of ministries on the managing bodies of employers' organisations, for all decisions of these bodies to be approved by the Minister, and for income to be allocated according to certain rules (Act No. 21 of 1958, Decree No. 452 of 1958, etc.).

These provisions are contrary to Articles 2 and 3 of the Convention.

The Committee requests the Government to reconsider the national legislation in relation to the guarantees laid down in the Convention and to take the necessary steps to bring the legislation fully into line with the Convention.

The Committee is addressing a direct request to the Government on certain other points of the legislation.<sup>1</sup>

Ethiopia (ratification: 1963)

The Committee notes the information communicated by the Government to the Conference Committee in 1976, as well as the information contained in the Government's report.

1. In its previous observation, the Committee noted that the All-Ethiopia Trade Union which, under the Proclamation, shall be the representative of all the workers in Ethiopia (section 51(3)), shall guide and supervise the labour movement and issue directives to the unions to ensure their functioning in line with socialist principles (section 52(3)(b)).

In addition, lower trade unions shall be subordinate to higher ones and shall be obliged to accept and implement the latter's decisions (section 50(4) and (7)).

Under section 49(2) of the Proclamation, only one trade union may be established in an undertaking.

The Committee notes from statements made by a Government representative to the Conference Committee that the All-Ethiopia Trade Union, the highest trade union authority, is meant to be a voluntary, and not a Government organisation.

The Committee maintains the view that this legislation is at variance with the right of workers to establish and join organisations of their choosing, as laid down in Article 2 of the Convention. There is a fundamental difference between a situation in which a trade union monopoly is instituted or maintained by legislation and the factual situations which are found to exist in certain countries in which the workers or their trade unions join together voluntarily in a single organisation without this being the result of legislative provisions adopted to this effect.

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<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session and to report in detail for the period ending 30 June 1977.

The Committee must therefore again point out that unification imposed by legislative means runs counter to the principles of the Convention.

2. The Committee noted, in its comments, that the Labour Proclamation does not extend to public servants, management personnel or domestic servants. The Committee notes from the statement made by a Government representative to the Conference Committee that methods of organisation of these categories of personnel are under study.

The Committee expresses the hope, as it has previously done, that the right to organise will in the near future be granted to these categories of workers, to whom the Convention also applies.

3. With regard to strikes, the Committee observed that the right of workers to take part in a strike to further and defend their interests seemed to be excluded in practice by certain provisions concerning illegal strikes (sections 106 and 99(3)).

According to the Government representative, strikes are not altogether prohibited; since workers take part in management and the major enterprises have been nationalised, the normal purpose of strikes is irrelevant.

The Committee would once again stress that a prohibition on strikes, or rendering them practically impossible, constitutes a considerable restriction of the opportunities open to trade unions for furthering and defending the interests of their members (Article 10 of the Convention) and of their right to organise their activities (Article 3). Further, the Committee would recall that Article 8 of the Convention establishes that the law of the land shall not impair, nor shall it be so applied as to impair, the guarantees provided for in the Convention.

4. The Committee noted that, under the provisions of the Proclamation (sections 51(3) and 109(13)), only the All-Ethiopia Trade Union can affiliate with an international organisation of workers and that any such affiliation should be subject to verification by the Minister.

According to the Government representative, the provision that the Minister of Labour might verify that the part taken by the All-Ethiopia Trade Union in international organisations is in conformity with socialist principles is intended to ensure that national, economic and social policies, agreed with the trade unions, are implemented.

The Committee reiterates that it considers these provisions to be incompatible with Article 5 of the Convention, whereby any organisation, federation or confederation shall have the right to affiliate with international organisations of workers.

The Committee requests the Government to indicate what measures it proposes to adopt with a view to bringing the legislation into line with the Convention.<sup>1</sup>

#### Ghana (ratification: 1965)

Referring to its earlier direct requests, the Committee notes the information supplied by the Government in its latest report, indicating that the proposed amendments to the Industrial Relations Act, 1965, and

<sup>1</sup> The Government is asked to submit a report in detail for the period ending 30 June 1977.

the Trade Unions Ordinance, 1941, are still being examined by the Government.

Comments on the points set out below have been made by the Committee over many years:

1. The Committee had noted that sections 11(3) and 12(1) (d) of the Trade Unions Ordinance, 1941, allow the Registrar of Trade Unions to refuse to register a union where observations or objections have been made in relation to an application for registration. The Committee considers that such provisions, which are lacking in any clear definition of the kind of objections that may warrant refusal of registration by the registrar, could be contrary to Article 2 of the Convention, which provides that workers and employers, without distinction whatsoever, shall have the right to establish organisations of their own choosing without previous authorisation, and to Article 8, paragraph 2, which provides that 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 the Convention.

2. The Committee had further noted that, under section 3(4) of the Industrial Relations Act, 1965, a union cannot be registered if another union representing the same category of employees or a part of such category already holds a certificate of registration. Thus, as a result of this provision, no union can participate in collective bargaining if it does not hold a certificate authorising this. The Committee considers that this type of provision is incompatible with Articles 2 and 3 of the Convention. It does not consider it to be contrary to the principles of trade union freedom for certain rights (mainly in relation to collective bargaining) to be conferred on majority unions, for the purpose of avoiding the adverse effects of multiplicity of unions. Nevertheless, the decision as to which are majority unions must be based on objective criteria laid down in the law.

3. The Committee had also noted that the law contains no provision as to the right to form and join federations and confederations, or the right to join international organisations of workers or employers, as provided for in Article 5 of the Convention.

The Committee trusts that, as announced in previous reports from the Government, the amendment of the law will be carried out in the near future and will bring this fully into line with the Convention. It requests the Government to keep it informed of any developments in this respect.

#### Greece (ratification: 1962)

The Committee notes the information communicated by the Government in its latest report and the statements made by the Government representative and Worker member of Greece to the Conference Committee in 1976.

Further to the conclusions reached by the Commission of Inquiry established under article 26 of the Constitution of the ILO to examine the observance by Greece of the freedom of association Conventions, and its own previous comments, the Committee notes with satisfaction the enactment of Act No. 89 of 1975 which restores full rights to the trade unions dissolved under the previous regime and provides for the restitution, as far as possible, of their property.

The Committee further notes that Act No. 330 of 29 May 1976 on occupational associations and unions and the protection of freedom of association, referred to by the Government in its latest report, was examined by the Committee on Freedom of Association in connection with Cases Nos. 834 and 851. The Committee expressed the view in its 160th Report - approved by the Governing Body in November 1976 (201st Session) - that section 21 (which included among the conditions of eligibility for trade union office the requirement of at least one year's membership of the organisation) and section 31, subsection 2 (under which the total number of votes allotted to each organisation at assemblies of occupational unions could not exceed one-tenth of the total number of votes at the assembly) were not in conformity with the provisions of the Convention. The Committee notes with satisfaction that the above-mentioned provisions were repealed by Act No. 549 of 1977.

In its previous observation, the Committee had made a number of comments on the system of financing workers' organisations and federations (Legislative Decree No. 891 of 1971 as amended by Legislative Decree No. 42 of 1974) and had, in particular requested the Government to adopt legislation enabling those unions which wished to do so to collect dues from their members by means of a check-off system established by collective agreement. The Government has stated, in this connection, that the Constitution adopted in 1975 has removed the constitutional obstacles to a system of deduction of these dues by the employer, but that the implementation of this system (which requires the enactment of legislation and the conclusion of collective agreements) will take some time. The Committee notes this information with interest and requests the Government to supply particulars of any developments in this matter.

In its previous observation, the Committee also requested the Government to supply information on the holding of elections by the maritime trade unions. Since the Government does not reply specifically to this question in its latest report, the Committee again requests it to supply information on this point.

The Committee is moreover addressing a direct request to the Government on certain other questions relating to seamen, journalists and public servants and penal sanctions in cases of illegal strikes.

#### Guatemala (ratification: 1952)

In a general observation, the Committee noted at its previous session that, as a result of direct contacts in November 1975 between the competent national authorities and a representative of the Director-General of the ILO, a Bill was drafted to amend sections 211, 222 and 226 of the Labour Code which had given rise to comments by the Committee. The sections in question prohibited re-election of union officers, provided for government supervision of unions, prohibited the creation of minority unions within undertakings and provided that unions intervening in matters of electoral or party politics would be dissolved. The Bill also provided for a new section 235 to be inserted in the Labour Code on the rights of employees of decentralised, independent or semi-independent state enterprises, in respect of whom the Committee had also made comments as regards the exercise of the right to organise and to strike.

In its latest report the Government indicates that consideration of the draft Labour Code and Labour Procedure Code by Congress will be continued. The Committee notes however that the Government makes no reference to the Bill for amending the sections of the Labour Code

already mentioned. It would be grateful if the Government would send information on the further action taken on this Bill, which was designed to bring the law of the country into harmony with the Convention on the points raised by the Committee; and it would again express the hope that the Bill will be adopted in the near future. It requests the Government in addition to provide a copy of the new Labour Code as soon as it is adopted.

In its previous observations the Committee also pointed out that no regulations had been issued for applying section 63 of the Civil Service Act which gives official recognition to the right of public officials to form associations. The Government in its last report repeats the information given earlier, i.e. that the matter has been referred to the National Civil Service Bureau. The Committee would point out that, under Article 2 of the Convention, workers without distinction whatsoever, including public officials, have the right to establish organisations of their own choosing. The Committee hopes that the Government will in the very near future take the necessary steps to ensure that public officials can exercise their right of association in accordance with the Convention.<sup>1</sup>

Honduras (ratification: 1956)

The Committee notes the information supplied by the Government in its latest report concerning the changes being made in the Labour Code to take account of the Committee's comments.

In an earlier general observation, the Committee noted, with regard to the application of the Convention, that a draft Decree was being prepared to amend several sections of the Code.

In the circumstances, the Committee can only reiterate the observations which it has addressed to the Government over a number of years and again stress the need to amend several provisions in the Labour Code as follows:

1. Amendment of section 2 of the Labour Code so as to extend the right of association explicitly to workers in agricultural and stockbreeding undertakings not regularly employing more than 10 workers, so as to bring this section into line with Article 2 of the Convention.

2. Action to bring sections 475 and 504 of the Labour Code into line with Article 2 of the Convention, so as to abolish the condition that 90 per cent of a union's membership must be Honduras citizens.

3. Amendment of section 472 of the Labour Code, which is inconsistent with Article 2 of the Convention by providing that there shall be only one plant union in a given enterprise, institution or establishment and that, where more than one union already exists, only the union embracing the greatest number of workers shall continue.

4. Amendment of section 510(c) of the Labour Code, which is inconsistent with Article 3 of the Convention by requiring union officers, at the time of their election, to be persons regularly carrying on the occupation or craft represented by the union and who have regularly carried it on for more than six months in the preceding year.

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<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session and to report in detail for the period ending 30 June 1977.

5. Action to bring the following sections into line with Article 4 of the Convention under which workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority, namely:

- (a) sections 570 and 571, permitting the Minister of Labour and Social Welfare to make an order imposing penalties which may include dissolution of a union that has initiated or supported a strike declared without the required majority of votes;
- (b) section 500(2)(b), which provides for possible administrative suspension of union officers who have been responsible for infringements of the Code;
- (c) section 500(2)(c), permitting the Ministry of Labour and Social Welfare to withdraw for the time being an organisation's corporate status where it has been responsible for an infringement of the Code.

6. Action to bring the following two sections of the Code into line with Article 6 of the Convention, namely, section 537 under which federations or confederations are not entitled to declare a strike, and section 541 which requires union officers to have carried on the occupation or craft represented by the union for more than one year before election.

7. Amendment of section 500(5) of the Labour Code, which provides that any member of a union's managing committee who has been the cause of a penalty involving dissolution of the union may be deprived for three years of the right of association in any form in union affairs, since this provision is not compatible with Article 2 of the Convention.

The Committee trusts that the Government will adopt the amendments to the Labour Code in the near future and, in that connection, amend the above-mentioned provisions to bring them into conformity with the standards laid down in the Convention.

The Committee requests the Government to provide information on any progress made in this regard.<sup>1</sup>

#### Hungary (ratification: 1957)

The Committee notes the Government's report in reply to its previous observation.

The Committee had pointed out that the Labour Code, by assigning certain basic trade union functions, such as collective bargaining and the formulation of grievances in the undertakings, solely to the works committee mentioned in the Code, seemed to exclude, contrary to the Convention, the possibility of the workers forming other organisations able to work for furthering and defending their members' interests. The Government indicated that the works committee mentioned in the Code as the organ for the defence of workers' interests is the organ of any union established and functioning within the undertaking, and that this is not in violation of the principle of freedom of association.

In this connection the Committee stated that it understood from the provisions of the Code that unions included workers of various undertakings and that they were represented in each undertaking by the works committee concerned. In this case, even if the workers in an

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session and to report in detail for the period ending 30 June 1977.

undertaking could form another organisation within it, such an organisation could not perform the trade union functions indicated above, since the Labour Code assigns such functions to the works committee.

In its most recent report the Government states that the Committee has wrongly interpreted the legal provisions and that the Code does not guarantee trade union rights for a "particular trade union", but for "trade unions" in general. Consequently, the report continues, an organisation established by any group of workers to defend their interests in the undertaking may exercise the rights guaranteed to the trade union existing in the undertaking. Further, if different unions were established, all of them would enjoy the rights guaranteed by law.

The Committee notes this explanation and understands from it and from the provisions of the Code (sections 13(1) and 14(3)) that all works committees constituted in the same undertaking may exercise the right to bargain collectively and to formulate grievances. The Committee requests the Government to indicate whether this interpretation is correct and whether these rights can be exercised equally by a trade union established in any undertaking even though a works committee already exists there.

The Committee had stated that it understood that members of co-operatives were not included in the Labour Code and did not enjoy the right to establish trade unions, which is contrary to the Convention. In its report the Government states that members of co-operatives are in fact excluded from the Code but are covered by the Co-operatives Act (Act No. III of 1967) and are able to establish their own organisations. The Committee has already pointed out that co-operatives cannot be considered in law or in fact as "organisations" in the meaning of Article 10 of the Convention and considers that the Government should adopt the necessary legislation to ensure that members of collective farms are able, if they so wish, to establish trade unions which can operate effectively to represent, further and defend the interests of their members.

#### Ireland (ratification: 1955)

In its earlier direct requests the Committee had commented on certain provisions of the Trade Union Act, 1941 as amended in 1971, which lays down certain conditions for the granting of a negotiating licence.

The Committee has received in this connection the comments of the Irish Congress of Trade Unions which states that it supports these provisions. The Committee is sending a direct request to the Government on this question.

In its comments the Irish Congress of Trade Unions also states that the Irish courts have interpreted the Trade Disputes Act of 1906 in such a restrictive manner as to exclude certain categories of workers from the scope of the Act, thus depriving these workers of the right to strike. The Government, for its part, has provided observations on these comments and the Committee refers also to this matter in its direct request.<sup>1</sup>

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.



Japan (ratification: 1965)

The Committee has noted the information supplied by the Government in its reports, the statements made by the government representative and the Japanese Workers' member in the Conference Committee in 1976, the comments sent by the Japanese General Council of Trade Unions (Sohyo) and the Government's reply to these comments.

In its previous observations the Committee of Experts raised a number of points in connection with the system of registration for unions in the public sector (the fact that unregistered organisations are not able to acquire legal personality or to have as full-time officers persons retaining their employee status; the position of unregistered organisations as regards the right to bargain collectively; and the statutory provisions relating to suspension and cancellation of registration, the definition of managerial and supervisory staff (who are not allowed by the Central and Local Public Service Laws to belong to the same unions as the remainder of the personnel) and the right of association of fire-fighting personnel). The Committee noted in particular that two Bills had been submitted to the Diet concerning some of these questions.

The Committee notes with regret that the two Bills (one to grant legal personality to unregistered unions and the other to amend the provisions relating to the cancellation of registration and the provisions defining managerial, supervisory and confidential personnel) have not yet been adopted. The Committee notes that these Bills have recently been reintroduced before the Diet.

As regards the right to organise of personnel in the fire service, the Committee has noted the information and comments from the Government and from Sohyo. It would recall that, while the duties of fire service personnel in Japan have some special features, they do not appear to the Committee to be such as to justify the exclusion of these workers from the right to form unions under Article 9 of the Convention (on the armed forces and police), and that recognition of the right to organise does not automatically involve the right to strike.

The comments sent by Sohyo also state that the procedure before the Public Corporation and National Enterprise Labour Relations Commission (Koroi) - whose role is even more important as the workers of such corporations and enterprises have no right to strike - has many weaknesses, i.e. failure of managements and workers to agree on the nomination of members to represent the public interest and lack of impartiality; delays in the handing down of decisions and failure to carry out awards for budgetary reasons. Sohyo adds that the local labour relations boards give rise to the same criticisms. It also mentions a lack of proper procedures for protecting union rights in national and local public services.

In its reply the Government disputes the allegations in the comments from Sohyo. It states, among other things, that the employers' and workers' representatives on the Koroi are consulted on the choice of members representing the public interest and that it is not in practice possible that those who are opposed by the employers or workers can be chosen. It attributes the delays in the implementation of certain Koroi decisions and the refusal of a municipal assembly to permit implementation of an award to the difficulty of obtaining the necessary financial resources. It indicates that there are also procedures to deal with unfair labour practices both within the national public service (National Personnel Authority) and within the local public service (personnel or equity commissions).

The Committee notes that detailed comments on the above-mentioned problems have been made already by the Fact-Finding and Conciliation Commission on Freedom of Association and the Governing Body Committee on Freedom of Association (particularly in its 139th Report). The Committee of Experts would like for its part to stress the importance, in circumstances where strikes are prohibited or subject to restrictions in the civil service or in essential services within the strict meaning of the term, of according sufficient guarantees to the workers concerned in order to safeguard their interests; it has in the past made special reference in this connection to adequate, impartial and speedy conciliation and arbitration procedures in which the parties can participate at all stages and in which the awards are binding and fully and promptly implemented. It also considers that such bodies must be both impartial and regarded as such by the parties, since the genuine success of the procedures depends on the confidence of the parties.

Sohyo finally complains of actions brought for damages and interest against unions and prosecutions instituted against leaders after strikes on the railways and among teachers. The Government replies that these strikes were political and unlawful and that this justifies the court proceedings. The Committee notes in this connection that the case of the teachers has been submitted to the Committee on Freedom of Association.

The Committee requests the Government to report any progress made in dealing with the questions mentioned above, especially any developments regarding the adoption of the two Bills referred to, and to bear in mind the comments made previously by the ILO's supervisory organs.

Kuwait (ratification: 1961)

The Committee has taken note of the Government's report, which repeats the information already sent in 1974, i.e. that a draft legislative amendment takes the Committee's comments into account.

These comments related in particular to questions concerning the formation of trade unions, membership of nationals and foreign workers, denial of the vote to foreign trade union members, inspection of books and registers of unions, disposal of union property in the event of dissolution, prohibition of political activity by unions, and restrictions on the formation of federations or confederations of unions.

The Committee expresses once again the hope that the legislative amendment will be adopted in the very near future and requests the Government to transmit the text thereof when it has been adopted.

Liberia (ratification: 1962)

Following its previous observations, the Committee notes the statement made by the Government's representative to the 1976 Conference Committee and the information supplied by the Government in its latest report.

In particular, it notes that the discrepancies between the law and the Convention have been reconsidered with a view to eliminating them; and that while the draft Labour Code could not be adopted during the 1976 session of the legislature, it was expected that it would be promulgated before the next session of the Conference.

The Committee would point out that it has been commenting on the following points for many years: the ban on unions having both industrial and agricultural workers as members, and on joint membership of industrial and agricultural workers' unions in a national trade union centre; the absence of statutory provision guaranteeing the right of workers in the public sector to organise; and the supervision of union elections by the Labour Practices Review Board.

The Committee trusts that the adoption of the Labour Code, which has been announced a number of times, will take place in the near future and will remove any discrepancy between the law and the Convention.<sup>1</sup>

Mauritania (ratification: 1961)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee notes the information supplied by the Government in its latest report, which arrived too late to be examined in 1975, in response to its earlier observations.

1. Under section 1 of Book III of the Labour Code, as amended by Act No. 70-030 of 23 January 1970, persons carrying on the same trade, similar crafts or allied trades associated with the preparation of specific products; or the same profession, are free only to form one trade union for each of the categories referred to. This provision is contrary to Article 2 of the Convention, by virtue of which workers and employers have the right to establish and to join organisations of their own choosing.

On this subject, the Government representative stated to the Conference Committee in 1973 and in 1974 that the Government intended in this way to prevent the establishment of trade unions on an ethnic and linguistic basis, which had been judged to be contrary to national unity. He added, in 1973, that the difficulties had subsequently disappeared, since trade unionists had understood the necessity for trade union unity on an occupational basis and that the Government had consequently drawn up a new text which was designed to respect Convention No. 87, while at the same time protecting the country against acts liable to harm national unity.

The Committee has examined this text, which does not amend the aforementioned provision. It notes, however, from the Government's latest report that a draft law which is designed, *inter alia*, to amend this provision, is being examined.

2. Sections 1 and 7 of Book III of the Labour Code, taken together, which lay down that all trade union leaders must belong to the occupation they represent, are incompatible with Article 3 of the Convention, by virtue of which workers' organisations have the right to elect freely their representatives. It does not appear from the Government's report that this situation will be altered by the draft law aforementioned bill, which does not refer to section 7 of Book III.

3. Under sections 40 and 48 of Book IV of the Code the Minister of Labour may, at his discretion, prohibit a strike or

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session and to report in detail for the period ending 30 June 1977.

lockout and submit the collective dispute to arbitration procedure. The arbitration award or judgment of the Supreme Court hearing the appeal is, under section 45, immediately enforceable. These provisions could amount to a general prohibition of strikes and could thus limit considerably trade unions' freedom of action, which would be incompatible with Articles 3 and 8, paragraph 2, of the Convention.

The Government has supplied as an annex to its report the text of Act No. 74-149 of 11 July 1974 which amends, inter alia, the aforementioned section 48, without, however, altering the situation described above.

The Committee notes, however, the Government's statement that this Act represents a preliminary stage which will be completed by the adoption of a draft law which is still being examined. It requests the Government to supply all information on current revisions of national legislation and to communicate the new provisions when they are adopted. It expresses the hope that the Government will take account in these provisions of the various points mentioned above.

#### Mexico (ratification: 1950)

The Committee notes the information supplied by the Government in its latest report.

It notes with regret that the Government, after a new study of the position, adheres to its previous view and provides no new information which would enable the Committee to modify its earlier conclusions, i.e. that the federal law on state employees contains a number of provisions (sections 68, 69, 71, 72, 73, 75, 79 and 84) which are contrary to the provisions of the Convention.

In these circumstances the Committee can only repeat those conclusions. It would like to resume its examination of the above questions and expresses the hope that new elements will be brought to its notice by the Government.

#### Netherlands (ratification: 1950)

The Committee notes the Government's report. It has taken note also of the observations made by the Confederation of the Netherlands Trade Union Movement as well as of the comments made by the Government thereon.

According to the Confederation of the Trade Union Movement, the Government allegedly breached Convention No. 87 and particularly Article 3(1) by enacting certain measures which limited collective bargaining with respect to wages in 1976 on the grounds that these measures were not justified by the economic situation.

According to the Government's report, Convention No. 87 does not cover collective bargaining, which is dealt with solely in Convention No. 98. Even if Convention No. 98 had been ratified, the Government states, the measures taken would not have been in violation of the latter Convention because they were adopted in a difficult economic situation for an initial period of six months, and extended for a second period of similar length, after the breakdown in discussions between central organisations. Further, the Government provides particulars concerning certain provisions issued to protect workers' purchasing power.

The Committee notes in the first instance that Article 3(1) of the Convention provides that workers' and employers' organisations have the right (amongst others) to organise their activities. The Committee considers that collective bargaining is an important part of the activities of such organisations for the protection of the interests of their members. Indeed, as was indicated in the preliminary work for the adoption of the Convention on Freedom of Association "one of the main objects of the guarantee of freedom of association is to enable employers and workers to combine to form organisations independent of the public authorities and capable of determining wages and other conditions of work by means of freely concluded collective agreements".<sup>1</sup>

Consequently, under Article 3(2) of Convention No. 87, the public authorities should refrain from any interference which would restrict this right or impede the lawful exercise thereof.

As regards Convention No. 98, it requires positive action of public authorities with respect to collective bargaining since it aims at encouraging and promoting the full development of machinery for voluntary negotiation of collective agreements.

In these circumstances the Committee considers that measures restricting collective bargaining concern both Convention No. 87 and Convention No. 98.

The Committee considers also that certain limitations imposed on collective bargaining, particularly as regards the fixing of wage scales in the context of policies of economic stabilisation, may be permissible in certain situations. Such restrictions, however, should only be imposed as an exceptional measure and only to the extent necessary, without exceeding a reasonable period; further, they should be coupled with appropriate guarantees for the protection of workers' standards of living.

In this respect, the Committee notes that, according to the information provided by the Government, the measures in question were undertaken to combat a high inflation rate and to confront a difficult employment market situation. These measures were in force during a short time and were accompanied by provisions aimed at protecting workers' purchasing power. It would appear, moreover, that the measures in question have been repealed and that free bargaining with respect to wages has been resumed.

The Committee is of the opinion, therefore, that the measures adopted by the Government can be considered permissible in the light of the considerations set out above.

#### Nicaragua (ratification: 1967)

See under General Observations.

#### Nigeria (ratification: 1960)

The Committee notes the information supplied by the Government in its latest report. It takes note of the Trade Unions (Central Labour Organisations) (Special Provisions) Decree, 1976 (No. 44).

<sup>1</sup> ILO's Freedom of Association and Industrial Relations, Report VII, International Labour Conference, 30th Session, Geneva, 1947, p. 52.

Pursuant to this Decree the registrations of the existing central labour organisations are cancelled. The Committee considers that this provision adopted by the federal Government is equivalent to an administrative dissolution of the workers' central organisations, contrary to Article 4 of the Convention.

Further, Decree No. 44 provides for the appointment of an administrator who shall be charged with the responsibility for performing on behalf of trade unions the same duties as are normally performed by a central labour organisation. He shall also take all steps necessary to effect the formation of a single central labour organisation to which shall be affiliated all trade unions in Nigeria. For this purpose the administrator is empowered to draw up a constitution and election rules for the new organisation and to conduct elections by virtue of the rules thus established. The constitution and election rules shall be approved by a conference of delegates. In the event of any difference arising between the delegates and the administrator the matter shall be referred to the labour commissioner whose decision thereon shall be final.

In its report the Government states that the trade unions administrator was appointed shortly after the Government had announced that it would not recognise the Nigeria Labour Congress, recently established, owing to a series of petitions received from some trade unionists against the way the leaders of the new central organisation had appointed themselves to various offices.

The Committee notes the Government's explanations. It considers, however, that the powers conferred by Decree No. 44 to the administrator are contrary to Article 3 of the Convention according to which organisations of workers and employers have the right to draw up their constitutions and rules, to elect their representatives, to organise their administration and activities and to formulate their programme.

The Committee wishes to recall also that the imposition of a single central trade union organisation by legislation or regulation is not in conformity with Articles 2, 5 and 6 of the Convention, pursuant to which workers' organisations have the right to establish federations and confederations of their choice. Although workers generally benefit by avoiding a multiplicity of trade union organisations, the unity of the trade union movement must nevertheless not be imposed by state intervention through legislation or regulation.

The Committee requests the Government to re-examine the trade union situation in the light of the comments set out above and to provide further information on any developments in this respect.

#### Pakistan (ratification: 1951)

The Committee notes the information communicated by the Government to the Conference Committee in 1975 and the other information provided by the Government in its latest report. The Committee has also received comments from the Pakistan National Federation of Trade Unions.

1. As regards section 7(1)(d) of the Industrial Relations Ordinance, which provides that 75 per cent of the persons forming the executive committee of a registered trade union shall be persons from among the workers actually employed in the establishment or industry concerned, the Committee still considers that this condition is restrictive and hopes that the Government will keep this matter under consideration in the light of the previous comments made by the Committee.

2. The Committee notes from the Government's report that with the administrative reforms introduced in 1973, the government servants' associations established under the 1948 instructions have ceased to exist. Functional groups are being formed and as soon as the formation of such groups is finalised the right of the employees to form associations will be restored. The Committee expresses again the hope that the Government will soon take the necessary steps to introduce legislation in order to ensure, as provided by the Convention, that public servants can fully exercise the right to establish organisations for furthering and defending their interests.

3. The Pakistan National Federation of Trade Unions refers to the scope of the Industrial Relations Ordinance, and considers that the exclusions from the Ordinance, as well as the distinctions drawn in the Ordinance by the definitions of "workers" and "employers" are contrary to the Convention. The Committee has already dealt with the question of public servants, who are excluded from the Ordinance. It has also dealt with the question of supervisors, who are included in the definition of "employers" and may establish "employers' unions" for the defence of their interests (see the observations made by the Committee in 1973 and 1975). The Committee is addressing a direct request to the Government with regard to other categories of workers who are excluded.

4. The Federation also refers to the authority conferred on the Registrar to cancel the registration of a trade union if it infringes the law (section 10 of the Ordinance). The Committee does not consider that this provision raises any problem under Article 4 of the Convention, since it is provided that such cancellation may take place "on the direction of the Labour Court".

5. The Committee is addressing a direct request to the Government on the following additional points raised by the Federation: model rules, limitation of the number of trade union officers, the application of the Pakistan Essential Services (Maintenance) Act, 1952 in certain industries and the non-application of the Industrial Relations Ordinance to the Pakistan International Airlines Corporation.<sup>1</sup>

#### Panama (ratification: 1958)

The Committee has carefully studied the observations in the Government's latest report regarding the points raised in the earlier direct requests.

It has reviewed in this connection the comments made by it since the promulgation of the new Labour Code of 1972. It considers that the further details given by the Government do not contain any information which would enable it to modify its earlier conclusions.

The Committee can, therefore, only call attention once more to the incompatibility of the following provisions in the Labour Code with the terms of the Convention:

- (a) Section 344, requiring the participation of at least 50 workers or 10 employers for the formation of an organisation. The Committee considers that, for workers, a minimum of 20 members would be acceptable.

<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.

- (b) Section 346, which does not permit the formation of more than one union in an undertaking. Article 2 of the Convention lays down the right of workers to establish organisations of their own choosing, without imposing any conditions in this respect.
- (c) Section 347, requiring 75 per cent of the members of a union to be Panamanians. The Committee considers that, since the law of the country permits 10 per cent of the workers in an undertaking to be foreign, such workers should be able to join a union of their own choosing.
- (d) Section 359, under which a company union officer ceases to hold union office if his employment is terminated.
- (e) Section 376(4), under which the labour authorities have power to inspect records of discussions and accounts at practically any time. As regards supervision of the financial management of unions, the Committee considers that the law should limit the inspection of books to exceptional cases, such as when the submission of periodical reports suggests irregularities or when a complaint is made by members of the union.

The Committee hopes that the Government, which indicated in its previous report that it contemplated amending some of these provisions, will take the necessary steps to bring the law fully into line with the Convention.

As regards the right to organise in the public sector, the Committee notes that the personnel regulations for persons in government service are under study. The Committee hopes that these will be adopted in the near future and will comply with the provisions of the Convention. It requests the Government to keep it informed regarding this matter.

#### Paraguay (ratification: 1962)

Further to its previous direct requests, the Committee notes the information supplied by the Government in its latest report.

The Committee noted earlier that, while the Labour Code contains provisions for the right to strike (sections 347ff.), the Code of Labour Procedure nullifies these provisions by establishing a system of compulsory conciliation and arbitration leading to an award which the parties are bound to accept (sections 284 to 320). These last-mentioned sections result indirectly in a ban on strikes and therefore substantially restrict the ability of the unions to promote and defend the interests of their members and to organise their activities, which is contrary to Articles 3, 8 and 10 of the Convention.

The Government states in its latest report that, in the light of the Committee's comments, it will consider the best way of making the position quite clear and will inform the ILO of the decision taken.

The Committee trusts that the Government will take the necessary steps in the near future, and requests it to keep it informed of progress in this matter.

#### Peru (ratification: 1960)

Further to its previous observations, the Committee notes the information communicated by the Government to the Conference Committee in 1976, and also the information supplied in the Government's report.



The Committee notes from Government statements made to the Conference Committee that a tripartite committee has been set up to deal in particular with the trade union situation as regards Convention No. 87. It likewise notes the information which the Government gave to a representative of the Director-General during the direct contacts carried out in October 1976 to the effect that the tripartite committee has had several meetings with trade union representatives and has drafted recommendations for the Government. According to the same information, a multisectoral tripartite committee is also to submit proposals to the Government concerning amendments to be made to trade union standards. The Government has indicated that the comments of this committee will be taken into consideration when the new legislation is drafted.

In connection with this work, the Committee again draws the Government's attention to the various points raised in its previous observations:

1. Recognition of the right to organise public servants, of workers in state enterprises and of workers in charitable institutions, hospitals and similar institutions; none of these categories of workers is excluded from the provisions of Article 2 of the Convention.

2. Under the law, a trade union can only be established if it has a membership of more than 50 per cent of the workers in an undertaking if it is a workers' union; of more than 50 per cent of the employees if it is an employees' union; and more than 50 per cent of the workers and the employees respectively if it is a mixed union. The Committee has pointed out that such a condition is incompatible with Article 2, 7 and 11 of the Convention.

3. Under Supreme Decree No. 001 of 1963, trade union leaders must be workers or employees in the undertaking concerned, a provision which is not in conformity with Article 3 of the Convention under which organisations of workers and employers shall have the right to elect their representatives in full freedom and the public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.

4. The Committee has pointed out the desirability of amending section 6 of Supreme Decree No. 009 of 1961, which prohibits trade unions from engaging in political activities, so as to bring this provision into harmony with the Government's own statement to the effect that this prohibition is applied in conformity with the resolution on the independence of the trade union movement adopted in 1952 by the Conference, and thus avoid any possible discrepancy with Article 3(1) of the Convention under which workers' organisations shall have the right to organise their activities and to formulate their programmes.

5. It would seem to result from sections 5 and 9 of Supreme Decree No. 009 that it is only lawful to establish unions for a given undertaking (or works' units) or occupational unions (the latter only in the case of persons who practice a profession or exercise an independent activity). According to the Government's report, there are nevertheless many cases where trade unions representing an industry have been registered and, moreover, workers in establishments with fewer than 20 workers (the minimum number required for the setting up and continued existence of a trade union) have the possibility of establishing and joining trade unions. The Committee is, however, of the opinion that, to avoid misinterpretations, the law ought to be amended so as to bring it into conformity with the actual practice reported by the Government as well as with Article 2 of

the Convention.

6. Section 23 of Decree No. 021 provides that the five trade unions necessary for the formation of a federation 'shall be of the same branch of activity', a provision which appears to be contrary to Articles 5 and 6 of the Convention. The Committee has emphasised that unions belonging to different branches of activity should be able to form federations and that, as regards the formation of federations and of confederations, the law should be brought into conformity with the provisions of the Convention.<sup>1</sup>

Poland (ratification: 1957)

The Committee notes the Government's report in reply to its previous observation.

In its comments in 1975 the Committee observed that it understood that, pursuant to the Labour Code, members of co-operatives had the right to form trade unions and it requested the Government to indicate whether this interpretation was correct. The Government's report states that the national Constitution and the statutes of the Trade Union Confederation guarantee for all workers the right to join a trade union organisation on a voluntary basis and states the names of the trade unions of which workers of co-operatives are members. The Committee again requests the Government to state whether members of co-operatives can establish trade unions in conformity with the provisions of the Labour Code.

With respect to directors of enterprises, the report states that they have the right to join trade unions corresponding to the sector of industry of their respective undertakings. The Committee requests the Government to indicate whether such directors may also establish separate organisations from those to which workers of the undertaking belong, should they so wish, in order to defend and further their own interests.

The Government's report states once again that the work connected with the preparation of a new Trade Union Act is continuing. The Committee can only reiterate the hope that this work will be finished in the near future and that the observations which it has made previously concerning points which were not in conformity with the Convention will be taken into account. The Committee remains prepared to resume consideration of the questions raised in previous years and requests that it be kept informed of any developments in the matter.

Romania (ratification: 1957)

The Committee notes the Government's report in reply to its previous observation.

The Committee had referred to section 164 of the Labour Code which defines trade unions as occupational organisations constituted pursuant to the right of association contained in the Constitution and operating by virtue of the Rules of the General Trade Union Confederation, of the federations established on the basis on industrial sectors and of trade union organisations in undertakings. The Government had stated that the above-mentioned Rules of the Confederation concern the

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.

organisations affiliated to it and that affiliation is free, the existence of non-affiliated trade union organisations being permitted. In the circumstances, and so as to avoid any doubts regarding the scope of the provisions of section 164 of the Code, the Committee expressed the hope that in the new Trade Union Act which was being prepared it would be clearly set out that unions, federations and confederations could be established which were able to freely draw up their own rules and carry out their activities independently of the General Trade Union Confederation.

The Committee notes that in its most recent report the Government again supplies information relating to the Trade Union Act, No. 52 of 1945, but does not refer to the Trade Union Bill mentioned previously. The Committee reiterates its earlier comments and requests the Government to provide information on any development with respect to the preparation and adoption of this new Act.

With regard to members of collective farms, who are excluded from the Labour Code, the Committee had expressed the hope that they would be included in the new Trade Union Act so that they could establish trade union organisations or join such, if they so wished. The Committee notes the statement contained in the Government's latest report that members of collective farms may establish such organisations as they consider appropriate in pursuance of the provisions of the Constitution and of the Trade Union Act No. 52 of 1945. The Committee once again expresses the hope that these workers will be included in the new trade union legislation.

#### Surinam (ratification: 1976)

The Committee notes with satisfaction that an amendment to the Civil Code of Surinam (section 1668) has now been promulgated and that this amendment takes account of the provisions of the Convention as regards decisions concerning the recognition of trade unions.

#### Sweden (ratification: 1949)

The Committee notes the information supplied by the Government in its latest report. It also takes note of the new legislation on trade union questions.

The Committee has also examined the various texts communicated by the Government in reply to its previous direct request and which contain communications from the Swedish Association of Locomotive Engineers and Firemen, the Swedish Association of Operating Personnel and the Swedish Dockers' Union. These organisations, which are not affiliated to the large federations in the country, allege that their trade union rights (in particular, the right to conclude collective agreements) have been violated.

In its report the Government refers to the comments made by these organisations, which it describes as minority organisations, and states that the principle that certain rules are reserved to the most representative organisations as far as collective bargaining is concerned has been established in the legislation. It stresses, however, that the legislation contains provisions which benefit minority organisations (Act respecting co-determination at work, 1976, sections 13, 15, 16 and 17).

In this respect the Committee notes in particular, that, according to the documentation supplied by the Government, the Swedish

Dockers' Union states that, although the majority of dockers are members of its organisation, the right to conclude collective agreements has been refused to it and granted to another trade union representing a significantly lower number of dockers but affiliated to the Swedish Confederation of Trade Unions (LO).

The Committee considers that employers, including public authorities acting as employers, should recognise representative organisations of workers in a particular field for the purposes of collective bargaining.

In the light of this principle the Committee requests the Government to supply further information regarding its comments on the rights reserved to the most representative organisations, particularly with reference to the allegations of the three organisations in question and any other organisation not affiliated to the large confederations in the country.<sup>1</sup>

Syrian Arab Republic (ratification: 1960)

The Committee notes the information supplied by the Government to the Conference Committee in 1976. The Committee regrets to note, however, that no report has been received from the Government.

In its communications to the Conference Committee, the Government indicated that the committee established to study the comments of the Committee of Experts had made proposals for the repeal or amendment of certain provisions of Legislative Decree No. 84 of 1968 (on trade unions). These proposals formed the basis of a bill to be submitted to the legislative authorities at the earliest possible date.

1. The Committee notes with interest that the measures proposed concern the following provisions which were the subject of its comments: section 25 of Legislative Decree No. 84 of 1968, restricting the right of foreigners to join a trade union; section 32, requiring prior authorisation of the Federation of Trade Unions and of the Ministry in cases of gifts, donations or bequests; section 35, establishing financial control of the Ministry at all levels of trade union organisations.

2. The Committee had also made comments regarding section 44(b), clause 4, of Legislative Decree No. 84, making the holding of trade union office conditional on a minimum period of six months' prior employment in the occupation. According to the information provided by the Government, the committee has proposed the repeal of section 44, paragraph 3, of the Legislative Decree which appears to be the provision relating to the nationality of trade union officers.

3. The Committee also notes that, according to the information supplied by the Government, the committee had expressed its agreement with several points in the Committee of Experts' comments, but it would appear that specific proposals on the following points, which had been the subject of comments, have not been made: sections 2 and 8 of Legislative Decree No. 84 of 1968 requiring a minimum of 50 workers for the establishment of a trade union organisation; sections 32 and 36 of the above-mentioned Decree and sections 6 and 12 of Legislative Decree No. 250 (concerning employers of small undertakings and craftsmen) with respect to the deposit and compulsory allotment of trade union funds;

<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.

section 49(c) of Legislative Decree No. 84, pursuant to which the General Federation is empowered to dissolve the executive committee of any union on various grounds.

4. The Committee notes also that the committee in question has been unable to agree on the steps to be taken with respect to the comments of the Committee concerning the system of unified structure imposed by law (sections 2 and 7 of Legislative Decree No. 84, section 2, of Decree No. 250). The Minister concerned has requested the committee to formulate precise proposals to fulfil all of the obligations resulting from the Convention.

5. The Committee hopes that the committee will also take into account the comments made in its direct requests as regards the prohibition on strikes, set out in the Agricultural Labour Code (section 160) and arising from section 19 of the Economic Criminal Code (which sanctions acts contrary to general productivity aims set by the competent authorities and resulting in a fall in production). The Committee recalls in this regard that any direct or indirect prohibition of strikes may considerably restrict trade unions' possibilities of action, contrary to Articles 3 and 8 of the Convention.

6. The Committee notes that Decree No. 253 of 1969 (relating to agricultural workers), with respect to which it made comments in its previous observations, has been repealed and replaced by Act No. 21 of 31 March 1974 concerning farmers' co-operative associations. The Committee wishes to be informed whether, as a result of this new situation, all agricultural workers, whether members of co-operatives or not, could form trade unions pursuant to general legislative provisions and whether they would be in a position to defend the rights and interests of their members

7. Further to its previous direct requests, the Committee requests the Government once again to state which provisions govern the right of state employees freely to constitute trade unions in accordance with the Convention.

The Committee trusts that the Government will soon take the necessary measures to amend the legislation so as to bring it into conformity with the provisions of the Convention.<sup>1</sup>

#### Trinidad and Tobago (ratification: 1963)

Referring to its previous observations, the Committee has taken note of the information supplied by the Government to the Conference Committee in 1975 and in the Government's report, indicating that the tripartite commission set up to study amendments of the national law in the light of the Committee's comments had finished its work and that a provisional report was being studied.

The Committee's comments related to the right to organise in the civil service. It noted in particular from the information given by the Government and the statutory provisions (section 24 of the Civil Service Act, 1965; section 72 of the Education Act, 1966; section 28 of the Fire Service Act, 1965; and section 26 of the Prison Service Act) that where a given class of civil servants is already represented by an association, such civil servants can form or join other associations but these would not be associations with the right to represent their members.

<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.

The Committee had also noted that, as a result of sections 27 and 28 of the Fire Service Act, firemen can form unions but cannot be represented by the civil servants' association or by any other union recognised as a bargaining agent for any class or classes of civil servants immediately before the commencement of the Civil Service Act, 1965.

The Committee considered that these provisions were not in conformity with Articles 2 and 3 of the Convention.

The Committee hopes that the law will be amended on these points in the near future. It requests the Government to inform it of any progress made.<sup>1</sup>

#### Ukrainian SSR (ratification: 1956)

The Committee notes the Government's report. As the legislation of the Ukrainian SSR on the matters to which the Committee has referred is similar to those of the USSR, the Committee considers it appropriate to refer to the observations formulated this year with respect to the USSR.

As regards the other questions concerning which the Committee has already made comments (including in particular the right to hold meetings 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.

#### USSR (ratification: 1956)

With reference to its previous observation, the Committee notes the statements made by the Government representative to the Conference Committee in 1976 and the information supplied by the Government in its latest report.

#### Trade union rights of collective farm members

With regard to the question concerning the right of members of collective farms to form trade unions, the Committee observed previously that section 225 of the Labour Code of the RSFSR, respecting the operation of trade unions, does not apply to members of collective farms who are excluded from this Code. Consequently, the Committee requested the Government to indicate whether the members of collective farms can not only establish organisations under section 126 of the Constitution of the USSR and section 27 of the Civil Code, if they so wish, but also whether such organisations are able to operate effectively for furthering and defending the interests of their members without the necessity of special legislation being adopted to this effect.

The Committee notes that in his statement to the Conference Committee in 1976, the Government representative stated that members of collective farms were beginning to establish their own unions. In its most recent report the Government points out that members of these farms may establish their own unions pursuant to the Constitution and

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session and to report in detail for the period ending 30 June 1977.

Civil Code and they may join an already existing union which, by its nature, is most appropriate for them, namely the Trade Union of Manual and Non-Manual Agricultural and State Purchasing Workers, to which many collective farm machine operators, specialists, students in higher and secondary specialised agricultural educational establishments and rural vocational technical schools already belong. In support of this information, the Government cites the Decree adopted in September 1976 by the All-Union Central Trade Union Council, whereby the trade union committees of the various levels of the Agricultural Workers Union (new title of the union mentioned above) and the Food Industry Workers Union were entrusted with responsibility for implementing measures to enroll all members of collective farms who wish to join it in the trade union.

The Committee notes this information with particular interest and requests the Government to communicate the text of the Decree in question and information on developments in practice in this area. The Committee requests the Government also to provide particulars of any provision adopted or envisaged with respect to the operation of those trade unions which members of collective farms might have established themselves or might wish to establish and, more generally, with respect to the activities which might be undertaken by a trade union representing these workers as well as on the practical situation in this respect.

The right of workers to establish unions of their choice

The Committee noted that the provisions of 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, did 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 that, by bestowing trade union functions solely upon the trade union committee of the undertaking concerned, these provisions seemed to preclude the possibility of another organisation representing workers of the same category being set up. The Committee considered that such a situation would be incompatible with Article 2 of the Convention, which provides for the right of workers to establish organisations of their own choosing.

The Government representative, having informed the Conference Committee in 1973 that neither the sections of the Labour Code referred to nor any other provision excluded the possibility of establishing organisations other than those which already existed, the Committee observed that such organisations would not be able to carry out their functions since the legislation bestowed these functions on the trade union committee exclusively.

The Committee considered that the Government should first amend the legislation in force so that should any workers wish to exercise the right, in accordance with the provisions of Article 2 of the Convention, to establish other organisations to further and defend their interests, apart from the trade union committee, they might do so lawfully and in accordance with established rules.

In its most recent report the Government states that the practice established in the USSR and a number of other countries of setting up trade unions on the basis of the production principle, whereby all the workers in one undertaking belong to one trade union, is more favourable for the workers. In accordance with paragraph 8 of article 19 of the ILO Constitution, the Government sees no necessity for changing the legislation in force.

In this connection the Committee wishes to recall that it has pointed out on a number of occasions that even where it may be to the advantage of the workers to avoid a multiplicity of trade union organisations, the terms of the Convention require that trade union diversity should be possible in all cases. The Committee must point out that the argument that a national situation which is considered by the Government to be more favourable to the workers could "justify non-compliance with an express term of a Convention" is not acceptable; article 19, paragraph 8, of the Constitution is applicable to national provisions "which go beyond the requirements of a Convention without contradicting them" (see, in this respect, the conclusions of the examination of a representation presented under article 24 of the ILO Constitution in, Official Bulletin, Vol. LV, 1972, Nos. 2, 3 and 4, page 147, paragraphs 82 and 83).

In these circumstances the Committee can only refer to its earlier conclusions.

#### Role of the Communist Party in trade unions

With regard to the provisions contained in section 126 of the Constitution of the USSR, which provides that the Communist Party is the leading core of all workers' organisations, the Committee pointed out that if that provision should result in the operation of these organisations being subject to the general direction of the Communist Party, as was indicated by the Government, it would not only be impossible to legally establish organisations independent of this Party, but it would not be possible either for these organisations to exercise fully the right to organise their activities and formulate their programmes in conformity with the provisions of the Convention.

The Government representative stated to the Conference Committee in 1976 that the Communist Party does not intervene in questions arising between trade unions and state bodies. It acts only if an organisation undertakes policies contrary to the general directions of Soviet society. The leading role of the Party is exercised by persons who are members both of the Communist Party and of the organisations concerned. If an organisation were not to properly defend workers' interests, the Communist Party could advise it and guide it, so that it could return to its proper functions.

The Committee notes the explanations of the Government representative but considers that these do not modify its previous conclusions. The Committee considers in particular that the situation is one of restriction of trade union rights imposed by law (in this case by the national Constitution).

#### Other questions

As regards other matters on which the Committee had previously made comments (including, particularly, the right of meeting without prior authorisation and matters arising out of section 126 of the Constitution of the USSR), the Committee remains prepared to consider the situation further in the light of any new factors which may be brought to its attention.

#### Uruguay (ratification: 1954)

The Committee notes the information supplied by the Government in its most recent report as well as the reports submitted by the Committee on Freedom of Association concerning the case of Uruguay



(Case No. 763) and concerning the complaint on the observance by Uruguay of Conventions Nos. 87 and 98 presented by various delegates at the 61st (1976) Session of the International Labour Conference pursuant to article 26 of the Constitution.

In a previous direct request the Committee made comments with respect to Decree No. 622 of 1973 which regulates trade union activities. From the examination of the trade union situation in Uruguay undertaken by the Committee on Freedom of Association it appears that, although this decree is in force, it is only partially applied, namely with respect to the regulation of the right to strike and the prohibition on trade unions from engaging in political activities. That the legislation is not fully applied is attributable to the fact that trade unions have been unable to obtain registration in spite of the fact that many of them have complied with the formalities laid down. Unless they are registered, trade unions only exist in fact and not in law and such a situation considerably restricts their activities (election of officers, recognition by employers, collection of trade union dues, meetings, etc.).

At its meeting in November 1975 the Governing Body, on the basis of recommendations made by the Committee on Freedom of Association, indicated to the Government the importance which it attaches to the rapid adoption and application of trade union legislation in conformity with the standards contained in Convention No. 87, particularly in the light of the comments made by the Committee itself and by the Committee of Experts with respect to Decree No. 622.

The Committee notes from the information supplied by the Government with respect to the case examined by the Committee on Freedom of Association that the National Security Council on 20 January 1977 adopted resolutions on the following questions: (a) authorisation of the Executive Authority for the functioning of a temporary and practical nature of joint committees which would operate at the works level regarding industrial relations questions; (b) the decision of the President of the Republic that the Minister of Labour and Social Security, on the basis of the experience gained in this respect, should prepare a draft Bill for subsequent approval of trade union legislation. The decree regulating the establishment and operations of joint committees was issued on 15 February 1977.

The Committee notes also that a representative of the Director-General will visit Uruguay in the near future, in the context of the special freedom of association procedure, in order to gather information on developments in the trade union situation in the country and on the prospects for the adoption of new legislation in the trade union field.

The Committee trusts that the Government will appropriately regulate the trade union situation at an early date and will adopt new legislation in the field which will take into account the comments made previously on Decree No. 622 and be in full conformity with the standards contained in the Convention.<sup>1</sup>

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.

In addition, requests regarding certain points are being addressed directly to the following States: Australia, Bangladesh, Belgium, Bulgaria, United Republic of Cameroon, Canada, Central African Empire, Chad, Congo, Costa Rica, Cyprus, Ecuador, Egypt, Gabon, Greece, Honduras, Ireland, Jamaica, Lesotho, Madagascar, Mexico, Mongolia, Nigeria, Pakistan, Panama, Paraguay, Peru, Philippines, Trinidad and Tobago, Tunisia.

### Convention No. 88: Employment Service, 1948

#### Costa Rica (ratification: 1967)

The Committee notes with regret that no report has been received and that therefore no information is available in answer to earlier direct requests relating to the establishment of a network of employment offices (Article 3, paragraph 1, of the Convention), the establishment of advisory committees of employers and workers (Articles 4 and 5), and the manner in which the employment service fulfils the various functions defined in Article 6. The Committee hopes that the Government will provide a report for examination at its next session and that it will contain full information on these matters.

#### Cyprus (ratification: 1960)

See under Convention No. 2.

#### Tanzania (Tanganyika) (ratification: 1962)

The Committee regrets that for the fourth year in succession no report has been received. It hopes that a report will be supplied for examination by the Committee at its next session, containing full information on the matters raised in its previous observation, which read as follows:

Article 3 of the Convention. Please supply information on progress made in extending the network of employment service offices throughout the country.

Articles 6 to 11. The Committee noted previously that a National Employment Service Bill, giving effect to these provisions of the Convention, had been published and was to be laid before the National Assembly in 1972 or 1973. The Committee trusts that the Government will provide copies of the legislation now governing the matters covered by these Articles and will indicate in respect of each of them the manner in which they are applied in practice.

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In addition, requests regarding certain points are being addressed directly to the following States: Costa Rica, Malaysia, Peru, Surinam, Thailand, Tunisia, Yugoslavia.

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

**Convention No. 89: Night Work (Women) (Revised), 1948**Luxembourg (ratification: 1958)

In its report for 1965-67, the Government indicated that it had provisionally authorised the employment of women in night shifts in a newly established industrial undertaking, in view of acute manpower shortages and the Government's policy of promoting the establishment of new industries with a view to bringing about a more balanced economic structure. In subsequent reports, the Government has indicated that, having regard to these considerations, the exception has been maintained.

In comments addressed to the Government since 1968, the Committee has drawn attention to the fact that the Convention, in Article 5, permits the suspension of the prohibition of night work by women only "when in case of serious emergency the national interest demands it". Since the circumstances referred to by the Government could not be considered as a "serious emergency", the Committee had to conclude that the requirements of the Convention were not being respected.

In its report for 1974-75 (received too late for examination in 1976), the Government indicates that it has consulted employers' and workers' organisations on the measures to be taken to ensure the application of the Convention, as a result of which it appears that the employers' organisations consulted consider the suspension referred to above to fall within the provisions of Article 5 of the Convention, that none of the organisations consulted has expressed opposition to this suspension, and that all of these organisations favour revision of the Convention. In these circumstances, the Government requests a new examination of the matter by the Committee, and also suggest that the competent bodies of the International Labour Organisation should revise the Convention in the near future.

In view of the terms of Article 5 of the Convention, and for the reasons recalled above, the Committee maintains its view that the authorisation of night work by women in operation for the past ten years is not in conformity with the Convention.

The question of the possible revision of the Convention is not a matter falling within the Committee's terms of reference. It notes, however, that this question has been under consideration by the Governing Body since 1972, that so far no decision has been taken, but that it is proposed to convene a tripartite meeting to advise the Governing Body, inter alia, whether there should be new international standards on night work for men and women.

Philippines (ratification: 1953)

See under General Observations, Philippines.

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In addition, requests regarding certain points are being addressed directly to the following States: Ireland, Yugoslavia.

**Convention No. 90: Night Work of Young Persons (Industry) (Revised), 1948**Guinea (ratification: 1966)

The Committee regrets to note that the Government's report contains no reply to its previous comments. It recalls that in its previous comments it pointed out that section 146 of the Labour Code provides for a rest period of 11 consecutive hours, whereas Article 2, paragraph 1, of the Convention requires at least 12 consecutive hours. The Committee noted a draft Order communicated by the Government covering night work of women and children. The adoption of this draft would bring about an extension of the Code provisions so as to ensure full application of the Convention. It repeats its hope that this draft will be adopted in the near future.

Haiti (ratification: 1957)

Further to its earlier observation, the Committee notes with satisfaction that, as a result of the direct contacts held with the national competent services and a representative of the Director-General of the ILO, section 396 of the Labour Code has been amended by Decree of 10 December 1976 and now prohibits night work for minors, in conformity with the provisions of the Convention.

Mexico (ratification: 1956)

In its previous observations the Committee noted that the Federal Labour Act of 1970 prescribes a 10-hours night period during which work by persons under 18 years of age is prohibited, whereas under Article 2 of the Convention this prohibition should cover a period of 12 hours. The Committee noted in 1976 a Bill for supplementing the 1970 Federal Labour Act and implementing the Convention on this point. It notes, however, that this Bill has not yet been adopted and hopes that the necessary steps will be taken in the near future.

Peru (ratification: 1962)

Article 2, paragraph 1, of the Convention. See under Convention No. 79, Article 3, paragraph 1.

Philippines (ratification: 1953)

In its previous observation the Committee noted that the legislation giving effect to the Convention had been repealed as a result of the adoption of the 1974 Labour Code and the regulations under it, and that these contain no provision prohibiting night work by children.

In its latest report the Government refers to clause 3(a) of Regulation XI of Book Three of the Regulations under the Labour Code, prohibiting night work by children under 18 years. As this provision does not appear in the most recent edition of those Regulations available to the Committee (published by the Department of Labour in June 1976), the Committee hopes that the Government will indicate the order or decision which issued it and will send a copy.

The Committee also notes that the text mentioned by the Government in its report seems incomplete as regards children under 16 years and that, in the case of persons between 16 and 18 years, it only prohibits night work between 10 p.m. and 6 a.m., i.e. a period of 8 hours, whereas under Article 2 of the Convention this prohibition must cover a period of at least 12 consecutive hours. The Committee hopes that the Government will take the necessary further action to bring the law into line with the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: Burundi, United Republic of Cameroon.

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

Algeria (ratification: 1962)

See under Convention No. 58.<sup>1</sup>

Brazil (ratification: 1965)

1. The Committee refers to its earlier comments and to the observations submitted by the National Confederation of Workers in Maritime, Fluvial and Air Transport in 1974 on the need to amend section 139 of the Consolidated Labour Laws, which provides that the annual holiday shall be granted at the time most convenient for the employer, to bring it into conformity with Article 4 of the Convention which provides that the holiday shall be given by mutual agreement as the requirements of the service allow.

The Committee notes from the Government's reply that the committee set up to revise the Consolidated Labour Laws has concluded its work but that the Government is reserving its conclusions. The Committee hopes that the necessary amendments to section 139 will be made.

2. The Committee notes that, where a contract is terminated owing to fault on the part of the worker (section 142, sole paragraph, of the Consolidated Labour Laws) or for valid reason (section 26 of Act 5.107 of 13 September 1966), no compensation shall be payable for the portion of leave in respect of any service period of less than 12 months. The Committee further notes that clause 5-3-3 of the seafarers' code of the undertaking PETROBRAS (appended to the Government's report) contains a similar provision. It would stress that, under the terms of the Convention, a seaman can only be deprived of his leave entitlement if he is discharged owing to fault on his part before he has completed six months of service (Article 3, paragraph 3) and that a seaman who is discharged must receive in respect of every day of vacation holiday due to him the normal remuneration (Article 7). The Committee hopes that the Government will take the necessary measures to bring the national law and practice into conformity with the above-mentioned provisions of the Convention.

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.

Finland (ratification: 1966)

Referring to its earlier comments, the Committee notes with satisfaction that section 7 of Act No. 353/75 of 23 May 1975 concerning annual paid holidays for seafarers has brought the national law into line with Article 4, paragraph 2, of the Convention which provides that, except with the person's consent, the holiday must be given at a port in the territory of engagement or in his home territory.

Portugal (ratification: 1952)

Article 3, paragraphs 1 and 5(b), of the Convention. Further to its earlier comments, the Committee notes with satisfaction that the new collective agreement, which came into force on 15 April 1975 and was extended to all merchant navy undertakings by Order of the Secretary of State for Labour on 14 May 1976, does not reproduce clauses 62(8) and 62(9) of the collective agreement of 6 July 1963 which provided for periods of sickness not arising out of service to be deducted from leave and for loss of leave entitlement for breach of regulations.

Spain (ratification: 1971)

Referring to its earlier comments concerning the possibility of penalties resulting in a reduction of the annual holiday (sections 180 and 181 of the Merchant Marine Labour Ordinance, 1969), the Committee notes with satisfaction that section 34(3) of the Labour Relations Act of 8 April 1976 prohibits the imposition of penalties reducing the length of the holiday, thus bringing the national law into line with Article 3, paragraphs 1 to 3, and Article 7 of the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: Belgium, Cuba, Iceland, Israel, Netherlands, Norway, Poland, Tunisia.

**Convention No. 92: Accommodation of Crews (Revised), 1949**Cuba (ratification: 1952)

Further to its earlier comments, the Committee takes note with satisfaction of Resolution No. 30, dated 18 May 1976, of the Minister for the Merchant Navy and Harbours, requiring all ships to carry a valid certificate in respect of crew accommodation, issued by the Directorate for Maritime Affairs which is responsible for ensuring that the Convention is observed in the manner prescribed in Articles 4 and 5 thereof.

Panama (ratification: 1971)

In its earlier comments, the Committee noted that no laws or regulations to ensure the application of the substantive provisions of the Convention existed. It notes with interest from the Government's latest report that it intends to obtain the help of an ILO expert to assist in drawing up regulations for the application of Conventions on

seafarers ratified by Panama. The Committee hopes that the Government will shortly take the necessary measures to ensure the application of the Convention to all ships registered in Panama.

Article 3, paragraph 2(d), and Article 5 of the Convention. With regard to the introduction of a system of inspection to ensure compliance with the relevant legislation, see under Convention No. 53, Article 5.<sup>1</sup>

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

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

#### Burundi (ratification: 1963)

In previous observations the Committee noted that no measures had yet been taken to provide for the insertion in public contracts of labour clauses prescribing appropriate wages and conditions of work, as required by the Convention.

Following the direct contacts between the Government and a representative of the Director-General of the International Labour Office in September 1976, the Committee notes with interest the Government's statement that a draft presidential decree - which should give effect to the Convention - was to be submitted very shortly to the National Labour Council and would then be promulgated. It hopes that the text of the promulgated decree will soon be supplied and that it will ensure full compliance with the Convention.<sup>2</sup>

#### Guinea (ratification: 1966)

The Committee notes with regret that the Government's report contains no reply to its previous comments. It recalls that the Government had previously indicated that the conditions for applying the Convention were not met, but that measures would be taken to bring the texts into conformity with the Convention.

The Committee once again expresses the hope that steps will be taken to provide for the insertion of appropriate labour clauses in public contracts and to ensure full compliance with the various provisions of the Convention.

#### Rwanda (ratification: 1962)

The Committee notes with interest from the Government's reply to its previous observation that regulations and a standard contract for  
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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1978.

<sup>2</sup> The Government is asked to report in detail for the period ending 30 June 1977.

tenders, which will conform to the requirements of the Convention, are being drawn up. The Committee hopes that these regulations and the standard contract form will be adopted in the near future.

Somalia (ratification: 1960)

The Committee notes with interest the Government's statement that, as a result of consultations with a representative of the Director-General of the ILO, draft amendments to the labour Code which are to ensure the application of the Convention are now under consideration. The Committee hopes that these amendments will be adopted in the near future and will be communicated to the International Labour Office.

Turkey (ratification: 1961)

The Committee recalls that no measures have as yet been taken to ensure compliance with the basic requirement of this Convention: the insertion in public contracts of labour clauses ensuring to the workers concerned appropriate standards in respect of wages, hours and other conditions of work.

The Committee also recalls that the Government informed the Conference Committee in 1972 that a government decree had been drawn up by which effect would be given to this obligation, and that in 1976 it informed the Conference Committee that the draft had been discussed by all the administrative services concerned, so that it would be possible to establish the final text of the decree.

The Committee trusts that the decree in question will be approved in the very near future and that it will ensure the full application of the Convention.<sup>1</sup>

Uruguay (ratification: 1954)

The Committee recalls that the Government has supplied information in its reports on the labour clauses included in public contracts relating to public works, concluded by the Ministry of Transport and Public Works. However, in spite of frequent requests by the Committee, the Government has failed to provide any information on measures to ensure the application of the Convention to the other forms of public contracts covered by the Convention: that is, contracts for the manufacture, assembly, handling or shipment of materials, supplies or equipment, and contracts for the performance or supply of services (Article 1, para. 1(c) (ii) and (iii) of the Convention). In its last report, the Government merely states that the Ministry of Public Works does not conclude contracts of this nature.

The Committee trusts that measures will be taken at an early date to ensure the application of the Convention in respect of public contracts of these types awarded by any public authority within the scope of the Convention.<sup>1</sup>

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<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session and to report in detail for the period ending 30 June 1977.



In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Kenya, Mauritania, Surinam, Syrian Arab Republic, Uganda.

### Convention No. 95: Protection of Wages, 1949

United Republic of Cameroon (ratification: 1960)

Further to its previous comments, the Committee notes with satisfaction that Article 13(2) of the Convention (prohibition to pay wages in taverns) is now applied by section 75(5) of the Labour Code of 27 November 1974.

Greece (ratification: 1955)

In its previous comments, the Committee requested the Government to take measures ensuring compliance with Article 4 of the Convention (obligation to ensure that payments in kind are authorised only within the limits and subject to the safeguards prescribed in this Article) and Article 7, paragraph 2 (obligation to take measures ensuring that, where access to other stores and services is not possible, the prices charged in works stores or services operated by the employer shall be fair and reasonable).

The Committee notes with interest that on 17 January 1977 the Ministry of Labour issued a circular to labour inspectors, regional offices and local authorities, and to directors of the Ministry, drawing attention to the fact that the provisions of the Convention, including Article 4 and Article 7, paragraph 2, are applicable by virtue of article 28 of the Constitution of 1975, according to which ratified Conventions are an integral part of domestic law and prevail over any contrary provisions of the law.

The Committee recalls that, by virtue of Article 4, paragraph 1, of the Convention, national laws or regulations, collective agreements or arbitration awards may authorise the partial payment of wages in the form of allowances in kind in industries or occupations in which payment in the form of such allowances is customary or desirable because of the nature of the industry or occupation concerned. Even though, by virtue of article 28 of the Constitution of 1975, these provisions form part of domestic law, it would still appear necessary, in accordance with Article 15(c) of the Convention, to prescribe adequate penalties or other appropriate remedies applicable in cases of payment of wages in the form of allowances in kind which had not been authorised by laws or regulations, collective agreements or arbitration awards or which did not respect the conditions established by them.

It would further remain necessary to take appropriate measures to ensure, in accordance with Article 4, paragraph 2 of the Convention, that, whenever partial payment of wages in the form of allowances in kind is authorised, such allowances are appropriate for the personal use and benefit of the worker and his family and that the value attributed to such allowances is fair and reasonable.

The Committee wishes to point out that Article 7, paragraph 2 of the Convention likewise is not self-executing, but requires the competent authorities to determine the measures by which effect should be given to its provisions.

The Committee hopes that the Government will review the situation in the light of the preceding comments, with a view to the adoption of the necessary further measures to ensure the observance of the provisions of the Convention in question.

Turkey (ratification: 1961)

The Committee notes with regret that the Government's report has not been received. It also notes that the Conference Committee examined the present case at its 1976 Session, that concern was expressed at the continuing situation regarding the application of the Convention, and that that Committee urged the Government to take measures for the adoption of legislation ensuring conformity with the Convention.

Article 2 of the Convention. The Committee notes from the information supplied by a Government representative to the Conference Committee in 1976 that the two Bills which would have extended wage protection to workers in agriculture (Agricultural Labour Bill) and in small trade and handicraft occupations (Bill modifying the Labour Act), and which were submitted to Parliament in 1972, had not yet been adopted. It also notes that these Bills were about to be resubmitted to Parliament. The Committee trusts that the Government will take early measures to provide wage protection for the categories of workers concerned.

Article 13. The Committee recalls that the Labour Act contains no provisions regulating the time and place of payment of wages as required by the Convention. It takes note of the Government representative's statement that this question would be resolved by the proposed law on agriculture but points out that appropriate measures are required for all workers, and it recalls that the Government had indicated in a previous report its intention to introduce appropriate measures in the Labour Act. Accordingly, the Committee trusts that the necessary measures will be taken to ensure the application of the present Article of the Convention.<sup>1</sup>

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In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Argentina, Colombia, Iran, Mauritius, Niger, Nigeria, Philippines, Somalia, Surinam.

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

Belgium (ratification: 1958)

Further to its previous observations, the Committee notes with satisfaction that an Act for the Provisional Regulation of Temporary Work and of the Hiring Out of Workers was enacted on 28 June 1976. Certain questions relating to this legislation are being raised in a direct request.

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<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session and to report in detail for the period ending 30 June 1977.

Pakistan (ratification: 1952)

Further to its previous observations, the Committee notes with satisfaction the enactment of the Fee-Charging Employment Agencies (Regulation) Act, 1976, which provides for the licensing of fee-charging employment agencies and empowers the public authorities to prohibit all or any fee-charging employment agencies in any area where a public employment service has been set up.

The Committee notes that, according to section 1(3) of the Act, it will come into force in such areas and on such dates as the Federal Government may specify. It hopes that the Government will take the necessary measures to bring the Act into operation at an early date and to ensure the progressive abolition throughout the country of fee-charging employment agencies conducted with a view to profit, as required by the Convention.<sup>1</sup>

Turkey (ratification: 1952)

In its report for 1973-74 the Government stated that the Employment Institution of the Ministry of Labour was making efforts to eliminate employment intermediaries in the agricultural sector but that the regulation of these activities through special regulations would be possible only after the coming into force of the Agricultural and Forestry Labour Act. The Committee regrets that since then no information has been provided on the progress made towards enactment of this legislation and issue of regulations thereunder. As this matter has been the subject of comments by the Committee for a number of years, it hopes that provisions to regulate fee-charging employment agencies in agriculture in accordance with the requirements of the Convention will be adopted in the near future.<sup>1</sup>

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In addition, requests regarding certain points are being addressed directly to the following States: Belgium, France, Pakistan.

**Convention No. 97: Migration for Employment (Revised), 1949**France (ratification: 1954)

1. Further to its earlier comments, the Committee notes with interest the adoption of Decree No. 75-244 of 14 April 1975 issued for the implementation of Act No. 76-6 of 3 January 1975, providing for various measures of social protection for mothers and families, which, inter alia, prescribes the conditions under which the post-natal allowance is to be granted and specifies when the legislation in this respect is to come into force.

2. The Committee has taken note of the observations made by the General Confederation of Labour (CGT) on 26 January 1977 with regard to section 35 of Act No. 75-534 of 30 June 1975 prescribing measures for the benefit of handicapped persons, under which the allowance for handicapped adults is payable only to persons of French nationality or to nationals of a country which has concluded a

<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1978.

reciprocity agreement with respect to the granting of allowances to handicapped adults; in particular, the CGT has supplied a copy of a letter addressed to the Minister of Labour and Social Security on 11 January 1977 in which the CGT refers inter alia to judgements pronounced by the Court of Justice of the European Communities and by the Court of Appeal at Douai which, it claims, recognise "the right of migrant workers in the EEC to claim the handicapped adults' allowance", and asks to be informed of the measures taken to ensure implementation of the judgement of the Court of Justice of the European Communities and the extension of the granting of the handicapped adults' allowance to all migrant workers from other countries as required by ILO Convention No. 97.

The CGT's observations having been communicated to the Government for comment on 9 February 1977, the Committee hopes that the Government will supply full information on the subject for examination at the Committee's next session.

Guatemala (ratification: 1952)

Article 8 of the Convention. In its earlier comments the Committee referred to paragraph 31 of its general report in 1963 and its general observation in 1970, and drew the Government's attention to the need for practical action, in the absence of legislative action to bring the law expressly into line with the Convention, for drawing the attention of all concerned to the provisions of Article 8 of the Convention, under which a foreign worker who has been admitted on a permanent basis and the members of his family shall not be returned to their country of origin or to the one from which they emigrated because the worker is unable to follow his occupation by reason of illness contracted or accident sustained subsequent to entry. The Government states in its report that no action of any kind that could prejudice the rights of foreign workers under Article 8 of the Convention has been taken by the competent authorities pursuant to section 78 of the Aliens Law (Decree No. 1781 of 25 January 1936) which gives the executive power to "expel from the national territory, on any grounds and without giving reasons, any alien whatever whose stay it judges to be undesirable for the country"; it also indicates its intention of immediately undertaking the consultations needed for taking the practical steps required to give foreign workers the protection provided for in the Convention in the event of illness or accident.

The Committee has duly noted this information. It hopes that the Government will not fail to report what action has been taken to ensure the fullest publicity for the provisions of Article 8 of the Convention among all concerned (in particular workers, employers' and workers' organisations, police and the Courts), since according to the information supplied earlier, these provisions repeal any contrary provision in the national law.

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In addition, requests regarding certain points are being addressed directly to the following States: Belgium, United Republic of Cameroon, Italy, New Zealand, Nigeria, Spain, United Kingdom, Upper Volta, Uruguay, Zambia.

Information supplied by the Federal Republic of Germany, Netherlands and Norway in answer to direct requests has been noted by the Committee.

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

#### Argentina (ratification: 1956)

The Committee notes the report supplied by the Government.

As regards the new trade union legislation being prepared by the Government (see under Convention No. 87), the Committee expresses the hope that this legislation will be in full conformity with the provisions of the Convention, particularly as regards protection against acts of anti-union discrimination (Article 1) and acts of interference (Article 2).

More specifically as regards collective bargaining, the Committee notes the statement of the Government concerning the temporary suspension of fixing wages through such bargaining on the grounds of a high rate of inflation, as well as the periodical increases in wages granted by the Government by decree. The Committee considers that the prohibition of collective bargaining pursuant to a policy of economic stabilisation should not exceed a reasonable length of time and is of the opinion that one of the Government's objectives should consist in facilitating the reintroduction, in practice, of such bargaining in the shortest possible time. The Committee requests the Government to supply information on the measures taken to encourage and promote the full use of collective bargaining so that workers' and employers' organisations can regulate conditions of employment by means of collective agreements (Article 4).

#### Bolivia (ratification: 1973)

The Committee notes the reports supplied by the Government, including the first report since ratification of the Convention.

With regard to the new trade union legislation being prepared by the Government (see under Convention No. 87), the Committee expresses the hope that this legislation will be in full conformity with the provisions of the Convention, particularly as regards protection against acts of anti-union discrimination (Article 1) and acts of interference (Article 2).

More specifically as regards collective bargaining, the Committee observes, on the basis of the information contained in the reports of the Committee on Freedom of Association with respect to the cases relating to Bolivia, that all wages are frozen but that collective bargaining is tolerated by the Government under certain conditions. The Committee hopes that the Government, in conformity with the provisions of Article 4 of the Convention, will at an early date adopt adequate measures to encourage and promote the full use of collective bargaining procedures between workers' organisations and employers and their organisations with a view to regulating conditions of employment by means of collective agreements. The Committee requests the Government to provide information on any developments in this regard.

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Brazil (ratification: 1952)

The Committee notes the information supplied by the Government, particularly that communicated to the Conference in 1975 and that contained in the latest report of the Government.

1. The Committee notes with satisfaction the adoption of Act No. 6128 dated 6 November 1974, which gives formal recognition to the right of unionisation of employees of semi-public undertakings.

As regards public undertakings whose employees still have no right to establish unions, the Committee notes the Government's statement that these provide public services as agencies of direct government and employ a large number of officials governed by the civil service regulations, together with a small number of workers covered by the codified labour laws. The Committee considers workers in public services, such as water, electricity and other similar services, should not be regarded as employees engaged in the administration of the State and thus exempted from the Convention, and that they should therefore enjoy the guarantees laid down therein. The Committee requests the Government to consider the matter further with a view to formal recognition of the right to organise for all employees of the State whose exemption is not specifically authorised by Article 6 of the Convention.

2. As regards collective bargaining, the information supplied by the Government at the Conference in 1975 indicated that the unions have shown a preference for this. Nevertheless, in its latest report, the Government indicates that the right to bargain collectively is little used by the unions owing to the extensive social rights given to workers by the labour laws. The Committee considers that the aim of collective bargaining is normally to improve on the minimum labour conditions laid down by law and to adjust wages. Provisions such as section 623 of the codified labour laws, which provides that any clause in an agreement which directly or indirectly contravenes the norm guiding the Government's economic and financial policy or current wage policy shall be null and void, and section 8 of Act No. 5584 which permits the Government to enter an appeal suspending the effect of court decisions on collective disputes where the decision goes beyond index fixed in accordance with the wages policy, appear to inhibit or limit the development of collective bargaining. The Committee requests the Government to review the whole system of collective bargaining, with the aim of encouraging and promoting full utilisation of voluntary negotiation between workers' organisations and employers or employers' organisations (Article 4 of the Convention).

Chad (ratification: 1960)

The Committee notes with regret that the Government has not supplied a report on the application of this Convention.

In previous direct requests, the Committee had noted that sections 121 and 122 of the Labour Code require prior approval for the entry into force of collective agreements. The Committee points out that such provisions may constitute obstacles to the development and promotion of free collective bargaining.

The Committee hopes that a report will be supplied for examination at its next session and that it will contain information concerning the grounds for refusals to approve collective agreements and the reasons and the frequency of these refusals.

Costa Rica (ratification: 1960)

Further to its previous direct requests, the Committee notes with regret the information provided by the Government in its report that the draft law concerning collective labour relations, which was submitted to the Legislative Assembly, has not yet been adopted.

The Committee had noted with interest that several articles of this draft law gave protection to workers' organisations against acts of interference by employers and were designed to prevent acts of anti-union discrimination against the workers. In particular, as regards the acts of anti-union discrimination, the Committee had noted that, according to the conclusions reached by the Committee on Freedom of Association on Case No. 611 concerning Costa Rica, the national legislation did not appear to provide adequate protection against such acts envisaged in the Convention.

The Committee would be grateful if the Government would indicate in its next report the measures taken to adopt the law on collective labour relations.

Cuba (ratification: 1952)

See under Convention No. 87.

Dominican Republic (ratification: 1953)

See under Convention No. 87.

Finland (ratification: 1951)

The Committee has taken note of the information supplied by the Government to the 1975 Conference Committee and in the Government's latest report.

As regards the system of penalties in cases of dismissal of union shop stewards, on which the Government's observations had been invited in an earlier comment, the Committee notes the Government's explanation that union representatives are protected against dismissal by statutory provisions and also by the general agreements and the agreement on protection against dismissal made between the central organisations of the labour market.

The Committee also notes that the question of further developing protection against dismissal was being kept under constant review, and that a working party had been set up to consider the possible revision of the Associations Act.

The Committee requests the Government to give special consideration to the question of the effectiveness of the provisions regarding protection against anti-union discrimination and to take such action as is needed as part of the revision of the law.

Greece (ratification: 1962)

The Committee takes note of the Government's latest report. It has also taken note of Act No. 330 of 29 May 1976 regarding associations and occupational unions and protection of freedom of association, which was considered by the Committee on Freedom of

Association in connection with Cases Nos. 834 and 851. The latter decided, as stated in its 160th Report which was approved by the Governing Body in November 1976 (201st Session), that further measures should be considered with a view to providing leaders, delegates and members of trade unions with wider protection against all discriminatory acts.

With regard to trade union leaders in particular, the Committee notes that section 26 of the Act prohibits the dismissal of certain leaders except on serious grounds. The scope of such protection, however, varies according to the numerical size of the trade union organisation in question: for example, leaders of trade unions with less than 80 members do not benefit from special protection while, in organisations with 80-100 members, only the president and secretary-general have such a guarantee and always provided that there is no other legally constituted trade union.

The Committee considers that adequate protection of workers against all discriminatory acts against trade unions, as provided for in Article 1 of the Convention, is a fundamental principle of freedom of association. It considers that such protection is particularly necessary for trade union leaders who, owing to their duties, are more open to acts of discrimination.

The Committee notes with interest that, in a communication dated 14 March 1977, the Government, while pointing out that the legislation on these questions is well developed, states that it is considering for the future the possibility of making improvements to those provisions, which provide protection for trade union officials, in the light of the recommendations of the Committee on Freedom of Association. It requests the Government to provide information on any measures taken to this effect.

#### Guatemala (ratification: 1952)

See under Convention No. 87 as regards workers employed by the State whose duties are not directly connected with the administration of the State.

#### Haiti (ratification: 1957)

Further to its earlier observations, the Committee notes with satisfaction that, as a result of the direct contacts held between the national competent services and a representative of the Director-General of the ILO, two paragraphs have been added to section 265 of the Labour Code, by Decree of 10 December 1976, in conformity with the provisions of Article 2 of the Convention (protection of workers' organisations against interference by employers and their organisations).

#### Ireland (ratification: 1956)

As regards Article 4 of the Convention, see under Convention No. 87.

#### Japan (ratification: 1953)

The Committee notes the statements made by the Government representative and the Japanese Workers' member at the Conference



Committee in 1976, and also of the comments sent by the Japanese General Council of Trade Unions (Sohyo) and the Government's reply to these comments.

In its earlier observations the Committee had referred to the problems arising in the administration of agreements negotiated at the local level of the public service and to the exclusion of matters relating to the management and operation of the public corporations and national enterprises from the scope of collective bargaining.

The Government and Sohyo have both made certain comments in their latest communications regarding the scope of Article 6 of the Convention. The Committee has pointed out on many occasions that as a result of this provision the Convention does not deal with the position of public servants whose duties pertain to the administration of the State but that it covers all workers employed by the State (at different levels in the public sector) who are not acting as agents of public authority. The distinction to be drawn therefore would appear to be basically between civil servants employed in various capacities in Government ministries or comparable bodies (i.e. public servants, who by their functions are directly engaged in the administration of the State as well as lower ranking officials who act as supporting elements in these activities) and other persons employed by the Government, public undertakings or autonomous public institutions.

The Committee notes that in Japan the public officials who act as agents of public authority possess the right to bargain collectively in certain circumstances, whereas Article 6 of the Convention does not require them to have this right. On the other hand, in the case of local government servants in particular - to which the Government and Sohyo refer in their comments - the Committee considers that the agreements made by the unions representing the classes of officials who do not act as agents of public authority, and who are therefore covered by the Convention, should be adhered to and implemented rapidly. All measures needed for this should be taken so as to encourage and promote full development and utilisation of machinery for voluntary negotiation.

Sohyo indicates, in particular, that the post office authorities refused to negotiate on such matters as assignment to duties, personnel transfers, etc., which they regard as pertaining to management and consequently falling outside the field of collective bargaining as defined by the law. The Government indicates in its comments that an agreement made at the Post Office provides for consultation between the postal administration and workers before rationalisation and mechanisation measures are carried out.

On this question, which also effects other parts of the public sector, the Committee can only refer more generally to the observations made in 1973, when it pointed out that questions such as manning and personnel transfers should not be regarded as lying outside the field of collective bargaining conducted in good faith and an atmosphere of mutual trust. The Committee also expressed the hope that action would shortly be taken by the Government to define more clearly what matters are to be regarded as covered by the term "management and operation of public corporations and national enterprises".

Sohyo also states that the postal authorities refused to bargain at the local level on any matters other than overtime and the check-off for union dues. The Government explains in its reply that negotiations took place, after a Supreme Court order in June 1976 on local collective bargaining, in respect of certain aspects of the matter and that in December 1976 agreement was reached whereby consultations are

to take place by June 1977 in order to determine what questions could be made the subject of collective bargaining at the local level. The Committee notes these developments with interest and requests the Government to send information on the results of the consultations.

Liberia (ratification: 1962)

The Committee notes the information supplied by the Government in its latest report.

In its earlier observations the Committee had pointed out that there was no provision giving workers in the public sector the right to organise and to bargain collectively. In its report the Government indicates that there is no law under which persons employed by the Government but not performing functions in the administration of the State, or employees of public undertakings or autonomous public institutions, are deprived of the right to organise. The Committee takes note of the Government's statement on this point, but nevertheless considers that the law should expressly recognise the right to organise and bargain collectively for all workers covered by the Convention, from which only public servants engaged in the administration of the State are excluded by Article 6. All such workers should enjoy, in particular, adequate protection against anti-union discrimination (Article 1 of the Convention).

The Committee had also pointed out that the law of the country did not contain any provision affording workers adequate protection against acts of anti-union discrimination. On this point, the Government indicates that no law creates any discrimination in employment by reason of union membership. While noting this information, the Committee requests the Government to take the necessary action to include, in the new Labour Code that is in process of adoption, provisions protecting workers against any act of anti-union discrimination both at the time of their engagement and in the course of the employment relationship (Article 1, paragraph 2(a) and (b) of the Convention).

Malaysia (ratification: 1961)

The Committee notes the information supplied by the Government in its latest reports. It has also examined the law of 1967 concerning labour relations, as modified in 1976.

The comments made by the Committee for many years relate to sections 12 and 13(A) (now sections 13 and 15), of the Industrial Relations Act, 1967, as amended by the Essential (Industrial Relations) Regulations, 1969. These provisions remove from the area of collective bargaining a number of questions related to the employment and dismissal of workers, and prevent the collective agreements in certain industries from stipulating more favourable conditions of employment than those set out in Part XII of the Employment Ordinance, 1955, unless these have been approved by the Minister.

The latest report of the Government indicates that these provisions are being reconsidered in consultation with the National Labour Advisory Board, which is tripartite in character, and that appropriate action will be taken in due course having regard to the economic and social situation.

The Committee expresses the hope that the provisions referred to will be amended in the near future so as to bring them fully into line with the Convention. It requests the Government to keep it informed of developments in this connection.

Nicaragua (ratification: 1967)

See under General Observations.

Pakistan (ratification: 1952)

The Committee notes the information supplied by the Government in its report. It has also received comments from the Pakistan National Federation of Trade Unions.

1. In its previous direct request the Committee noted that the Wages Commission established by section 38A and following sections of the Industrial Relations Ordinance, appears to have powers which might have the result of preventing voluntary negotiation of wages and terms and conditions of employment.

In its report the Government states that the apprehensions of the Committee are unfounded. No trends towards restriction of collective bargaining have been observed and the provisions in question have not been put into practice except in the case of banks and insurance companies.

In this connection the Committee notes that, according to the comments of the Pakistan National Federation of Trade Unions, the establishment of a wages commission, which can determine for workers in banks and other workers, wages and terms and conditions of employment by substituting any award, agreement or labour contract, is equivalent to a denial of the right to bargain collectively for the workers in question and that this results in a deprivation of workers of certain more favourable conditions which they have been able to obtain in the past through collective bargaining.

The Committee considers that wages commissions established for banks and insurance companies restrict collective bargaining in these sectors and call into question the principles set out in Article 4 of the Convention, under which voluntary collective bargaining should be promoted and encouraged.

2. The Pakistan National Federation of Trade Unions considers that the provisions aimed at protecting workers against acts of anti-union discrimination (section 15 on unfair labour practices) are insufficient: even a bargaining agent cannot seek immediate relief in a case of unfair labour practice since a recent amendment makes prior permission of the Registrar necessary before a complaint can be lodged.

The Committee notes that section 13(b) of the Industrial Relations Ordinance, as amended, provides that the Registrar has the power and the duty to lodge complaints or authorise that they be lodged with labour tribunals or the National Industrial Relations Committee so that steps may be taken and if necessary actions instituted against unions, employers, workers or any other persons found in breach of the law or to have committed an unfair labour practice, etc.

The Committee requests the Government to examine the situation with a view to providing by law for the right of workers to have cases alleging anti-union discrimination examined in the last instance by a labour court or some other impartial body having an expeditious and inexpensive procedure for the final solution of these cases.<sup>1</sup>

<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.

Paraguay (ratification: 1966)

The Committee had noted in its earlier direct requests that the personnel of public undertakings were excluded from the Labour Code (section 2). After the Government had indicated that it would study the best method of applying Article 6 of the Convention to such personnel, the Committee requested the Government to take the necessary measures to grant such workers the guarantees and rights laid down in the Convention.

In its latest report the Government states that these guarantees and rights are laid down in the country's Constitution, the Labour Code and the service regulations applying to such workers. In view of this, the Committee urges the Government to supply the text of the specific provisions in the service regulations which protect workers against acts of anti-union discrimination or employer interference and which deal with collective bargaining, and to adopt specific rules for this purpose in so far as they are lacking.

Portugal (ratification: 1964)

With reference to its previous direct requests, the Committee notes with satisfaction the information supplied by the Government in its latest report.

It notes in particular that the recent legislation (Legislative Decrees No. 215-B/75 and 164-A/76) take account of the Committee's comments on the lack of definite provisions against acts of anti-union discrimination and acts of interference, and on several restrictions in matters of collective bargaining and agreements.

Singapore (ratification: 1965)

The Committee recalls that, in earlier comments, it drew attention to a number of restrictions imposed since 1968 on collective bargaining. Following full consideration of these questions during direct contacts in 1975, the Committee in 1976 reviewed the situation, with regard to the following matters:

- (a) restrictions on the amount of wage bonuses or wage increases for which provision may be made in a collective agreement, imposed by section 46 of the Employment Act (Ch. 122 of the Laws of Singapore);
- (b) the requirement for ministerial approval of collective agreements in certain newly established undertakings if they contained conditions more favourable than those laid down in Part IV of the Employment Act, imposed by sections 24 and 25 of the Industrial Relations Act (Ch. 124);
- (c) the exclusion from collective bargaining of matters relating to promotion, transfer, appointment, retrenchment, dismissal or assignment of duties of employees, by virtue of section 17(2) of the Industrial Relations Act.

The Committee had noted that the above-mentioned provisions, by imposing substantial restrictions on collective bargaining with respect to conditions of employment, were inconsistent with the obligation of the Government, under Article 4 of the Convention, to promote the full development and utilisation of machinery for voluntary collective 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 agreement.

The Committee however noted that, while wage supplements were subject to statutory restrictions, there were no direct restrictions on collective bargaining relating to wage rates, these being the subject merely of voluntary guidelines established by the tripartite National Wages Council. It noted that, according to information provided during the direct contacts, approval of collective agreements in new undertakings had never been refused nor had the parties been asked to alter the terms of such agreements. It also noted indications that to a certain extent collective bargaining did occur on matters which in principle were removed from the scope of such bargaining by section 17(2) of the Industrial Relations Act.

In these circumstances, the Committee had asked the Government to review the statutory provisions in question, with a view to their relaxation and possible replacement by a system of voluntarily agreed guidelines similar to those established for collective bargaining on wage rates. It had also suggested, in regard to the matters excluded from bargaining by section 17(2) of the Industrial Relations Act, that a distinction might be made between, on the one hand, collective bargaining on general principles and procedures in such matters as promotion, transfer, appointment, retrenchment and dismissal, and on the other hand, the settlement, through a prescribed procedure designed to avoid industrial disputes, of difficulties arising in their implementation or otherwise in individual cases.

The Committee notes that the Government's report for 1974-76 merely refers to the views put forward by the Government's representatives during the direct contacts in 1975, and does not contain any indications that changes in the existing restrictions may be considered. The Committee notes, moreover, that the Employment (Amendment) Act of 6 December 1975 has further reinforced the restrictions on wage supplements, particularly by the imposition of penal sanctions (fine and imprisonment) on any person who or any trade union which requests or invites negotiation for payment of wage supplements in excess of the statutory limits, and on any employer who makes payments in excess of those limits.

The Committee once more expresses the hope that the Government will review the situation in the light of the provisions of Article 4 of the Convention and its previous comments and will provide information on any measures taken or contemplated to ensure the full observance of the Convention.

Sweden (ratification: 1950)

See under Convention No. 87.

Tanzania (ratification: 1962)

In its earlier direct requests, the Committee had noted that the Permanent Labour Tribunal Act of 1967 (sections 16(b) and 23) empowered this Tribunal to undertake prior examination of collective agreements resulting either in their registration with or without amendment or in a refusal to register them. The Committee had requested the Government to state the reasons and the frequency of refusal to register.

In its most recent report the Government provides information on these points. The Committee notes, in particular, that an agreement is not registered if it is contrary to the wages policy set out in Government Paper No. 4 of 1967 and that 15 collective agreements were refused for registration between 1 July 1973 and 30 June 1975.

As a general rule, the Committee considers that it is not compatible with Article 4 of Convention No. 98 to require prior approval of a collective agreement to enable the latter to come into effect nor to permit that such an agreement be declared void because it runs counter to the Government's economic policies. Instead of making the validity of collective agreements dependent on prior approval, action should be taken to convince the parties to take into account in their negotiations the economic and social policy of the Government and the general interest on a voluntary basis. Further, objectives which should be considered as being in the general interest should have been the subject of broad prior discussion at the national level in a consultative body.

Another system might be adopted under which collective agreements would only come into force after being tabled for a reasonable length of time with the competent authority. If this authority considered that clauses of the proposed agreement were clearly not in harmony with economic policy objectives recognised as being of general interest, the case could be submitted for consideration and recommendation to an appropriate consultative body on which organisations of workers and employers would be represented. The final decision should, however, always remain with the parties to the agreement.

The Committee considers that one of the Government's important aims should be the guarantee of the right to free collective bargaining. It hopes that the necessary steps will be taken to this end in the light of the above comments. The Committee requests the Government to provide information on any developments in this field and to give particulars of the frequency and reasons for refusals to register collective agreements which have been made up to the time of sending its next report.

#### Tunisia (ratification: 1957)

The Committee notes with regret that the Government's report has not been received.

In previous direct requests, the Committee had observed that workers did not appear to be protected against acts of anti-union discrimination or acts of interference by employers (Articles 1 and 2 of the Convention) by any specific legislative provisions. Nor were these questions covered completely by the draft General Collective Agreement (section 6), the text of which the Government supplied in 1972.

The Committee had also pointed out that, according to section 38 of the Labour Code, collective agreements for the purpose of regulating relationships between employers and workers in the whole of a given branch of activity can come into force only after they have been approved by the competent Secretary of State; if the agreement is not approved, it cannot take effect even between the contracting parties. The Committee considers that this provision may constitute a hindrance to the development and promotion of voluntary collective negotiation and requests the Government to indicate the grounds and frequency of cases where approval has been refused.

Furthermore, according to section 51 of the Code, as a transitional measure and until such date as may be fixed by decree, no collective agreement may contain any provision as to wages or the allowances payable in addition to wages, to any occupational classification scheme or as to the individual classification of workers in each category. The Committee indicated that any restrictions on

voluntary negotiation of remuneration should be applied only as an exceptional measure, limited to a reasonable period. Since section 51 has been in force since 1966, the Committee requests the Government to indicate whether a decree has terminated this exceptional period.

The Committee hopes that a report will be supplied for examination at its next session and that it will contain full information on the questions referred to above.

#### Turkey (ratification: 1952)

The Committee notes with regret that, once again, the Government's report has not been received.

In its earlier direct requests, the Committee noted that section 119 of the Constitution (as amended by Constitutional Act No. 1488 of 20 September 1971) prohibits membership of trade unions for certain categories of workers in state economic undertakings and public utility enterprises, which are covered by the Convention. It pointed out that, according to information supplied by the Government, a Bill was being drafted to replace Act No. 624 of 8 June 1965 concerning trade unions of public employees and that the legislation would specify the conditions applying to organisations of which the aim is to defend and promote the occupational interests of the aforementioned categories of workers.

The Committee hopes that the Government will supply in its next report full information on the question referred to above and that it will communicate the text of the new provisions as soon as they are adopted.

#### Uruguay (ratification: 1954)

The Committee notes the report supplied by the Government.

With respect to the new trade union legislation being prepared by the Government (see under Convention No. 87), the Committee expresses the hope that this legislation will be in full conformity with the provisions of the Convention, particularly as regards protection against acts of anti-union discrimination (Article 1) and acts of interference (Article 2).

More specifically as regards collective bargaining, the Committee requests the Government to provide information on the measures taken to encourage and promote the full use of this procedure so that workers' organisations and employers and their organisations can regulate conditions of employment through collective agreements (Article 4).

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In addition, requests regarding certain points are being addressed directly to the following States: Austria, Bangladesh, United Republic of Cameroon, Costa Rica, Democratic Yemen, Ecuador, Egypt, Ethiopia, Fiji, Ghana, Indonesia, Jamaica, Kenya, Lesotho, Libyan Arab Republic, Mauritius, Nigeria, Pakistan, Panama, Papua-New Guinea, Peru, Philippines, Sri Lanka, Trinidad and Tobago, Uganda, Zaire.

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

Requests regarding certain points are being addressed directly to the following States: Algeria, Brazil, Colombia, Costa Rica, Guinea, Malawi, Paraguay, Philippines, Syrian Arab Republic, Turkey, Uruguay, Zambia.

Information supplied by Sri Lanka in answer to a direct request has been noted by the Committee.

**Convention No. 100: Equal Remuneration, 1951**

Argentina (ratification: 1956)

The Committee noted the information in the Government's report including the indication that the principle of equal remuneration is applied in practice in the current collective agreements or wage scales. However, the Committee notes from examples of collective agreements sent by the Government, that differential wage rates according to sex are still prescribed in some cases (Collective Agreement No. 25/75 for the clothing industry) or that provision is made in other cases for women to receive equal pay when they do work customarily performed by men in identical conditions (Collective Agreement No. 109/75 for the tobacco industry). The Committee wishes to point out that provisions of this kind, where sex seems clearly to be a criterion in wage determination, do not comply with the Convention, which explicitly refers to "rates of remuneration established without discrimination based on sex".

In addition the Committee directs the Government's attention to the fact that contract provisions like that in the tobacco industry requiring equal pay only when women do identical work to that of men fall short of the requirement of the Convention on equal pay for work of equal value.

It would therefore be grateful if the Government in its next report would give information on the steps taken, for example in the field of the promotion of objective job evaluation, to secure closer adherence to the Convention in collective agreements pursuant to the law on employment contracts which prohibits discrimination by sex in such agreements. Please append copies of recent agreements in the sectors employing many women (clothing, tobacco, etc.).

Austria (ratification: 1953)

The Committee noted the information given by the Government which indicates, first, that there are still agreements laying down differential wage rates according to sex, which the Government recognises as not being in conformity with the principle in the Convention. However, the report adds that these are few in number and that the unions are trying to eliminate disparities when negotiating new agreements. The Committee would be grateful if the Government would continue to send information on changes in the situation in this respect and on action taken to abolish all sex-related differentials.

Secondly, there are some collective agreements which also provide for different rates depending on sex but with an indication that women



will be paid the same rates as men if they are doing the work of men. The Government does not feel that this violates the principle of equal remuneration since the problem is primarily one of assigning workers directly to the wage groups corresponding to their jobs. The Committee must point out, however, that agreements of this type, where sex provides the main criterion in job and wage classification, are not in compliance with the letter of the Convention, which refers to "rates of remuneration established without discrimination based on sex".

Thirdly, there are situations where, although there is no specific reference to sex, this appears to provide an implicit criterion in determining job and wage categories. That such situations exist is suggested by the observable constant correlation between the female sex and its over-representation in the wage groups where, in some collective agreements, there are differentials in the case of "light work", and also more generally by its over-representation in the low wage groups. The Committee would like to stress that it is in cases of this kind (where the value of work performed by men and women is difficult to compare as in the case of categories of jobs mainly performed by workers of one or other of the sexes) that action to promote objective appraisal of jobs (as indicated in Article 3 of the Convention) would be particularly appropriate. The Committee has in mind the measures adopted in other countries in an effort to find a solution for similar problems where, for example, the Government first arranged for a study to be made by independent experts in order to appraise objectively the comparative demands made by "heavy" and "light" work; and then the results of the study, which showed that evaluation methods were distorted because a disproportionate weight was attributed to physical effort as against other job requirements, were sent to the social partners for guidance in collective bargaining. The Workers' members of the Conference Committee expressed satisfaction with that decision and stressed the usefulness of such an approach for other countries (see 60th Session, 1975, Record of Proceedings, page 680).

In the light of the foregoing, the Committee would ask the Government to adopt all appropriate measures of promotion and encouragement which - however much the contractual autonomy of the parties is to be respected - are likely to promote, as the Convention requires, effective application of the principle of equal remuneration as a matter of public policy. It hopes that the next report will contain information on action taken for this purpose and on the results obtained or expected.

Belgium (ratification: 1962)

Further to its previous comments, the Committee notes with satisfaction the adoption of Collective Agreement No. 25, made mandatory by the Royal Decree of 9 December 1975, the purpose of which is to obtain the implementation of the principle of equal remuneration between male and female workers, in full conformity with the provisions of the Convention. The Committee notes with interest that the Government, pursuant to an Opinion dated 22 March 1976 rendered by the Committee of Women Workers, undertook a general examination of the collective agreements in force, in particular from the point of view of the objectivity of the classifications and evaluations of the duties. The Committee would be grateful if the Government would supply information on the results of this analysis and on any measures taken. Noting that, according to the forementioned Opinion of the Committee of Women Workers, the provisions in force in the public sector give a definition of the principle of equal remuneration which is narrower than that of Collective Agreement No. 25, which applies to the private

sector, the Committee would be grateful if the Government would indicate whether measures have been taken or are contemplated to standardise the rules applicable to all workers, as recommended by the National Council of Labour in its Opinion No. 500 of 15 October 1975.

Denmark (ratification: 1960)

The Committee thanks the Government for the detailed information provided in reply to the points raised in its previous observation. It notes with interest that, under the draft agreements of the public conciliator, dated 28 March and 16 April 1973, collective agreements concluded since then make no distinction between men and women workers, referring only to "wages of adult workers". The Committee likewise notes with interest the adoption of Act No. 32, dated 4 February 1976, on equal remuneration for men and women which extends the guarantee of such remuneration to persons who are not covered by a collective agreement by enabling them to assert their right before the courts. The Committee observes, however, that, under section 1 of the Act, equal wages can apparently only be invoked in cases where men and women perform the "same work" in an undertaking where they are employed in the "same job". The Committee considers that this definition is considerably narrower than that in the Convention relating to work "of equal value". (Moreover, the Directive of the Council of the European Communities dated 10 February 1975, to which the 1976 Act gives effect, lays down that the principle extends "to the same work or to work which is recognised as being of equal value"). The Committee would be grateful if the Government could provide information on the practical scope of the principle as defined in the 1976 Act, and also if it could indicate any measures taken or contemplated to promote the objective appraisal of jobs with a view to furthering the application of the Convention within or outside the framework of the system of collective agreements.

Finland (ratification: 1963)

The Committee thanks the Government for the detailed and documented report provided in reply to its previous comments.

It notes with much interest the progress made with regard to equal remuneration for office employees in industry, which shows that, in 1974-1975, the difference in wage rates for men and women carrying out work of equal value dropped by 50 per cent. The Committee notes in particular that the decisive factors in this connection were the adoption of a new wage determination system based on an objective description and classification of jobs, the reassessment of the respective weights given to the "qualities peculiar" to men and women and the account taken of the degree to which the work is exacting and difficult.

The Committee would like to receive information about developments in the trend towards a reduction in wage differences in the office employee sector and also, more generally, about the measures taken or contemplated with a view to eliminating discrimination, indirectly incorporated into classification systems, by applying appraisal methods that are more appropriate to the objective of equal remuneration for men and women.

The Committee would be grateful if the Government could continue to provide information about the work of the Advisory Council for Equality on these questions, the analysis of all other factors relating to inequality of wages and the search for ways and means of promoting

equal remuneration (since statistics show that there is still room for progress), together with the conclusions reached by the Council, any recommendations it has made and the follow-up action in that connection by the authorities and/or professional organisations. (In particular, please state what action was taken in response to the appeal addressed, in 1974, to partners in the labour market and directed mainly at action with regard to low salaries.)

France (ratification: 1953)

The Committee thanks the Government for the full report and supporting documents provided in reply to its previous comments. While noting with interest the progress achieved in the application of the Equal Remuneration Act, 1972, the Committee notes that the studies undertaken by the Committee on Women's Employment point to the existence of a certain number of difficulties which are still to be resolved in order to better give effect to the provisions of the Convention. It notes also the observations of the General Confederation of Labour, transmitted by the Government, concerning the problems arising in job evaluation and classification and in the supervision of the equal remuneration legislation. In this connection the Committee notes that the comments of this trade union organisation stress the inadequacy of the supervisory machinery of the Labour Inspectorate and of the means available to trade union organisations to find out the wages actually paid by undertakings.

The Committee would be grateful to the Government if it would provide information on all of the measures adopted with respect to the above-mentioned questions and, more generally, on any action undertaken (or envisaged) in accordance with the aims of the Convention (particularly those contained in Articles 3 and 4).

Federal Republic of Germany (ratification: 1956)

The Committee notes the information contained in the Government's report concerning the developments which have taken place with respect to the determination of rates of remuneration of wage categories for "light work". It takes note also that the report of the independent experts, who were requested by the Government to carry out an objective evaluation of the comparative requirements involved in light and heavy work, was transmitted to workers' and employers' organisations and that consultations on their conclusions and recommendations were organised by the Government. It appears from the information provided that this report lays down new criteria and evaluation and classification techniques so as to enable a distribution of men and women in lower wage categories better corresponding to the requirements of the work involved. The Committee notes with interest that the workers' and employers' organisations expressed their agreement with the principle contained in the report as well as with the supplementary study undertaken to lay down directives and practical guidelines with respect to job analysis. It hopes that the next report will contain information on the effect given to these conclusions and to the principle of the Convention.

Haiti (ratification: 1958)

The Committee has noted the information given by the Government to the 61st Session of the Conference (1976) and in the course of the direct contacts established in November 1976. In particular it noted with interest the issue of the Decree of 18 January 1974 fixing uniform minimum wage rates for workers in the public services and in private agricultural, commercial and industrial undertakings.

The Committee would be grateful if the Government would provide information, in the light of its previous observations, on action taken or contemplated to promote the application of the principle of equal pay as regards wages fixed above the statutory minimum and persons who are not covered by the above provisions on minimum wages.

Iceland (ratification: 1958)

With reference to its previous observation concerning Act No. 37/1973 on the establishment of the Equal Remuneration Board, the Committee notes with satisfaction the adoption of Act No. 78 of 31 May 1976 on Equality of Women and Men, which is more general in scope and more specific in terms.

The Committee would be grateful if the Government could provide information in its next reports on the practical implementation of the provisions of the new Act relating to equal remuneration, particularly with regard to the determination of "comparable work of equal value", which constitutes the basis of entitlement to equal remuneration. (In this connection, have any measures been taken or are any contemplated to promote an objective appraisal of jobs within the meaning of Article 3 of the Convention?).

India (ratification: 1958)

The Committee has noted the adoption of the Equal Remuneration Act, No. 25 of 1976, which reproduces and replaces the Equal Remuneration Ordinance, No. 12 of 1975, to which the previous comments referred. It notes with interest the steps taken to bring this Act into force in numerous sectors of employment, both public and private, and hopes that the next report will indicate the further steps taken to apply it progressively to the other sectors of activity in which women are employed, since the Act must be brought into full operation not later than three years after its enactment. The Committee would be grateful if the Government would continue to supply information on the effect given to the principle laid down in the Convention through the implementation of the Equal Remuneration Act of 1976 and, in particular, on the points specified in a direct request.

Indonesia (ratification: 1958)

The Committee has taken note of the information provided by the Government in response to its previous comments. It observes with interest that the report refers to various measures taken by the Government to promote the principle of equal remuneration, including regulations on the minimum wage, the preparation (now under way) of a catalogue of jobs, the encouragement of the establishment of workers' organisations (including women's organisations) and collective bargaining, and the establishment of a national council on the status of women. The Committee regrets, however, that the information provided is too general and concise. To enable it to evaluate the way in which the application of the principle of equal remuneration is assured and promoted, the Committee would be grateful if the Government would submit a detailed report on the legislative, statutory and promotional measures taken to give concrete form to the governmental action referred to above and to give effect to the Convention as a whole.

Iraq (ratification: 1963)

Further to its previous observation in which it noted with interest the efforts to carry out an objective job evaluation with a view to promoting the practical application of the Convention, the Committee thanks the Government for the additional information supplied on subsequent developments in the matter and hopes that it will continue to provide such information as and when necessary.

Ireland (ratification: 1974)

The Committee notes that a message dated 24 November 1976 has been received from the Irish Congress of Trade Unions, with observations on the maintenance in the public service of differential salary scales according to the marital status of the official, and the discriminatory effect of such practices on women's remuneration. As the Government's reply was only received in the course of the present session, the Committee will analyse the arguments submitted on this disputed question at its next session, as part of the over-all examination of the Convention which has recently come into force.

Israel (ratification: 1965)

The Committee has taken note of the report supplied by the Government in reply to its earlier comments concerning the promotion of objective job appraisal. The Committee has noted first of all the difficulties hampering the progress of the evaluation operations being carried out in a concern producing sweets and food to which reference was made previously; the Committee would be grateful if the Government would continue to supply information concerning the progress of these operations and any measures of encouragement that may have been taken. From a more general standpoint, the Committee has noted that research is being carried out to devise more scientific and more efficient methods of evaluation. Attaching importance to these problems (especially such matters as the choice of the factors and criteria for evaluation to be taken into consideration and the weight they should carry), the Committee would be grateful if the Government would supply information in its next report as to the progress of this work, with detailed particulars of the main features of the new methods adopted or under consideration.

Luxembourg (ratification: 1967)

Further to its previous observation regarding the adoption of the Grand-Ducal Regulations of 10 July 1974 on equal remuneration for men and women, the Committee thanks the Government for the further information provided and in particular notes with interest that the principle of equal remuneration has been included in several collective agreements. It hopes that, as and when available, information on new developments concerning the practical application of the Convention and particularly of the Regulations will continue to be provided in future reports.

Netherlands (ratification: 1971)

The Committee notes with interest the information given by the Government in reply to the various points raised in its earlier comments and mainly relating to implementation of the Act of 20 March 1975 on equal remuneration as between male and female labour. It also

notes with interest the detailed comments of the employers' and workers' organisations appended to the Government's report, on problems of enforcing the Act and the principle of equal pay. The Committee would be grateful if the Government would keep it informed of developments in the situation, particularly on certain points raised in a direct request.

Norway (ratification: 1959)

The Committee thanks the Government for the detailed report provided in response to its previous comments. It noted with interest, from the information on the operation of the wage agreements made in 1974 and 1976, that the earlier efforts directed towards raising the low-wage levels, abolishing the lower brackets in the pay scales and transferring women to the higher brackets, were continued during the 1976 negotiations, and led to further substantial progress in improving the relative position of women's remuneration. The data given show however that further progress is still needed before equal remuneration can be achieved. In view of the more prominent part taken by the authorities in the 1976 wage negotiations, the Committee would be grateful if the Government would indicate what action has been taken or is contemplated to make application of the principles in the Convention increasingly effective. In the case of the public sector more particularly, which seems to have derived only slight benefit from the 1976 agreements as regards regrading of job categories and improvement of the lowest wage rates, the Committee would be glad to receive information on implementation of the proposals of the Government Committee on Remuneration for the new system of wage scales mentioned in the report.

In connection with its earlier comments regarding the Equal Conditions Bill prepared in 1974, the Committee notes that this is now being discussed again and hopes that the next report will show that it has finally been adopted. The Committee also noted that a Bill is being prepared on the working environment, in which problems of domestic workers and home workers are to receive attention; it hopes that the Bill will take account of the recommendations made by the Equal Conditions Council as to the need to enable workers of either sex to perform all work tasks and receive equal pay, and that the next report will indicate the successful passage of the Bill. Finally, the Committee is interested in studying the work of the Council and would like to be kept informed of its progress (including copies of any significant decisions reached by it in dealing with individual complaints).

Peru (ratification: 1960)

Further to its previous comments, the Committee noted with satisfaction the repeal, by Legislative Decree No. 21208 of 8 July 1975, of the provision in section 15(d) of Legislative Decree No. 14222, which allowed the National Minimum Wage Board to fix lower rates for jobs where the output of women was considered to be "manifestly lower than that of men".

Sweden (ratification: 1962)

The Committee thanks the Government for the detailed information sent in response to its previous comments. It notes in particular that the reduction in wage differentials between men and women over recent years has been primarily due to the policy adopted in the central wage

agreements of giving priority to improvement of wages in the lower brackets, and more indirectly to the relative growth in the employment of women in jobs customarily held by men. The Committee noted with interest that the joint efforts made by the industrial organisations, public authorities and the Advisory Council on Equality between Men and Women with a view to promoting equality of women in matters of pay and employment in general, are being pursued. It also notes that the Federation of Salaried Employees (PTK) had requested negotiations with the Swedish Employers' Confederation (SAF) for an agreement on equality between women and men. It hopes that in future reports the Government will be in a position to indicate the results of such efforts, with supporting statistics where possible, and will in due course supply the information already requested on the implementation of the current project for a general job titles system, as regards those aspects which have a bearing on promoting the principle of equal pay.

#### Switzerland (ratification: 1972)

The Committee thanks the Government for the information sent in reply to the questions raised when the first report on the application of the Convention was examined.

It noted with interest the information given on the extent of the application of the principle of equal remuneration in the public sector and the progress made as regards posts coming under cantonal governments since the federal recommendation dated 13 September 1973; in this connection, the Committee would be grateful if the Government would provide information on developments in the situation and any additional measures taken to encourage them.

The Committee also noted with interest that the authorities check collective agreements for any discriminatory clauses when they are put forward for a decision to give them extended effect. However, as regards other agreements whose scope has not been so extended and among which the Committee had previously noted serious cases of discrimination between the sexes in regard to remuneration, the Committee regrets that the Government does not consider that it can report on action taken, on developments in the factual situation and on job evaluations in the private sector. The Committee would repeat that respect for the parties' freedom and independence in making contracts is fully authorised by the Convention but should not inhibit the promotional action by the authorities called for in the Convention, where this appears necessary for improving the practical application of a matter of public policy, such as equal remuneration.

The Committee hopes that the Government will take appropriate measures for this purpose, and suggests that the Federal Commission on Women's Questions appointed by the Federal Council on 28 January 1976 could provide substantial assistance in the formulation and application of such measures, in collaboration with employers' and workers' organisations. The Committee would be grateful if the Government would include information in future reports on action which it is felt desirable to take, together with details of the factual position and its evolution.

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In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Algeria, Bolivia, Brazil, United Republic of Cameroon, Canada, Chad, Chile, Dominican Republic, Ecuador, Ghana, Guatemala, India, Iran, Italy, Japan, Jordan, Libyan Arab Republic, Madagascar, Netherlands, Nicaragua, Philippines, Portugal, Sierra Leone, Spain, Sudan, Tunisia, United Kingdom, Upper Volta, Zaire, Zambia.

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

Gabon (ratification: 1961)

Article 8 of the Convention. See under Convention No. 52.

Surinam (ratification: 1976)

In reference to its previous comments, the Committee notes with satisfaction that the Ordinance on Annual Leave of 24 November 1975 prohibits the renunciation of annual leave or its replacement by a cash payment, in conformity with Articles 1 and 8 of the Convention.

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In addition a request regarding certain points is being addressed directly to Peru.

**Convention No. 102: Social Security (Minimum Standards), 1952**

Austria (ratification: 1969)

Part II (medical care), Article 10, paragraph 2, of the Convention and Part VIII (maternity benefit), Article 49, paragraph 2. Referring to its earlier comments, the Committee noted with satisfaction that cost sharing in respect of dependants of the insured person in hospital expenses during maternity have been abolished by the amendments under the Federal Act of 28 November 1974, of section 148 Z.2 of the General Social Insurance Act.

Denmark (ratification: 1962)

Part IV (Unemployment Benefit), Article 24 of the Convention (in conjunction with Article 69(i)). In connection with its earlier comments relating to section 61(3) of Act No. 114 of 24 March 1970 on placement and unemployment insurance (which provides for benefits to be suspended for all members of an unemployment insurance fund or section thereof if 65 per cent or more of the members are considered to be involved in a labour dispute), the Committee has noted the Government's statement concerning the discussions in the Commission responsible for considering, among other problems of unemployment insurance, possible amendment or repeal of the provision mentioned. The Committee hopes that a change in this provision in line with the Convention can be made shortly, and asks the Government to report the results of the said Commission's work on this point.

Federal Republic of Germany (ratification: 1958)

Part XIII (Common Provisions), Article 69(i) of the Convention. In connection with its earlier observations, the Committee notes the information sent by the Government concerning the application in practice of the Neutrality Order of 22 March 1973 issued by the Federal Employment Institute. It noted in particular the statement that, during the period covered by the report, only a very small number of workers indirectly involved in a labour dispute were refused



unemployment benefit under clause 3 of that Order, and this was because the outcome of the dispute would lead to a change in their conditions of employment. The Committee also noted the ruling of the Federal Social Court on 9 September 1975 clarifying the scope of the provisions in section 116 of the Employment Promotion Act of 25 June 1969, particularly as regards the above-mentioned Article of the Convention.

The Committee asks the Government to continue to provide information in its future reports on the practical application of these provisions and to indicate any change which may take place in the Federal Council's decision as regards a possible amendment of section 116 of the Employment Promotion Act.

#### Greece (ratification: 1955)

The Committee notes with regret that the Government's report has once again not been received. The Committee is bound, therefore, to repeat its previous observation which was as follows:

1. Part XIV (miscellaneous provisions), Article 76, paragraph 1, of the Convention (in conjunction with Articles 9, 15, 21, 27, 33, 49, 55 and 61, and also 65 or 66). For some years back the Government has been referring to its earlier reports for statistical data regarding the number of protected persons as a percentage of the total number of wage earners and the amounts paid as benefits to standard beneficiaries in each of the branches accepted. Moreover, it provides inadequate information as to the method used to calculate the average duration of unemployment benefit and the proportion of resources which is provided by the insurance contributions of the wage earners who are protected. In view of the fact that the statistical data given in the Government's report for the period 1970-72 do not make it possible to determine whether the relevant provisions of the Convention are still respected, the Committee trusts that the Government will provide, in respect of each Part of the Convention specified in its ratification, the detailed information called for by the Report Form approved by the Governing Body. The Committee would also ask the Government to state whether the amount of the benefits paid in respect of old age, employment injuries, invalidity and death of the breadwinner have been revised in the light of the changes in the general level of earnings resulting from changes in the cost of living (paragraph 10 of Article 65 or paragraph 8 of Article 66 of the Convention).

2. Part IV (unemployment benefit), Article 24, paragraph 2 (average duration of benefit). The Government's report received in 1973 states that the average duration of unemployment benefit was 77 days in 1971, whereas the Convention stipulates that the average duration of benefit must be at least 13 weeks (91 days) within a period of 12 months. The Committee would therefore ask the Government to take the necessary steps to apply completely this provision of the Convention.<sup>1</sup>

#### Ireland (ratification: 1968)

The Committee has taken note of the information supplied by the Government in its report, and has noted the important improvements made

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session.

in the social security scheme, and in particular the increases made in the various benefits during the period covered by this report, as well as the extension of the duration of unemployment benefit. The Committee has also noted the comments made by the Irish Congress of Trade Unions, as well as those made by the Government, and hopes that the various benefits will continue to be adjusted to take account of changes in earnings where these result from substantial changes in the cost of living (Article 65, paragraph 10, and Article 66, paragraph 8, of the Convention).

With regard to the point which was the subject of its earlier comments, the Committee would like to make the following remarks:

Part X (survivors' benefit), Articles 60 and 62 of the Convention. Under Irish law (Social Welfare Act, 1952, as subsequently amended), a child who has lost its father is entitled to the orphan's contributory pension, whereas a child who has lost its mother only only is not, even where the deceased mother was the breadwinner. As already pointed out by the Committee, the protection required by the Convention in this respect is intended both for widows who were dependent upon a deceased breadwinner and for the children of a deceased breadwinner, whether this be the father or the mother. The Committee's comment was intended to refer to benefits payable to dependent children and not to widowers, as the Government appears from its reply to believe.

The Committee did point out, however, that the protection required under the Convention in this regard could be assured through the family allowances scheme, provided that these allowances bore a reasonable relation to the survivors' benefit payable under the Convention to a standard beneficiary (i.e. a widow with two children: 40 per cent of the reference wage), and were payable for each dependent child. The Committee accordingly requested the Government to indicate, on the basis of precise statistical data, whether the family allowances payable under the insurance scheme were sufficient to compensate for the orphan's benefit in the event of the death of a mother who was the breadwinner, especially where the surviving father was not receiving social security benefit or where the children in question were not his dependants.

The statistical data supplied by the Government in its report on the application of the European Code of Social Security for the period 1974-75 did not warrant the assumption that the family allowances compensated for the orphan's benefit in this particular instance, bearing in mind in particular Article 66, paragraph 3, of the Convention; the rate of family allowances represented in fact 4.94 per cent of the survivor's pension payable to a standard beneficiary (40 per cent), and these allowances could therefore not be deemed to bear a reasonable relation to the rate of the benefit in question (whereas the benefit for a child who had lost its breadwinner father amounted during the same period to 9.76 per cent).

It appears, however, from the particulars supplied by the Government in its latest report on Convention No. 102 that the survivors' benefits payable to a widow with two children in the event of the death of a father who is the breadwinner correspond to those payable to a disabled or unemployed widower with two children in the event of the death of a mother who is the breadwinner; furthermore, the rate for the allowances payable for the first two dependent children appears from the Government's indications to be identical in both cases. In the light of these new data the Committee is of the opinion that the national law and practice may be deemed to give adequate effect to the Convention in this respect. The Committee nevertheless hopes that the Government will indicate in its next report

how the protection required by this instrument is extended, in the event of the death of a mother who is the breadwinner, to children whose father is still alive but is not entitled to insurance benefit, or who are not dependent upon their father.

Mauritania (ratification: 1968)

The Government having failed to supply a report and for the third time to provide information in 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. It hopes that the Government will make every effort to take the necessary measures and supply the information requested.

Mexico (ratification: 1961)

The Committee noted with interest, from the information given in the Government's report for the period 1974-76, that further progress had been made in extending the coverage of social security; it hopes that the Government will continue its efforts in this area. The Committee finds, however, that it must revert in a further direct request to the questions raised in its previous comments, which have for the most part been left unanswered.<sup>1</sup>

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In addition, requests regarding certain points are being addressed directly to the following States: Austria, Barbados, Belgium, Denmark, Ecuador, Iceland, Israel, Mauritania, Mexico, Niger, Norway, Peru, Yugoslavia.

Information supplied by Italy and Luxembourg in answer to direct requests has been noted by the Committee.

### Convention No. 103: Maternity Protection (Revised), 1952

Austria (ratification: 1969)

The Committee noted the communication from the Austrian Federation of Industry - referred to in the Government's report - which took the view that the provisions of section 14(2) of the Federal Maternity Protection Act (as amended up to 1974) were incompatible with Article 4, paragraph 8, of the Convention, as they make the employer liable for the remuneration which must be paid to a woman when other employment cannot be found for her in the undertaking because of the maternity protection requirements of sections 4, 5(3) to (5) and 6 of the Act, namely that a woman shall not be employed during pregnancy, during a specific period following confinement, or while nursing the child, on physically demanding or harmful types of work or on night work.

The Committee must point out that the Article of the Convention (Article 4, paragraph 8) cited by the Austrian Federation of Industry,

<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1978.

prescribing that "in no case shall the employer be individually liable for the cost of such benefits due to women employed by him", does not deal with the above cases but relates solely to the benefits to be provided for women when absent from work on maternity leave, i.e. for a period of 12 weeks, with an extension in the event of later confinement or illness arising out of pregnancy or confinement, under the provisions of Articles 3 and 4(1) of the Convention.

Ecuador (ratification: 1962)

1. The Committee notes the Government's reply to its earlier comments and notes with interest the various measures taken for improving application of the Convention.

2. The Committee notes in particular that the sickness and maternity insurance scheme has been extended to women outworkers and casual workers; that the pilot plan of social insurance for rural communities now covers the majority of the rural population and that efforts are being made to give maternity protection to agricultural employees also. The Committee hopes that the Government's next report will show further progress in this last direction (Article 1, paragraphs 1 to 5, of the Convention) and particularly in that of extending the social security system to all persons.

3. As regards the duration of maternity leave (Article 3, paragraphs 2 and 3, of the Convention) the Committee also noted the change made in section 133 of the Labour Code by Decree No. 491 of 8 July 1976, whereby leave is now given for 8 instead of 6 weeks as previously. While appreciating the reasons which forced the Government to carry out the extension by stages, the Committee trusts that action will be taken to implement this basic provision of the Convention. It hopes that the draft for a further revision of the law on this point, which is being considered by the Social Security Institute as was mentioned by the Government in its report, can be adopted very soon.

4. As regards nursing breaks (Article 5 of the Convention) the Committee noted with satisfaction that section 136 of the Labour Code had been amended by the decree already mentioned so that women in undertakings where there is no day nursery are entitled to a reduction of the working day by two hours for the purpose of nursing their children. The Committee hopes that the interval of 15 minutes every 3 hours granted under this provision to women working in establishments with over 50 employees can be lengthened so as to reach the minimum of 30 minutes twice a day as laid down in the Convention.

5. As regards the other points which were the subject of earlier comments, the Committee is bound to raise them again in a new direct request.<sup>1</sup>

Luxembourg (ratification: 1969)

Referring to its earlier comments concerning the protection of certain groups of women workers covered by the Convention (agricultural workers, domestic workers, home workers, casual or part-time workers), the Committee noted with satisfaction that the new Act on maternity protection for working women, passed on 3 July 1975, applies to all women bound by a contract of service or apprenticeship.

<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1978.

Spain (ratification: 1965)

1. Article 1 of the Convention in conjunction with Article 4 (medical and cash benefits for women with civil servant status). Referring to its earlier comments the Committee noted with satisfaction the adoption of Act No. 29 of 27 June 1975 on civil servants' social security and Decree No. 843 of 18 March 1976 containing regulations for the organisation of mutual insurance in the public administration, under which officials of the civil administration of the State are now entitled to medical care and benefit in monetary form in accordance with the provisions of the Convention. The Committee hopes that the statutory provisions referred to above can be made applicable to officials of local administrations, autonomous bodies and the judicial administration, which are at the moment excluded from its scope.

2. The Committee also noted with interest the improvements in maternity protection (particularly in the length of leave) resulting from the Labour Relations Act (No. 16 of 8 April 1976).

Uruguay (ratification: 1963)

Article 4, paragraphs 1 to 3, of the Convention (maternity benefits). In its earlier comments, the Committee asked the Government to provide information (a) on progress in extending the maternity protection scheme (and particularly medical care) to all women workers, and (b) on how women with the status of civil servants and other women employed in the service of the State (to which Act No. 12572 of 1958 does not apply) are provided with the prenatal, obstetric and postnatal care required by the Convention.

On the first point, the Government states in its reply that the Central Family Allowances Council, which is responsible for maternity protection in the private sector, has taken the action required to make the scheme operational throughout the country and that the Council's decisions dated 12 January and 7 December 1976 have made it easier for women workers to obtain medical attention by allowing them free choice as to the manner of obtaining the necessary care and the practitioner. The Committee notes this statement with interest and hopes that the Government will supply statistics relating to the practical application of the scheme.

As regards the second point, the Government repeats that benefits and facilities are available to women workers in the public sector, varying according to the establishment in which they are employed. The Committee asks the Government to give further particulars on this point, and hopes that the necessary steps can be taken to give such women coverage under Act No. 12572 of 1958 or under a general health scheme as mentioned by the Government in its earlier reports.

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In addition, requests regarding certain points are being addressed directly to the following States: Austria, Brazil, Cuba, Ecuador, Italy, Luxembourg, Spain.

**Convention No. 104: Abolition of Penal Sanctions (Indigenous Workers), 1955**Liberia (ratification: 1962)

In previous observations, the Committee noted that Article 35(p) of the Revised Laws and Administrative Regulations for Governing the Hinterland, 1949, which remained operative within the tribal jurisdiction, laid down fines for any labourer supplied to persons engaged in farming who absconded in transit or who, after arrival at his destination, refused to perform the service for which he had been engaged. By virtue of Articles 1 to 4 of the Convention, these penal sanctions should have been abolished within a year of ratification of the Convention. In its previous observation the Committee noted the Government's statement that the provisions mentioned above had been repealed and that a copy of the new Local Government Law would be communicated. It notes that the text of this Local Government Law has not been supplied. The Committee notes, however, from the Government's report that the competent Government agency is engaged in modifying and updating the Revised Laws and Administrative Regulations for Governing the Hinterland, 1949.

The Committee trusts that the provision in question of Article 35(p) of these Laws and Regulations will be repealed in order to bring the legislation into conformity with the Convention, and requests the Government to communicate the text of the new Local Government Law so as to enable the Committee to assess its bearing on the provisions of the Convention.<sup>1</sup>

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In addition, a request regarding certain points is being addressed directly to the Libyan Arab Republic.

**Convention No. 105: Abolition of Forced Labour, 1957**Afghanistan (ratification: 1963)

In its previous observation, the Committee asked the Government to provide detailed information on the matters referred to in direct requests for a number of years. The Committee notes from the Government's latest report that the provisions of the Convention have been taken over in the new Labour Code now in preparation. It hopes that the Government will report on the measures taken in this connection. It must point out however that the questions raised concerning the application of Article 1(a) and (b) of the Convention relate to a number of other statutory instruments. In the absence of information in this respect, the Committee must revert to the following points:

1. Prison labour. The Committee notes that the Law of 1934 on punishment of prisoners provides special advantages for prisoners making progress in manual work but contains no other provisions regarding prison labour. Please supply additional information as to -----

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session.

how prison labour is organised specifying whether it is compulsory or voluntary and appending copies of all relevant regulations, circulars or internal instructions.

2. The Committee has noted the provisions of the Press Law of 17 July 1965. It notes that under sections 45 and 46, in conjunction with sections 32(2) and 33(2) (a) of the Act, incitement through the press to breaches of public safety and order and deliberate publication of false or distorted information endangering the interests or the dignity of the State are punishable with imprisonment. In order to ascertain whether these provisions are applied in a way that is compatible with the Convention, the Committee would appreciate information on their application in practice (including the number of convictions, the circumstances in which the offences were committed, the penalties imposed, and details of any court decisions which may serve to define or illustrate the precise scope of the provisions in question).

3. The Committee has noted the information provided by the Government and reproduced in the Yearbook of Human Rights for 1968 and 1969, indicating that legislation relating to freedom of peaceful assembly and association would shortly be adopted and that a penal law was about to be passed. It hopes that the Government will indicate whether the laws in question have been adopted and that it will supply copies of any texts adopted.

4. The Committee hopes that the following texts will be supplied:

- (a) the Law on public security offices (mentioned in sections 4 and 45 of the Press Law);
- (b) the annex to the law on breaches of public order issued by decree under section 77 of the Constitution (mentioned by the Government in the note published in the Yearbook of Human Rights for 1969);
- (c) the laws governing the organisation of collective labour in the public interest (mentioned in section 37(5) of the Constitution of Afghanistan);
- (d) the laws and regulations on the organisation and functions of the Labour Battalions and on the utilisation of conscripts for economic development purposes.

#### Central African Empire (ratification: 1964)

Article 1(a) of the Convention. In previous observations the Committee noted that, under the provisions of Act No. 63/411 of 17 May 1963, every active citizen must belong to a designated national movement and respect its political line and the decisions of its executive bodies, and any person forming or attempting to form another group or association of a political character or undertaking political activities in any form outside the said national movement is liable to imprisonment (involving, under section 62 of Order No. 2772 of 18 August 1955, compulsory prison labour). The Committee pointed out that recourse to forced or compulsory labour in such circumstances is contrary to the provisions of Article 1(a) of the Convention and it expressed the hope that appropriate measures would be adopted to ensure compliance with the Convention in this respect.

In previous reports and in statements to the Conference Committee in 1975 and 1976, the Government indicated that measures had been taken

to amend Act No. 63/411 of 17 May 1963, the provisions of which respecting freedom of expression and association have fallen into complete disuse.

Since the Government's report contains no information on relevant developments, the Committee hopes that measures will be taken in the near future to ensure compliance with the Convention and that the Government will communicate more detailed information on the action undertaken in this matter.

Article 1(b). See under Convention No. 29.<sup>1</sup>

Dominican Republic (ratification: 1958)

The Committee notes the information given by the Government to the representative of the Director-General of the ILO in the course of direct contacts in 1976.

1. In its earlier comments, the Committee referred to sections 270 and 271 of the Penal Code which provide for vagrancy - defined in such a way as to cover certain small farmers - to be punished by administrative authorities and which consequently appear to be incompatible with Conventions No. 29 and No. 105. The Committee notes with interest that a Bill has been prepared to repeal all the vagrancy provisions of the Penal Code so as to bring the law into conformity with the international standards on this point. It trusts that this amendment will soon be adopted and that the Government will send information on the measures adopted.

2. Article 1(a) of the Convention. The Committee noted in its previous comments that sentences of imprisonment involving compulsory labour can be imposed under the following:

- (a) sections 2 and 3 of Act No. 1443 of 14 June 1947 (prohibiting publications and public or private meetings of groups or associations whose purpose is to propagate theories or opinions incompatible with the civil, republican, democratic and representative character of the Government of the Republic);
- (b) Act No. 4280 of 17 September 1955 (prescribing penalties for any person who, with the aim of spreading confusion and misleading public opinion, falsifies the historical, positive and genuine truth, as accepted or laid down by the Dominican Academy of History or previously).

Referring to paragraphs 105 and 111 to 113 of the General Survey of Forced Labour in its 1968 Report, the Committee asked the Government to indicate what action had been taken or was contemplated to ensure that no form of forced or compulsory labour may be imposed under these provisions in circumstances covered by Article 1(a) of the Convention.

The Committee notes that the Government is considering these matters with a view to taking the necessary action in accordance with the Convention. It hopes that the Government will shortly be in a position to indicate the action which has been taken.

3. Article 1(c). The Committee pointed out earlier that under Act No. 3143 of 11 December 1951 sentences of imprisonment involving

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session.



compulsory labour may be imposed on persons who have failed to carry out work by an agreed date or within the time allowed for its performance. It asked the Government to indicate what measures had been taken or were contemplated in this connection to ensure observance of Article 1(c) of the Convention. The Committee notes that the matter is being studied with a view to taking action. It would point out that the Government indicated in its report for the period 1969-71 that it proposed to amend Act No. 3143 of 11 December 1951 and to deal with the question in the Labour Code. It hopes that the Government will shortly be able to report the measures adopted.

4. Article 1(d). The Committee has pointed out in its comments for a number of years that the Labour Code prohibits strikes in any permanent public utility service (section 370), political strikes and sympathetic strikes (section 373), strikes called without complying with certain very strict procedural formalities (section 374), and strikes maintained in spite of a court suspension order issued within 24 hours (or in certain cases within five days) of the commencement of a lawfully called strike (section 640). Under sections 678(16) and 679(3) of the Code, an illegal strike is punishable by imprisonment involving compulsory labour.

The Committee asked the Government to take the necessary action in relation to these provisions to ensure that forced labour might not be imposed as a punishment for having participated in a strike. It recalls the Government's statement to the Conference Committee in 1973 that the Labour Code Revision Commission was considering the elimination of the penalties of imprisonment for participation in illegal strikes from the Labour Code.

The Committee notes the information given by the Government to the representative of the Director-General of the ILO that strikes are very frequent in practice. The Government also refers to section 369 of the Labour Code, which provides that any act of coercion, physical violence or intimidation during a strike shall be punishable and may lead to the strike being declared illegal; it states that only in such circumstances participation in a strike might give rise to the application of the penalties of imprisonment mentioned in section 679(3). The Committee notes, however, that under section 679(3) of the Code, read in conjunction with section 678(16), sentences of imprisonment may also be imposed for breaches of sections 370, 373 and 374 of the Code. In these circumstances, it hopes that steps will be taken to amend the provisions in question in such a way that, apart from the circumstances mentioned in section 369 of the Code, participation in a strike cannot give rise to any penalty involving compulsory labour.

#### France (ratification: 1969)

In its previous comments the Committee noted that, under section D.496(3) of the Code of Criminal Procedure, certain persons convicted of offences prompted by political motives were not ipso jure exempt from compulsory prison labour but could be granted the benefit of a special regime involving such exemption by order of the Minister of Justice, who thus had discretionary powers in the matter. In its report the Government indicates that sections D.490 to D.495 of the Code of Criminal Procedure were amended by Decree No. 75972 of 23 October 1975 to extend the benefit of the special rules automatically applicable to all persons prosecuted in or sentenced by the State Security Court, so that all persons subject to that Court, which deals with offences of a political character, have since that time been exempt ipso jure from compulsory prison labour. The Committee notes this amendment with interest since it improves the guarantee for

implementation of Article 1(a) of the Convention prohibiting the use of forced or compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system.

The Committee also notes the Government's statement that any persons prosecuted under section 2 of the Act of 10 January 1936, of having been a party to the continuance of certain associations or groups or having participated directly or indirectly in their formation are subject to the jurisdiction of the State Security Court under section 698 of the Code of Criminal Procedure, and are accordingly no longer liable to prison labour.

With reference to its previous comments concerning the Legislative Decrees of 21 April and 24 June 1939 against foreign propaganda, the Committee notes that persons prosecuted under these provisions are also subject to the jurisdiction of the State Security Court under section 698 and are thus no longer liable to prison labour.

Guinea (ratification: 1961)

The Committee notes with regret that the Government's report contains no reply to its previous comments. It is therefore obliged to refer once again to the following points:

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 overcoming rapidly 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. At the Conference Committee in 1975 and in its report for 1971-73 on Convention No. 29, the Government again stated that Decree No. 416 of 22 October 1964 was no longer applied. A Government representative stated to the Conference Committee in 1976 that measures had been taken for the repeal of this Decree. The Committee hopes that the text repealing the Decree will be supplied.

2. Supply of legislative texts. The Committee notes with regret that the legislative texts repeatedly requested by the Committee since 1967 are still not available; these laws and regulations (other than the Penal Code, which is already available to the Committee) concern 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 as to the conformity of the legislation with the Convention.<sup>1</sup>

Haiti (ratification: 1958)

1. In its previous observations, the Committee had drawn attention to the fact that, in so far as persons sentenced to

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session.

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 falling within Article 1(a) of the Convention;
- (b) sections 162 and 165 of the Penal Code - prescribing imprisonment 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 notes with interest the information provided to the representative of the Director-General of the ILO by the Government during the direct contacts held in 1976 to the effect that neither sections 162 and 165 of the Penal Code nor section 3 of the Decree of 8 December 1960 have been applied in practice and that the Government will examine closely the possibility of repealing these provisions with a view to bringing the national legislation into conformity with the Convention on these points. The Committee hopes that, at this occasion, the Government will also consider making an appropriate amendment to sections 2 to 6 of the Legislative Decree of 19 November 1936 so that they cannot give rise to the imposition of forced or compulsory labour in cases falling within Article 1(a) of the Convention. It trusts that the Government will provide information in the near future on the measures that have been taken.

2. In observations made since 1967, the Committee has noted that every year since 1960 a decree has been issued 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, the right to be tried by the courts and the right of peaceful assembly, and those reserving jurisdiction over cases involving civil and 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 national Constitution). During the direct contacts held in November 1976, the Government confirmed that these suspensions of constitutional guarantees are applied during the periods when Parliament is not in annual session.

While the Committee recognised that the suspension of constitutional guarantees may, in certain circumstances, be necessary, it 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 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, inter alia, 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.

In its report supplied in 1973, the Government stated that it considered the Committee's observations to be justified.

The Committee notes that, by Decree of 21 August 1976, the above-mentioned constitutional guarantees have once again been suspended for a period of more than seven months. 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 take the necessary measures to maintain in force, subject only to the exceptional circumstances referred to above, the guarantees and individual freedoms indispensable for the effective observance of the Convention.

Honduras (ratification: 1957)

See under General Observation: Honduras.

Ireland (ratification: 1958)

Article 1(c) and (d) of the Convention. In previous comments the Committee had referred to the following legislative provisions:

- (a) sections 221 and 225(1) (b) and (c) of the Merchant Shipping Act, 1894 (as amended by the Adaptation of Enactments Act, 1922 and the Merchant Shipping Act, 1947), under which certain disciplinary offences may render seamen liable to imprisonment (involving, by virtue of section 42 of the Rules for the Government of Prisons, 1947, an obligation to work);
- (b) sections 222 and 224 of the same Act, under which seamen absent without leave may be forcibly conveyed on board ship (in the case of foreign ships, this may be done under section 238 of the Act);
- (c) section 16 of the Conspiracy and Protection of Property Act, 1875, which excludes seamen from the scope of this Act and, accordingly, deprives them of the immunity from criminal liability for conspiracy in respect of acts in contemplation or furtherance of trade disputes which is bestowed on other workers by section 3 of this Act; and section 225(1) (e) of the Merchant Shipping Act, 1894, under which it is an offence, punishable with imprisonment (involving an obligation to work) for seamen to combine to disobey lawful commands or to neglect duty.

The Committee had asked the Government to review these provisions in order to bring the legislation on seamen into conformity with the Convention. In reply, the Government repeatedly indicated in its reports that the amendment of the Merchant Shipping legislation was proceeding. In its latest report (which was received after the 1976 meeting of the Committee) the Government indicates that the revision of the Merchant Shipping Acts continues and that it is expected that legislation governing the employment and discipline of seamen will be enacted shortly.

The Government however expresses the view that the existing legislation is in full conformity with the Convention; even if it were accepted that the application of the Convention to seamen was not excluded by Resolution No. 8 adopted by the International Labour Conference in 1921, the imposition of a penal sanction for breach of an engagement freely entered into does not according to the Government constitute forced labour.

Regarding the application of the Convention to seamen, the Committee refers to paragraph 134 of its general survey of forced labour of 1968, where it pointed out that the Conventions on forced labour aim at guaranteeing to all human beings freedom from compulsion to labour, irrespective of the nature of the work or the sector of activity in which it may be performed.

Regarding the relevance to the Convention of penal sanctions imposed for breaches of voluntary engagements, the Committee refers to paragraphs 93, 121 and 127 of its above-mentioned general survey of forced labour where it indicated that forced or compulsory labour as a means of labour discipline may be of two kinds. It may consist of measures to ensure the due performance by a worker of his service under compulsion of law (in the form of physical constraint or the menace of a penalty) or of punishment for breaches of labour discipline with penalties involving an obligation to perform work. In the latter case, the Committee has however distinguished between penalties imposed to enforce labour discipline as such (and therefore falling within the scope of the Convention) and penalties imposed for breaches of labour discipline committed in certain posts essential to safety or in circumstances where life or health are endangered; with these the Convention is not concerned.

The Committee accordingly again requests the Government to take the necessary measures in respect of the legislation governing the employment and discipline of seamen to ensure that penalties involving compulsory labour may not be imposed for breaches of labour discipline or strike action except in circumstances where the safety of the ship or life and health of persons have been endangered. As the matter has been the subject of comments since 1963, the Committee hopes that the legislation will be brought into conformity with the Convention in the near future.

#### Malaysia (ratification: 1958)

The Committee notes that, following a discussion in the Conference Committee in 1976 in which members of the Committee expressed their concern at the Government's approach to the problems raised by the Committee, the Government stated that it wished to have recourse to the procedure of direct contacts. In its report on the Convention, the Government indicates that it has sought and obtained from the Director-General of the ILO details on this procedure, which were receiving its attention. Since no formal request for direct contacts has been received from the Government, and no further information is available on the questions at issue, the Committee is bound to raise again the following points:

1. Article 1(a) of the Convention. In previous comments, the Committee referred to a number of provisions under which imprisonment (involving, by virtue of section 52 of the Prisons Ordinance, an obligation to perform labour) might be imposed in circumstances falling within Article 1(a) of the Convention, namely:

(a) sections 8 and 10 of the Internal Security Act, 1960, under

- which restrictions may be imposed upon persons in regard, inter alia, to their activities or employment, and they may be prohibited from addressing public meetings or taking part in political activities, contraventions of such restrictions or prohibitions being punishable, under sections 44 and 44A of the Act, by imprisonment (involving, as previously noted, liability to compulsory labour);
- (b) section 2A of the States of Malaya Restrictive Residence Ordinance, under which persons may be forbidden, on pain of imprisonment, to make any public speech or address any meeting without police permission or to publish any document which, in the opinion of the Chief Police Officer, has a seditious tendency;
  - (c) sections 22, 24 and 25 of the Internal Security Act, 1960, and sections 3 and 4 of the Sabah Undesirable Publications Act (Cap. 151), empowering the authorities to prohibit particular publications or series of publications or all publications by particular persons, and punishing with imprisonment the publication, sale, distribution, reproduction, or possession of any such prohibited publications;
  - (d) sections 3(1) and (4), 7(1), 7A(1), 7B and 17 of the States of Malaya Printing Presses Ordinance, 1948 (as amended by Ordinance No. 32 of 1957) and sections 3(1) and (3), 7(1) and 15 of the Sabah Printing Presses Ordinance (Cap. 107), making it an offence, punishable with imprisonment, to keep or use any printing press or to publish or distribute any newspaper without a licence, which the authorities may grant, refuse or revoke at their discretion;
  - (e) sections 5, 7, 13 and 41-47 of the Societies Act, 1966, granting extensive powers to refuse or cancel registration of any association of seven or more persons, including an absolute discretionary power to prohibit any such association, and making it an offence, punishable with imprisonment, to be a member of a prohibited or unregistered association or to publish, sell or possess any matter issued on behalf or in the interests of such an association.

In its report for the period 1971-73, the Government has stated that the penalties which may be imposed under the above-mentioned legislation are not intended as a means of political coercion or education or as a punishment for holding or expressing political views, but as punishment for doing certain physical acts such as printing, publishing, circulating, etc. a prohibited document or publication, organising unlawful associations, or making a public speech.

The Committee has referred in this connection to paragraphs 108, 110, 113 and 114 of its general survey of forced labour of 1968, in which it pointed out that legislation of the kind mentioned above is 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 such limitations are enforced by penalties involving liability to compulsory labour, they are contrary to Article 1(a) of the Convention.

The Committee hopes that the Government will review the position in the light of Article 1(a) of the Convention and of the explanations provided in the previously mentioned general survey of forced labour, with a view to the adoption of appropriate measures to ensure the observance of the Convention.

2. Emergency legislation. In its previous comments, the Committee noted that, in addition to legislation of permanent application, other provisions had been adopted pursuant to a proclamation of emergency made in 1964 or might be brought into operation in special circumstances in accordance with the Emergency (Essential Powers) Act, 1964, the Public Order (Preservation) Ordinance, 1958, the Sabah Preservation of Public Security Ordinance, 1962, the Sarawak Emergency Regulations Ordinance, 1948, and the Sarawak Preservation of Public Security Ordinance, 1962. The Committee regrets that the Government's last report provides no information on the present position regarding the application of these special provisions and their effect upon the observance of this Convention.

Recalling the comments in paragraphs 54, 92, 95 and 102 of the general survey of forced labour of 1968, in which it emphasised that the nature and duration of any measures occasioned by an emergency should be limited to what was strictly required by the exigencies of the situation, the Committee hopes that the Government will provide full information on this matter.

3. Article 1(c) and (d). In previous comments, the Committee noted that the Malayan Merchant Shipping Ordinance, 1952, and the Sabah and Sarawak Merchant Shipping Ordinances of 1960 contained provisions punishing various breaches of discipline by seamen with imprisonment (involving, as previously noted, liability to compulsory labour) and providing for the forcible conveyance on board ship of seamen who had abandoned their service in order to compel them to perform their duties. In its report for the period 1971-73 the Government stated that the laws in question were under review and that the Committee's comments would be duly considered. The Committee hopes that appropriate changes to ensure the observance of the Convention will be made.

4. Article 1(d). In its previous comments, the Committee noted that, under section 23 of the Industrial Relations Act, 1967, the competent minister may impose compulsory arbitration not only in disputes in essential services, but in respect of any trade dispute if he is satisfied that the dispute is likely to affect the economy of the country or that it is expedient in the public interest to do so. By virtue of section 41(b) and (d), any strike thereupon becomes illegal, both during the arbitration proceedings and in relation to any matters covered by the award. Under sections 42 and 43, violations of this prohibition may be punished with imprisonment (involving, as previously noted, liability to compulsory labour).

The Committee regrets that the Government has provided no information on the measures taken or contemplated in regard to the above-mentioned provisions to ensure that, in conformity with Article 1(d) of the Convention, no form of forced or compulsory labour may be imposed as a punishment for having participated in strikes. It hopes that the Government will review the position in the light of the requirements of the Convention, and adopt the necessary measures for their observance.

#### Philippines (ratification: 1960)

In its previous observation, the Committee noted that, following the declaration of a state of martial law by Proclamation No. 1081 of 21 September 1972, various presidential decrees and general orders had been issued under this Proclamation which made provision for detention without trial, the restriction of public discussion, the banning of mass media, the prohibition of rallies, demonstrations and other forms of group action, including strikes, and the trial of offenders by

special military tribunals. The Committee noted that martial law was extended by Proclamation No. 1014 of 17 January 1973 and had not been lifted during the period 1973-75. Moreover, under article XVII, section 3(2), of the Constitution proclaimed on 17 January 1973, all proclamations, orders and decrees issued by the President were to be part of the law of the land and remain effective even after lifting of martial law, unless modified or repealed.

The Committee referred to the comments made in paragraphs 101 and 102 of the general survey of forced labour in its 1968 report, in which it indicated the importance for the effective observance of the Convention of legislative guarantees of a variety of individual rights and freedoms and the direct bearing which the suspension of such guarantees as a result of a declaration of martial law would generally have on the observance of the Convention. The Committee emphasised that measures of that 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.

In its reply, the Government indicates that the control of mass media, the prohibition of rallies and demonstrations and strikes in critical public utilities were in the early days of martial law all dictated by the emergency that faced the Republic, but that the restrictions initially imposed on the normal enjoyment of certain rights have gradually been relaxed as the situation normalised. In this connection the Government refers to the licensing of mass media activities which has been transferred to the members of media groups themselves under Presidential Decree No. 576.

The Committee takes due note of the detailed information supplied by the Government. It notes, however, that provisions still exist for detention without trial, the prohibition of rallies, demonstrations and other forms of group action, the prohibition of strikes in a wide range of circumstances, subject to sanctions involving compulsory labour, and the trial of offenders by special military tribunals.

In this connection, the Committee is again addressing a detailed request to the Government, asking it to provide information on measures taken under martial law which have a bearing on the observance of Article 1(a) and (d) of the Convention.

#### Sierra Leone (ratification: 1961)

In comments addressed to the Government since 1964, the Committee has referred to certain provisions of the Summary Conviction Offences Act (Cap. 37) and the Protectorate Vagrancy Act (Cap. 64), under which natives who remain without regular employment for more than 21 days are, in certain circumstances, deemed idle and disorderly persons and liable to imprisonment (involving, under the Prisons Act, 1960, an obligation to perform labour); the Committee has also noted that, under the Chiefdom Councils Act (Cap. 61), orders may be issued for various purposes to be obeyed by natives, for example, for cultivation of land. According to section 3 of the Interpretation Act (Cap. 1), the term "native" means "any person who is a member of a race, tribe, or community settled in Sierra Leone (or the territories adjacent thereto) other than a race, tribe or community (a) which is of European or Asiatic origin or (b) whose principal place of settlement is in the Colony". In view of this definition, it appeared that the above-mentioned legislative provisions permitted the imposition of forms of compulsory labour on a particular group of the population, defined in



terms of racial and/or social origin. The Committee accordingly requested the Government to review the provisions in question in the light of Article 1 (e) of the Convention, which prohibits any form of forced or compulsory labour as a means (inter alia) of racial or social discrimination.

The Committee notes the Government's statement in its latest report that the matter has been taken up and a State Counsel assigned to deal thoroughly with it. The Government likewise indicated to the Conference Committee in 1976 that the matter was receiving priority attention. Having regard also to the Government's earlier undertaking to review the above-mentioned provisions in the light of the requirements of the Convention, the Committee trusts that measures will be taken in the near future to bring the legislation into conformity with the Convention.<sup>1</sup>

Tanzania (ratification: 1962)

Tanganyika

Further to its previous comments, the Committee notes that direct contacts took place in October 1976 between the competent national authorities and a representative of the Director-General of the ILO. It notes the indications provided by the Government that it was envisaging the possibility of assigning to a competent body the task of examining in detail the observations of the Committee of Experts and of submitting proposals to the Government on measures that might be taken towards closer compliance with the Forced Labour Conventions.

Article 1(a) of the Convention. In its previous comments the Committee noted that, by virtue of section 21A of the Newspaper Ordinance (Cap. 229), inserted by Act No. 23 of 1968, the President may, if he considers that it is in the public interest or in the interest of peace and order to do so, prohibit the further publication of any newspaper. Any person who thereafter prints or publishes such a newspaper or sells or distributes any copy thereof in any public place may be punished with imprisonment (involving, by virtue of Part XI of the Prisons Act, 1967, an obligation to perform labour).

Referring to paragraph 108 of the general survey of forced labour in its report of 1968, the Committee expressed the hope that appropriate measures would be taken in regard to these provisions to ensure that, in accordance with Article 1(a) of the Convention, no form of forced or compulsory labour (including labour imposed on persons serving a sentence of imprisonment) might be used 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). The Committee noted that, under section 284A of the Penal Code (added by Act No. 2 of 1970), any employee of a "specified authority" (i.e. the Government, a local authority, a registered trade union, the Tanganyika African National Union or any body affiliated to it, any publicly owned company, etc.) who causes pecuniary loss to his employer or damage to his employer's property, by any wilful act or omission, negligence or misconduct, or failure to take reasonable care or to discharge his duties in a reasonable manner may be punished with imprisonment for up to two years (involving, as previously indicated, an obligation to perform labour).

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session.

The Committee expressed the hope that appropriate measures would be taken in regard to these provisions to ensure that, in accordance with Article 1(c) of the Convention, no form of forced or compulsory labour (including labour imposed on persons serving a sentence of imprisonment) might be used as a means of labour discipline.

Article 1(c) and (d). The Committee noted that under section 145(1)(b), (c) and (e) and section 147 of the Merchant Shipping Act, 1967, various breaches of discipline by seamen are punishable by imprisonment (involving, as previously indicated, an obligation to perform labour). Further, under section 151 of this Act, any seaman who deserts from a foreign ship may be forcibly conveyed on board ship or delivered to the master, mate or owner of the ship or his agent.

The Committee had expressed the hope that appropriate measures would be taken in regard to these provisions to ensure that, in accordance with Article 1(c) and (d) of the Convention, no form of forced or compulsory labour (including compulsory prison labour) might be used as a means of labour discipline or as a punishment for having participated in strikes.

The Committee notes with interest that during the direct contacts, the Government indicated that it was prepared to consider the possibility of modifying its legislation concerning breaches of labour discipline by seamen by bringing its Merchant Shipping Act into line with the new United Kingdom Merchant Shipping Act.

The Committee hopes that the Government will report any progress made in this regard.

Article 1(d). The Committee noted that sections 4, 8, 11 and 27 of the Permanent Labour Tribunal Act, 1967, which contain general provisions for compulsory arbitration in labour disputes, make it possible in practice to render all strikes illegal, contraventions of this prohibition being punishable with imprisonment (involving, as previously indicated, an obligation to perform labour).

The Committee hopes that appropriate measures will be adopted in regard to these provisions to ensure that, in accordance with Article 1(d) of the Convention, no form of forced or compulsory labour (including compulsory prison labour) may be imposed as a punishment for having participated in strikes.

#### Zanzibar

See General Observation.

In its 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. The Committee hopes that the difficulties presently facing the Government as regards access to information on the application of the present Convention in Zanzibar will soon be overcome.<sup>1</sup>

Tunisia (ratification: 1959)

Referring to its earlier comments concerning provisions of the Labour Code prohibiting certain strikes subject to penal sanctions involving compulsory labour, the Committee notes that Act No. 76-84 of 11 August 1976 which amends and supplements the relevant part of the Labour Code appears not to have taken its comments into account.

The Committee had pointed out that under the Code, the Government may compel the parties to submit to arbitration where it considers that a strike or the threat of a strike may affect the national interest (sections 384 to 386 of the Labour Code). A strike is unlawful if these provisions are not complied with and also if it has not been approved by the Central Workers' Organisation (section 376bis and section 387 of the amended Code). Participation in an unlawful strike or encouragement to continue such a strike is punishable by imprisonment involving compulsory labour. Workers may also be called up for service where a strike is likely to harm a vital national interest, and refusal to comply with a call-up order is punishable with imprisonment (sections 389 and 390 of the Code). The Committee had indicated that these prohibitions, of strikes, which go beyond cases of emergency or strikes in essential services endangering the existence or welfare of the population, are incompatible with Article 1(d) of the Convention in so far as they are enforced by penalties involving compulsory labour.

In its reply the Government states that the restrictions in section 389 of the Code only apply where a vital national interest is endangered, and that any impairment of a vital national interest always has directly or indirectly more or less serious repercussions on the existence and welfare of the population.

The Committee asks the Government to send information on the practical application of section 399 of the Code, including copies of any orders requisitioning establishments or personnel of establishments issued under this section.

The Committee hopes that action will be taken in the near future to bring sections 376bis and 384 to 387 of the Code into conformity with the Convention.<sup>1</sup>

Uganda (ratification: 1963)

In its previous observations, the Committee referred to a number of legislative provisions under which imprisonment (involving an obligation to work) may be imposed for a wide range of political activities, including the participation in any political party, for the violation of restrictions imposed by the authorities at their discretion on the right of association and the freedom of expression,  
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<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session.

and for leaving employment or participating in strikes in various services whose interruption would not necessarily endanger the existence or well-being of the population. The Committee observed that these provisions were contrary to Article 1(a), (c) and (d) of the Convention.

The Government having previously expressed its intention to denounce the Convention, the Committee notes from the latest report that, following the discussion of the matter at the Conference Committee on the Application of Conventions and Recommendations in 1976, the Government is reviewing its position. The Committee hopes that measures will be taken to bring the legislation into conformity with the Convention, and that the Government will supply information on the progress made.

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In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Belgium, Benin, Botswana, Brazil, Burundi, United Republic of Cameroon, Central African Empire, Chad, Dominican Republic, Fiji, France, Gabon, Guinea, Iraq, Jamaica, Jordan, Libyan Arab Republic, Malaysia, Mexico, Nicaragua, Philippines, Sierra Leone, Somalia, Surinam, Tanzania, Thailand, Tunisia, Zambia.

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

#### Afghanistan (ratification: 1963)

Further to its previous observations, the Committee notes with satisfaction that a decision of 19 May 1974 of the Central Committee of the Government establishing a five-and-a-half day working week in government offices and in undertakings and organisations, thus makes provision for a weekly rest period in accordance with the Convention.

#### Egypt (ratification: 1958)

Further to its earlier comments the Committee notes from the Government's report that a clause will be inserted in section 152 of the draft of the new Labour Code, in order to provide that work on the weekly rest day shall entitle the worker to a compensatory rest day regardless of any extra remuneration paid (Article 8, paragraph 3, of the Convention).

The Committee would also draw attention to the Government's earlier statements that, when drafting the new Code, account would be taken of its comments regarding an amendment to section 123 of the present Labour Code so as to guarantee a weekly rest for persons employed on preparatory or complementary work and as caretakers, cleaners, etc., who do not at present have the right to the weekly rest period (Article 7 of the Convention).

The Committee hopes that the new Code will soon be adopted and will give full effect to the provisions of the Convention.

Haiti (ratification: 1958)

Further to its earlier observations, the Committee notes with satisfaction that, as a result of the direct contacts held between the competent national services and a representative of the Director-General of the ILO, sections 317 and 320 of the Labour Code have, by Decree of 10 September 1976, been amended in accordance with Article 2 of the Convention (provision for weekly rest periods for certain categories of officials and employees) and Article 7(2) (compensatory rest).

Kuwait (ratification: 1961)

In its previous observations, the Committee drew attention to the need to bring the legislation into conformity with the Convention on the following points:

Article 2 of the Convention. It is necessary to provide for a weekly rest period of 24 consecutive hours in each period of seven days for temporary workers employed for periods of up to six months and for workers in undertakings covered by the Convention which employ fewer than five workers, since section 2 of the Labour Law (Private Sector) of 1964 excludes these categories of workers from its scope.

Article 8, paragraph 3. It is necessary to adopt measures to ensure that when workers coming within the scope of the Convention work on their weekly rest day, by virtue of section 15 of the Labour Law (Public Sector), 1960 or of section 35 of the Labour Law (Private Sector), 1964, they receive a compensatory rest period of 24 consecutive hours in the course of the next seven days, regardless of whether compensatory wages are paid.

The Committee notes the statement in the Government's latest report to the effect that appropriate provisions are included in a draft amendment to the legislation. Since the amendment has been mentioned for several years, the Committee hopes it will be adopted shortly.

Spain (ratification: 1971)

Further to its previous direct request, the Committee notes with satisfaction that section 25(1) of the Labour Relations Act, 1976 and section 2 of Royal Decree 860/1976 provide for compensatory rest in all cases of temporary derogations from the weekly rest provisions, thus giving full effect to Article 8, paragraph 3 of the Convention.

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In addition requests regarding certain points are being addressed directly to the following States: Afghanistan, Bangladesh, Bolivia, Colombia, Cuba, Cyprus, France, Indonesia, Iran, Iraq, Pakistan.

**Convention No. 107: Indigenous and Tribal Populations, 1957**Brazil (ratification: 1965)

The Committee takes note of the detailed report and annexes supplied by the Government in reply to its previous comments. It hopes that further information will be forwarded in reply to the request being addressed directly to the Government.

The Committee has noted with interest from information available in the ILO, that the future policy in regard to indigenous populations has recently been the subject of renewed debate in Brazil. It notes in particular the suggestion that the rapid integration of forest-dwelling peoples should be promoted and that fundamental changes should be introduced as regards the institutions concerned with the welfare and assistance of Indians in certain zones. In so far as a new policy may effectively be introduced, the Committee hopes that full information will be supplied on the subject with the Government's next report, including information on the practical impact which this may have on the measures taken and programmes being carried out, both by official bodies and by unofficial institutions, for the protection, welfare and integration of indigenous populations in all areas of the country.

Costa Rica (ratification: 1959)

The Committee notes with interest the recent measures taken by the Government for the protection of the indigenous populations of the country, including the creation of the National Commission on Indian Affairs (CONAI) by Act. No. 5251 of 11 July 1973; and the creation of eight new Indian Reserves by Executive Decrees in 1976. The Committee welcomes this action in favour of the indigenous populations and its implications for human rights, and hopes the Government will provide detailed information in reply to the direct request which is also being addressed to it.

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In addition, requests regarding certain points are being addressed directly to the following States: Argentina, Bangladesh, Brazil, Colombia, Costa Rica, Mexico, Panama, Paraguay, Peru, Syrian Arab Republic.

**Convention No. 108: Seafarers' Identity Documents, 1958**Brazil (ratification: 1963)

In the comments made for a number of years on the application of this Convention, the Committee drew the Government's attention to the fact that none of the documents currently used in the Brazilian merchant marine complied with all the requirements of the Convention, either because they were not in the possession of the holder at all times as required by Article 3, or because they did not contain the statement under Article 4(2) that they are a seafarers' identity document for the purpose of the Convention.

The Committee has noted the information provided by the Government in its latest report and the comments made by the National Confederation of Sea, River and Air Transport Workers. The Government indicates that it is considering the possibility of adopting a uniform system as regards seafarers' identity documents issued by Brazil and other signatory countries. The Committee expresses the hope that the Government will be able in its next report to provide information on action taken for this purpose and a copy of the seafarers' identity document finally selected.

Finland (ratification: 1972)

Article 4, paragraph 2, of the Convention. Further to its earlier comments, the Committee notes with satisfaction that the seafarers' identity document has been amended so as to include the statement required under this provision of the Convention.

Guyana (ratification: 1966)

Further to its earlier comments, the Committee notes with satisfaction the adoption of the new seafarers' identity document sent with the Government's report, which meets the requirements of the Convention.

Honduras (ratification: 1960)

See General Observation: Honduras.

Italy (ratification: 1963)

With reference to its previous observation, the Committee notes from the information given by a government representative to the Conference Committee in 1976 and in the Government's reports, that the port authorities issue seamen with a booklet in which the identity particulars required in Article 4, paragraph 3, of the Convention are entered and which may be used as a passport when the seaman is engaged in his occupation. The Government further indicates that a Bill submitted to the competent bodies on 31 July 1976 provides for the addition in the booklet of the statement required in paragraph 2 of Article 4 indicating that it is an identity document for the purpose of the Convention.

The Committee hopes that the Bill will shortly be adopted and that the Government will be able to supply a copy of the amended seaman's booklet with its next report.

The Committee also requests the Government to specify which provisions require the booklet to be in the holder's possession at all times, as provided in Article 3 of the Convention.

Sweden (ratification: 1970)

Further to its earlier comments, the Committee notes with satisfaction that, under clause 3.1.4 of the General Instructions on the Registration and Signing on of Seamen dated 29 November 1974, the seafarers' identity document will remain in the seaman's possession at all times, in accordance with Article 3 of the Convention.

Ukrainian SSR (ratification: 1970)

Article 4, paragraph 2, of the Convention. Further to its earlier comments, the Committee notes with satisfaction that the new seafarers' identity document, issued under the Council of Ministers' Order dated 31 December 1974, contains the statement that it is a seafarer's identity document for the purposes of the Convention.

USSR (ratification: 1966)

Article 4, paragraph 2, of the Convention. Further to its earlier comments, the Committee notes with satisfaction that the new seafarers' identity document, issued under the Council of Ministers' Order dated 31 December 1974, contains the statement that it is a seafarers' identity document for the purposes of the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: Barbados, Guatemala, Italy, Malta, Panama, Portugal, Spain, Tanzania, Uruguay.

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

**Convention No. 110: Plantations, 1958**

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

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

The Committee noted that a resolution adopted by the Conference at its 62nd (Maritime) Session (October 1976) referred to the existence of racial discrimination on ships, particularly against seafarers of Asian, African and Latin American origin, and recommended that this discrimination should be eliminated so that, under the same flag, seafarers with the same qualifications should benefit from all the advantages offered by legislation or by collective agreements applicable to seafarers of the country under whose flag the ship is registered.

Since Convention No. 111 is applicable to all workers, including seafarers, the Committee would be grateful if governments of countries with a merchant navy would indicate in their future reports the results of any investigations made on the above-mentioned matters, and also what checks or other steps have been made or taken to ensure that the Convention is applied in relation to such workers, both in law and in practice.



Argentina (ratification: 1968)

The Committee notes that an Act of 24 March 1976 (No. 21.260) permits the dismissal on security grounds of any person employed in the public service or an agency depending on the public authorities who is in any way connected with activities of a subversive or divisive character, and any person who, whether openly or in a concealed or disguised manner, advocates or promotes such activities (section 1). The Act also suspends the operation of any statutory or other provisions standing in the way of its enforcement or providing for payment of any compensation (section 5). In view of the very general terms in which the Act is drafted, the Committee requests the Government to provide detailed information on the practical application of these provisions, the criteria used in defining the activities or attitudes in question, and the remedies open to the persons concerned, as provided in Article 4 of the Convention. In addition it trusts that the Government will take appropriate steps for the repeal or amendment of the legislation in order to ensure that the Convention is implemented as regards the elimination of discrimination based on political opinion.<sup>1</sup>

Brazil (ratification: 1965)

Further to its previous observation, the Committee has noted the indications given by the Government as to the remedies available when recourse is had to the single paragraph of section 482 of the Labour Code which authorises the dismissal of a worker "when it is duly established by administrative inquiry that he has committed acts prejudicial to national security". It has also noted the indications concerning the differences between this type of situation and that in which a worker has been the subject of a criminal conviction (provided for in section 482, clause (d)). Since the Government has in the past referred to offences against national security as defined in the legislation in regard to the nature of the prejudicial acts mentioned above, the Committee requests the Government to state whether the single paragraph of section 482 of the Labour Code is intended to cover only acts which may be the subject of criminal proceedings under the legislation on the protection of national security. It hopes that the single paragraph of section 482 of the Labour Code can be amended so as to include an express indication to this effect.

Chad (ratification: 1966)

The Committee notes with regret that, this year again, the Government's report has not been received and that therefore it still has no replies to the points referred to in its previous observation and in its direct requests repeatedly made since 1969. It urges therefore the Government to supply full information as regards: (a) measures taken or contemplated to ensure in practice the promotion of equality in matters of training and employment opportunities of the various groups of the population distinguished by ethnic, racial or social origin, etc.; (b) the policy followed with a view to allowing women to benefit in practice from equality of opportunities in matters

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<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session and to report in detail for the period ending 30 June 1977.

of vocational training and employment; (c) posts from which women are excluded under article 9 of the Civil Service Regulations.<sup>1</sup>

Chile (ratification: 1971)

The Committee examined the information given by the Government to the Conference Committee in June 1976 and in its later report. In connection with its previous observation, the Committee noted with interest that anti-discrimination provisions for improving the application of the Convention had been included in Legislative Decree No. 1146 of 1976 (Vocational Training and Employment Code) and in the preliminary draft for the Labour Code which it hopes will soon be adopted. It also noted the adoption of a specific measure of general scope on non-discrimination in respect of employment and occupation, reproducing the main provisions of Convention No. 111 (Presidential Decree No. 383 on employment standards, dated 20 August 1976) and the affirmation of the principles of equality, non-discrimination and freedom to work in the constitutional texts recently adopted (Constitutional Acts Nos. 2 and 3 of 11 September 1976). The Committee hopes however that the next report will give specific information on the action taken to prevent any effects contrary to the Convention that the application of the provisions in Constitutional Acts Nos. 2 and 3 declaring certain political views to be illegal and detrimental to the constitutional order may have in the employment field. It also requests the Government to supply a copy of any law passed implementing Constitutional Act No. 4, under which restrictions on freedom to work may be imposed in emergencies to be specified in a law.

As regards the current situation concerning dismissals that occurred after 11 September 1973, the Committee was interested to note the information from the Government that many cases of reinstatement have occurred both in the private sector (the report gives a total of 40,913 workers reinstated or recruited over the last three years, as compared with an estimated 66,856 dismissed) and in the public sector where most of the services of the public administration are reported to have reviewed the individual cases and to have reinstated officials where it was clear that the action complained of may have been based on untrue or inaccurate information (the report gives the number of reinstatements by service, totalling 1,687). The Committee trusts that the practices of case-by-case review and reinstatement will be continued and expanded so as to remedy a situation that is still a cause for anxiety and so as to reach the goals recommended by the Commission of Inquiry, to which the Committee's previous observation referred. The Committee would be grateful also if the Government would include information as to how observance of the principles laid down in the Convention is being secured in the implementation of the administrative reform designed to reduce the number of administrative personnel and to redeploy them in the private sector.

Finally, the Committee has taken note of the Government's statement that there is no discrimination in Chile on grounds such as race, colour, sex, religion, national extraction or social origin. It sees, however, that texts have still to be adopted for implementing the recently proclaimed constitutional principle (Act No. 3) of equal rights as between men and women, and for bringing the current texts into line. It would be grateful if the Government would supply information on this point and, more generally, on any measures taken or

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session and to report in detail for the period ending 30 June 1977.

contemplated, in fields relevant to the application of the Convention, to give concrete form to the general guiding principles in Constitutional Act No. 2 regarding the right of each individual to participate with equal opportunity in the life of the nation and the objective of harmonious integration of all sectors of the nation. The Committee would particularly appreciate receiving with the next report information on the policy for promoting equal opportunity for the indigenous minorities, as defined and implemented by the Indigenous Development Institute, under Act No. 17724 of 26 September 1972.<sup>1</sup>

#### Czechoslovakia (ratification: 1964)

Further to its previous observation, the Committee notes the statements of a representative of the Government and the exchange of views on this subject at the Conference Committee in 1976 with respect to the concern expressed by this Committee with respect to the situation of workers who might have been dismissed in breach of the Convention and with regard to their right to obtain redress. The report provided by the Government later on stated that the provisions concerning dismissals in sections 46(1)(e) and 53(1)(c) of the Labour Code in their pre-1975 version were very rarely applied in respect of "breach of the socialist social order", which involved activities endangering state security, and that the application of these provisions under the supervision of the courts was in conformity with Article 4 of the Convention.

The Committee regrets that the Government considered itself unable to provide in its report, as requested, a detailed list of the cases in which workers may be considered as having endangered state security within the scope of the above-mentioned provisions and within the meaning of the reference made to this concept in the Labour Code since its amendment in 1975, although it does state that this concept applies to the basic principles of administration of the State set out in the Constitution and protected by provisions in the Penal Code (even if criminal proceedings were not undertaken for any reason).

The Committee is bound to insist that the Government provide fuller particulars on this point. It notes, for example, that the Penal Code defines as a crime against the Republic the incitement of no less than two persons against the Socialist State and social system and to enable or abet the utterance of any statement having this effect by means of the press, film, broadcasting, television or similar means is an aggravating factor (section 100). Since provisions of such a general character might be extended to the expression of any divergent political opinion and result, on these grounds, in measures being taken against any worker in respect of his employment or occupation, the Committee hopes that the Government will indicate what steps have been taken or are contemplated to ensure that the legislation is in accordance with the Convention in this regard.

With respect to the problems to which the practical implementation of the Convention may give rise, the Committee notes that a representation under article 24 of the ILO Constitution, concerning measures which are allegedly taken against various persons bringing certain questions to the attention of public opinion, has been brought before the Governing Body of the International Labour Office at its

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session and to report in detail for the period ending 30 June 1977, as regards the matters dealt with in the first and second paragraphs of this observation.

202nd (March 1977) Session. Consequently, the Committee has decided to defer its own examination of these problems in practical application until a decision is taken on this complaint.<sup>1</sup>

Ethiopia (ratification: 1966)

The Committee is grateful to the Government for the information supplied in reply to its earlier comments. It notes with interest that under the Labour Proclamation No. 64 adopted in 1975, it is considered unfair labour practice, inter alia, to discriminate on the grounds of race, tribe, religion or sex (Article 107(7)) and it is specified that the same initial wage shall be paid for similar jobs in an undertaking (Article 43). Any examples of measures taken or contemplated to ensure in practice the application of these provisions would be of a great interest to the Committee.

Finland (ratification: 1969)

The Committee is grateful to the Government for the information supplied in its report in reply to its earlier comments. It notes in particular the joint statement transmitted by the Finnish Employers' Confederation and the Confederation of Commerce Employers emphasising that the elimination of discrimination in employment requires tripartite collaboration for the preparation of the relevant legislation and pointing out that Articles 1, 3 and 5 of Convention No. 111 provide for such collaboration. In view of the importance in this respect of an adequate representation of women in the organs of employers' and workers' organisations taking part in the collective negotiations and in the preparation and application of labour legislation, the Committee would be grateful if the next report would indicate to what extent women occupy responsible posts in employers' and workers' organisations and whether arrangements exist which allow women to benefit in practice from adequate guidance and training for this purpose.

The Committee also notes with interest that the Council for Equality has proposed a reform in the vocational guidance and vocational training provided for the young and the setting up of employers' training programmes which provide for equal opportunity for promotion for all groups of workers. The Committee would appreciate receiving information on measures taken or contemplated to this effect.

Having noted moreover that, according to the report, the question of providing for penal sanctions applicable to discrimination in employment is still under consideration at the Ministry of Justice, the Committee would appreciate receiving information on any developments in this respect, as well as the text of any proposed, or enacted legislation.

Finally, noting that the question of the role of religious confession with reference to a post or office in the civil service is being considered by a special Church and State Committee, the Committee would appreciate receiving information on any further developments in this respect.

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<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session and to report in detail for the period ending 30 June 1977, as regards the questions dealt with in the second and third paragraphs of this observation.

Federal Republic of Germany (ratification: 1961)

The Committee notes the observations which the Trade Unions International of Public and Allied Employees and other affiliated organisations submitted in April and May 1976 on the same subject as the observations of the World Federation of Trade Unions and the International Federation of Teachers' Trade Unions, which were referred to in its earlier comments, and also the detailed information provided by the Government on the subject.

The Committee notes that the principles governing verification of loyalty to the Constitution of candidates for the public service were approved by the Federal Cabinet on 19 May 1976. It notes with interest that these principles, the text of which was annexed to the Government's report, prescribe procedural guarantees, in particular regarding notification to interested parties of facts held against them, their right to submit observations and to be assisted by a legal adviser, and various conditions designed to facilitate exercise of their right of appeal to the courts.

It further notes that the Government has agreed to compile information on the regulations currently applied in the Länder in this connection. It hopes that the Government will forward this information in its next report, together with the additional information to which it refers in a direct request relating to the kind of requirement regarding loyalty to the Constitution that may have to be satisfied for the various types of public service concerned.

Ghana (ratification: 1961)

The Committee notes with interest from the Government's report that the Trade Union Congress, in collaboration with the Ghana Employers' Association and other organisations, has embarked upon a series of seminars, symposia and lectures for women with the aim of eliminating traces of discrimination in employment on the grounds of sex, that women are also encouraged to participate in national employment programmes and that a Ghana Association of Women Employees in Industry has been formed with the aim, inter alia, to upgrade the efficiency of women workers. The Committee hopes that the Government will continue to provide information on further developments in this respect (including any examples of texts, illustrating the activities undertaken or result achieved in this field, which the Government could supply.

As the Government indicated in its previous report that the Constitution of the Second Republic of Ghana was suspended on 13 January 1972, the Committee would be grateful if the Government would include in its next report, as already requested, any information on new facts relating to the application of the Convention more generally, in the light of the present situation.

Finally, the Committee hopes that the next report will also give detailed information on the recommendations made by the Public Services Commission and the Attorney-General's Office on the question of civil servants' right of appeal which, according to previous reports, they were studying.

Iceland (ratification: 1963)

The Committee notes with satisfaction, from the report provided by the Government, the adoption on 31 May 1976 of the Equality of Women

and Men Law, which provides, inter alia, that it is unlawful for employers to discriminate between employees on the basis of sex in matters of recruitment, appointment to various positions, promotion, separation from employment, provision of any type of employment benefits and general working conditions and stipulates that violations of the provisions of this law shall be subject to payment of fines unless the law provides for a heavier penalty. The Committee would greatly appreciate receiving information on the practical application of the above law, in particular as regards Regulations to be proposed by the Equality of Treatment Board and issued by the Minister of Social Affairs pursuant to its Article 14. The Government is asked to supply the texts of any proposed or issued Regulations.

India (ratification: 1960)

The Committee thanks the Government for the detailed information supplied in reply to its previous comments. It has noted with interest the developments in the situation of the least favoured groups of the population both in the field of legislation (strengthening of the Untouchability (Offences) Act, 1955, by the enactment of amendments to this Act in 1976; Ordinance of 1975 abolishing bonded labour) and in that of general or special policies for the promotion of the economic and social situation of these groups and more particularly of the members of the scheduled castes and scheduled tribes. In this regard, however, it appears from the information in the Government's report and in the report of the Commissioner for the Scheduled Castes and Scheduled Tribes (1973-74) that numerous problems still remain to be solved, of which the main one seems to be that of ensuring the effective application of the laws and programmes or the adequacy of the means available for the declared objectives. The Committee notes with regret the slow rate of progress in the matter of access to the higher grades in the public service which are reserved to members of the scheduled castes and scheduled tribes, and in the elimination of de facto segregation in forms of employment in the private sector. It would appreciate it if the Government would continue to supply information on developments in the situation in the areas mentioned above, and would indicate the measures taken for the practical promotion of the principle of equality of opportunity and treatment in employment and occupation, so as to eliminate all discrimination in this field. Further to its previous observation, the Committee again expresses the hope that the Government will be able to supply in its next report additional information on the measures taken or envisaged to adopt provisions designed to prevent discriminatory practices in all sectors of employment through appropriate procedures for the examination and settlement of cases in which such practices are alleged.

As regards the elimination of discrimination based on sex and the promotion of the employment of women, the Committee has noted with interest the measures recently taken to this end. It has noted first that the Equal Remuneration Act, No. 25 of 1976, provides for the setting up of advisory committees to examine practical means of promoting the employment of women. It would be grateful if the Government would supply information on the establishment of these committees and on progress in developing their activities. The Committee has also noted the creation of a Women's Cell in the Ministry of Labour in 1976, with responsibility for the formulation and co-ordination of policies designed to promote the economic and social status of women. It would be grateful if the Government would supply information on the activities of this Cell in the fields of vocational training and employment and would indicate in particular whether a well defined policy has been adopted, as was recommended by the Committee on

the Status of Women in India, for the fulfilment of the constitutional directives and the Government's long-term objectives of total involvement of women in national development.

Israel (ratification: 1959)

The Committee thanks the Government for the information supplied in its report in reply to its previous comments. It notes in particular that a number of administrative and advisory bodies of a representative nature have been created to encourage the implementation of programmes aimed at equal opportunity and treatment for citizens without distinction of religion on the one hand and without distinction of sex on the other. It hopes that the Government will continue to supply detailed information on the measures taken on this basis and on the results achieved.

In addition, in the light of the information submitted to the Governing Body of the International Labour Office on the situation of the workers in the occupied territories and of the data supplied by the Government on this matter (as reflected in a document on the question submitted to the March 1976 Session of the Governing Body), the Committee hopes that the Government will be able to supply any appropriate additional information on the opportunities afforded to these workers to enjoy equality of opportunity and treatment, particularly as regards the following matters (in the light of the above-mentioned document): (a) the organisation of recruitment and free choice of employment; (b) vocational guidance and training, access to different types of employment and occupation, promotion, security of employment; (c) general policy for the use and development of the human resources of the occupied territories; (d) the application in practice of the principle of equality of treatment in regard to remuneration, social benefits, bonuses and other work-related allowances; (e) the evolution of the position relating to the residence rights, housing, transport costs and conditions of these workers; (f) the supervisory and other measures taken to ensure that these workers are not the subject of discriminatory practices in individual undertakings in regard to working conditions; (g) general trends in wages, in other conditions of work and in social benefits in their territories; (h) the exercise of trade union and collective bargaining rights.

Liberia (ratification: 1959)

Having noted, from the information supplied by the Government in reply to its previous observation that a measure has been already taken with a view to removing from the Public Land Law provisions (providing different conditions for aborigines and other citizens of the Republic in matters of rights to land) which are inconsistent with national unification and integration policy, the Committee would appreciate it if the Government would supply in its next report detailed information on the measure referred to above and on further action taken in this connection.

Since the Government indicates in its report that the new Labour Code in which specific provisions to prevent discrimination in employment are included has been submitted to the national legislature in early 1976 and it is hoped that the new Labour Code will be adopted and promulgated before the 63rd Session of the International Labour Conference, the Committee trusts that the new Labour Code will contain provisions designed to promote equality of opportunity and treatment for all workers without distinction within the meaning of the Convention and it hopes that the Government will be able to supply a copy of the new Labour Code with its next report.

Mali (ratification: 1964)

The Committee noted with interest from the replies of the Government to its previous comments that the provisions of section 16 of Act No. 66-45 on the specific rules of permanent staff of the General Administration (which lays down that access to the Civil Administrators Service shall be open to candidates of either sex but that posts of territorial authority shall be reserved to male administrators) will be brought into line with the standards of the Convention - which provides for equality of opportunity and treatment without distinction of sex in public as well as private employment - when drafting the new texts relating to the public service rules planned as part of the administrative reform undertaken by the Government. The Committee hopes to receive at an early date information on any changes in this regard and the text of any legislation proposed or adopted.

Malta (ratification: 1968)

The Committee regrets to note that the Government's report has not been received. It has also noted that, further to its observation of 1975 inviting the Government to review as soon as possible the requirement that women resign their positions in the public service upon marriage, the representative of the Government to the Conference Committee (1975) indicated that the Government would keep this issue under review in the light of various relevant aspects, including opportunities for employment. The Committee trusts that the required steps would be taken without delay in order to bring the legislation and practice in line with the Convention in this respect.

With reference to section 26A of the Conditions of Employment (Regulation) Act, 1952, which, as amended in 1974, provides that, notwithstanding any other provision of this or any other law, where there occurs a vacancy in any employment previously occupied by a male, such vacancy shall, except with the special permission in writing of the Minister, be filled only by a male, the Committee would greatly appreciate it if the Government would indicate in its next report what steps are being taken to bring the legislation and practice into line with the Convention in this respect also.

Finally, the Committee hopes that the next report will contain information on further developments as regards equality of remuneration between men and women for work of equal value, as requested in the previous observation.

Mauritania (ratification: 1963)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

According to the information given by the Government representative to the Conference in 1975, a Central Employment Service has been set up to avoid any discrimination by employers, within the multi-racial context of the country, and that employers have accepted, by an agreement concluded with the workers in 1974, that recruitment should be carried out exclusively by this official service; furthermore, the Government intends to set up an employment and vocational training office managed by the workers themselves, in the hope of thus eliminating any risk of discrimination. The Committee would



be grateful if the Government would communicate with its next report, as it announced, the text of the legal provisions and administrative regulations in question, and would provide information on the results obtained owing to the legislative and administrative measures adopted or being adopted by virtue of sections 39 and 40 of Book V of the Labour Code, to "guarantee all persons equality of opportunity and treatment in respect of access to employment and to vocational training, as well as regards conditions of employment" (particularly with regard to effective participation at the various degrees of training and different levels of employment of persons of both sexes, and of different ethnic, social or religious groups).

Norway (ratification: 1960)

The Committee is grateful to the Government for the information supplied in its report. It notes in particular with interest the appended comments from the Norwegian Confederation of Trade Unions indicating that they try to counteract the real inequalities referred to in the Government's report (which subsist in spite of the considerable progress made in the efforts to implement formal equality between women and men) by improved arrangements for the care of children, active support for the Bill concerning equality of status between the sexes (in connection with employment, promotion, notice of termination and layoffs and equal remuneration) and through the inclusion in collective agreements of provisions that counteract inequalities and unequal opportunities. The Committee would greatly appreciate receiving information on further developments in connection with the matters referred to above (please also supply, as an illustration, some of the above-mentioned collective agreements and the text of the proposed Bill).

With regard to equal opportunities for education and further training, the Committee notes with interest that the Parliamentary Report No. 17 (1974-75) on further expansion and organisation of higher education, proposes, inter alia, that all who have reached 25 years of age and have a minimum of 5 years of occupational experience, including work as a housewife, in principle are eligible for admission to universities and other institutions of higher learning, and that one of the aims of the Act on Vocational Training for Adults is to secure equal opportunities for women and men and among different groups in the community. The Committee hopes that the Government will continue to provide information on practical measures taken in this respect and on results achieved.

Finally, having also noted from the report that, with a view to solving practical problems connected with female recruitment into traditional male work, the new Act concerning the control of establishment of undertakings and the proposal for new legislation regarding workers' protection both provide for the requirement that conditions shall be arranged in a manner suitable for employees of both sexes. The Committee would appreciate receiving information on any developments in this respect, as well as the text of any proposed or enacted legislation.

Sierra Leone (ratification: 1966)

The Committee noted from the information supplied by the Government in reply to its previous comments that consideration is still being given to the enactment of legislation embodying the provisions of the Convention (Article 3(b)). The Committee therefore hopes that the Government will be able to supply in its next report information on progress made in this respect.

Noting further from the report that the Committee (comprising prominent women) established during the International Women's Year will, in collaboration with the Government, work towards the enactment of legislation and initiate programmes and policies with a view to eliminating any discrimination against women in employment and occupation and maintaining in practice equality of opportunity for workers of both sexes, the Committee hopes to be kept informed of further developments in this respect.

Finally, having noted the study on education, training and employment opportunities for women in Sierra Leone prepared by a research team appointed by the Sierra Leone National Commission for UNESCO and published in 1974 by the Ministry of Education, which contains numerous tables, conclusions and recommendations, the Committee would greatly appreciate receiving detailed information on any action taken or contemplated to give effect to these recommendations and on results achieved in this connection.

Spain (ratification: 1964)

Further to its earlier comments the Committee noted with satisfaction that clause 2(3) of Decree No. 2310 of 20 August 1970, making a married woman's acceptance of employment subject to permission from her husband, has been repealed by Act No. 16 of 8 April 1976 on labour relations which specifies in section 10(2) that all women, regardless of civil status, can enter into contracts of employment of any kind and exercise, in the same way as men, all rights in relation to their professional activity.

The Committee also noted with interest that the Decree of 26 July 1957 on industries and occupations prohibited to women is being revised and that the future prohibitions will correspond only to physical requirements, principally from the point of view of maternity protection; it hopes to be informed of the outcome of this project.

Switzerland (ratification: 1961)

The Committee has noted with satisfaction, following its previous comments, that the amendments of 31 March and 15 April 1976 to the Civil Service Regulations (III) and of the Operating Regulations of the Federal Political Department (IV) and (VIII) have repealed the remaining provisions which discriminated against women (in relation to marriage).

The Committee has also noted with interest from the Government's report that on 28 February 1976 the Federal Council established a permanent Federal Commission for Women's Questions responsible, inter alia, for preparing recommendations or proposals to the Federal Council or to federal departments concerning measures to be taken in relation to the status of women in Switzerland. It would be grateful if the Government would in future reports supply information on the activities of this Commission, in particular as regards the creation of adequate conditions for promoting a more equitable participation of women in practice at all levels of working life.

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In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Algeria, Australia, Austria, Bangladesh, Benin, Bulgaria, Chad, Egypt, Ethiopia,

Gabon, Federal Republic of Germany, Guinea, Honduras, Hungary, Iran, Iraq, Ivory Coast, Jordan, Kuwait, Libyan Arab Republic, Madagascar, Mexico, Mongolia, Morocco, Netherlands, Niger, Peru, Philippines, Poland, Portugal, Romania, Somalia, Sudan, Trinidad and Tobago, Turkey, USSR, Yemen, Yugoslavia.

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

#### Liberia (ratification: 1960)

The Committee refers to its previous observations and recalls that section 326 of the Maritime Law which lays down a minimum age applies only to vessels engaged in foreign trade and that section 74 of the Labour Law, which prohibits the employment of children under 16 years of age during the hours when they are required to attend school, does not ensure that children under the age of 15 shall not be employed on work on fishing vessels, in accordance with Article 2(1) of the Convention.

The Government has stated since 1968 that a new Labour Code would ensure the full application of the Convention. The Committee regrets, however, that the report due this year has not been supplied and that no information is accordingly available on any progress made. It trusts that the necessary provisions will be adopted at an early date.

#### Spain (ratification: 1961)

Following its previous comments in which it had noted that the regulations applicable to cod-fishing permitted the employment of persons of 14 years as galley boys, contrary to the Convention, the Committee notes with satisfaction that the Labour Ordinance (cod-fishing) of 8 April 1976, which establishes a general minimum age of 16 years, no longer permits any such exception.

#### Surinam (ratification: 1976)

The Committee notes with interest from the information provided by the Government in reply to its earlier comments that a draft which brings the minimum age of fishermen from 14 to 15 years, in accordance with Article 2 of the Convention, is being prepared. It hopes that the draft will shortly be adopted.

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

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

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

Liberia (ratification: 1960)

The Committee refers to its previous observations, and recalls that section 336(3) (d) of the Maritime Law (as amended), which provides that a seaman shall not be entitled to sickness or injury benefits if at the time of his engagement he refused to be medically examined, does not ensure the medical examination of persons to be employed on fishing vessels, in accordance with Articles 2 to 5 of the Convention. It notes moreover that, by virtue of section 290(2) (a), even the above-mentioned provisions do not apply to ships under 75 net tons.

The Government has stated since 1973 that a new Labour Code would ensure the full application of the Convention. The Committee regrets that the report due this year has not been supplied and that no information is accordingly available on any progress made. It trusts that the necessary provisions will be adopted at an early date.

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In addition, requests regarding certain points are being addressed directly to the following States: Guinea, Yugoslavia.

**Convention No. 114: Fishermen's Articles of Agreement, 1959**

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

**Convention No. 115: Radiation Protection, 1960**

Requests regarding certain points are being addressed directly to the following States: Japan, Turkey.

**Convention No. 117: Social Policy (Basic Aims and Standards), 1962**

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

Information supplied by Costa Rica in answer to a direct request has been noted by the Committee.

## Convention No. 118: Equality of Treatment (Social Security), 1962

Italy (ratification: 1967)

Articles 3, 5 and 10, paragraph 1, of the Convention - Branch (e) (old-age benefit). In reply to the Committee's previous comments concerning the social pension provided for by section 26 of Act No. 153 of 30 April 1969, the Government reiterates that this benefit cannot be regarded as a social security benefit and that it is on the border between non-contributory social security benefits and social assistance. In this connection the Committee would draw the Government's attention to the fact that, while public assistance is excluded from the Convention by Article 10, paragraph 2, thereof, the same does not apply to benefits which are subject to a means test and the grant of which must be compulsorily guaranteed once the prescribed conditions are fulfilled. In the circumstances, the "social pension" to which Italian citizens over 65 years of age who meet certain requirements as to means, are entitled must be treated as falling within the scope of the Convention (Article 2, paragraph 6 (a)), particularly since this benefit was expressly introduced by a social security Act and its management and administration have been entrusted to a social security agency.

The Committee therefore hopes that the Government will review its decision so that the necessary measures can be taken with a view:

- (a) to granting the right to a "social pension", in accordance with Articles 3 and 10, paragraph 1, of the Convention, to the nationals of the other member States for which the Convention is in force and to refugees and stateless persons (without prejudice, as the case may be, to the Government's option to have recourse to Article 4, paragraph 2 (c) of the Convention);
- (b) to ensure the payment of this benefit, in case of residence abroad, both to Italian nationals and to nationals of any other State Member which has accepted the obligations of the Convention for branch (e) as well as to refugees and stateless persons (without prejudice to the Government's option to have recourse to Article 5, paragraph 2, so as to subordinate the payment of this benefit to participation with the Members concerned in schemes for the maintenance of rights as provided for in Article 7 of the Convention).

The Committee requests the Government to indicate in its next report the measures taken or envisaged to give effect to the Convention on these points, and also on those dealt with in the direct request which it made in 1976.

Surinam (ratification: 1976)

Article 4 of the Convention - Branch (g) (employment injury benefits). Referring to its earlier comments the Committee notes that, while the Ordinance of 24 November 1975 to amend and supplement Government Decree No. 145 of 1947 has eliminated the former differences in the treatment of nationals and non-nationals in the matter of workmen's compensation in the event of residence abroad, the text of section 6(8) of the Decree now provides for nationals (as well as non-nationals) injured in industrial accidents to forfeit their entitlement to benefit if they transfer their residence out of Surinam without the employer's permission before the end of the three-year period during which the

degree of disablement can be reviewed. The Committee would like to draw the Government's attention to the fact that, by so providing, the new legislation has led to a curtailment of the rights of nationals by bringing them into line with those of non-nationals, whereas the opposite solution should have been adopted, i.e. that of assimilating non-nationals to nationals so as to guarantee without any restriction, both to Surinam nationals and to nationals of another country which has ratified the Convention, the payment of industrial accident benefit in the event of residence abroad.

Consequently, the Committee hopes that section 6(8) of Decree No. 145 of 1947 can be amended in the near future in accordance with the assurances previously given by the Government, in such a way as to abolish the restrictions on payment of cash benefits abroad (both for Surinam nationals and for nationals of other countries which have ratified the Convention) at least from the date when disability is deemed permanent even if its degree is still liable to review (but without prejudice to any arrangements made for example under Article 11 of the Convention for checking the injured persons's condition when resident abroad).

Syrian Arab Republic (ratification: 1963)

Article 5 of the Convention. In its earlier comments the Committee drew the Government's attention to the fact that section 94 of Act No. 92 of 1959, as amended by Act No. 143 of 1961, which provides that invalidity, old-age, survivors' and employment injury pensions shall cease to be paid where the beneficiary, regardless of his nationality, leaves the country for good, and they may be replaced by an equivalent lump sum, does not comply with Article 5 of the Convention. The Government states in its report that it has submitted to the competent authority a bill amending the section 94 in question and taking account of the Committee's comments.

The Committee duly notes this statement. It hopes therefore that section 94 of the Act will shortly be amended in accordance with the assurances given over a period of many years by the Government, so as to give full effect to this provision of the Convention which does not authorise the conversion of these benefits into a lump sum but requires that their payment be continued when the beneficiary resides abroad, even in the absence of a bilateral agreement and whatever the country of residence, both to nationals and to the nationals of any other Member which has accepted the obligations in respect of the branch or branches in question.<sup>1</sup>

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In addition, requests regarding certain points are being addressed directly to the following States: Denmark, Ecuador, Guinea, Israel.

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.

## Convention No. 119: Guarding of Machinery, 1963

### Central African Empire (ratification: 1964)

The Committee notes with regret that the Government's report contains no information in answer to its previous comments, which related to the following points:

Article 2 of the Convention. Section 37, paragraph 3 of General Order No. 3758 of 25 November 1954 provides that the dangerous machinery or parts of machinery, whose sale, exhibition or hire is prohibited under paragraph 1, shall be designated by order. No order has so far been adopted to determine the dangerous machinery or parts of machinery of which the sale, hire and exhibition are prohibited.

Article 10, para. 1. The reports indicate that workers are informed by posters of the provisions of national legislation concerning the guarding of machinery. No laws or regulations however have been adopted to this effect.

Article 11. The legislation does not contain provisions to ensure that no worker shall be required to use any machinery without the guards provided being in position, or to ensure that no guards shall be made inoperative on any machinery to be used by any worker.

The Committee hopes that the necessary measures to give full effect to the Convention will be taken in the near future.

### Congo (ratification: 1964)

For a number of years, the Committee has been drawing attention to the need to adopt measures to give effect to Article 2 of the Convention (prohibition of the sale, hire, transfer in any other manner and exhibition of dangerous machinery without appropriate guards). Under section 135 of the Labour Code, 1975 (as under corresponding earlier provisions), the offer for sale, hire and use of such machinery are in principle prohibited, but the machinery and parts of machinery to which the prohibition applies are to be determined by ministerial order.

The Committee notes the Government's statement that, since the Congo neither manufactures nor sells machinery, it would not appear necessary to define dangerous machinery in the legislation. The Committee would point out in this connection that under Articles 1 and 2 of the Convention the prohibition on the sale, hire and exhibition of dangerous machinery applies also to imported machinery and to second-hand machinery.

The Committee hopes that an order will shortly be issued to determine the machinery and parts of machinery to which the prohibition in section 135 of the Labour Code applies.<sup>1</sup>

### Ecuador (ratification: 1969)

In its previous comments, the Committee noted that Executive Order No. 4002, issued on 7 November 1974, had instructed the

<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1978.

Department of Industrial Health and Safety in the Office of the Director-General for Labour to prepare within a period of six months, in consultation with the organisations of employers and workers concerned, provisions which would give effect to this Convention. The Committee notes that the work has not yet been completed and there thus exist no provisions to give effect to the Convention. It trusts that the provisions in question will be completed shortly, in consultation with the organisations of employers and workers concerned, and that they will be brought into force in the near future.<sup>1</sup>

Ghana (ratification: 1965)

The Committee regrets that the Government's report contains no reply to its previous direct request, which dealt with the following matters.

Articles 1 and 17 of the Convention. The Committee had noted that the Factories, Offices and Shops Act, 1970, was limited by section 82 to factories, offices and shops as defined in the Act, whereas the Convention applies to all branches of economic activity.

In reply, the Government indicated in 1972 that it was considering extending the Act to cover agricultural and forestry machinery. In 1974, it indicated that due to staffing and other problems no progress had been made in that direction. Its latest report contains no further information on the matter.

As regards the application of the Convention to mines and road and rail transport, the Government indicated that this was the responsibility of governmental agencies other than the factories inspectorate, and the Committee had requested the Government to indicate the measures taken to ensure its application in these branches, and to provide copies of the relevant laws or regulations.

The Committee hopes that measures will be taken at an early date to ensure the application of the Convention in agriculture and forestry and that the Government will supply full particulars of the manner in which it is applied in mines and in road and rail transport, as well as to machinery on board ships.

Guatemala (ratification: 1964)

The Committee notes the Government's statement, in answer to its previous comments, that a draft Labour Code and a draft Labour Procedure Code are being considered by the Congress. The Committee recalls that since 1968 it has drawn attention to the need for adoption of provisions to give effect to Part II of the Convention, relating to the sale, hire, transfer in any other manner and exhibition of dangerous machinery without appropriate guards.

The Committee hopes that provisions giving effect to this part of the Convention will be adopted at any early date.<sup>2</sup>

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.

<sup>2</sup> The Government is asked to report in detail for the period ending 30 June 1978.



Jordan (ratification: 1964)

The Committee recalls that in previous direct requests it had drawn attention to the fact that only partial effect is given to the Convention. In particular, there are no provisions relating to the sale, hire, transfer and exhibition of machinery as required by Part II of the Convention.

Further, it is not clear whether effect is given to Article 17 of the Convention which requires that its provisions shall apply to machinery in all branches of economic activity (including, for example, mines, ships, transport, building and construction, agriculture, subject, in the case of road and rail vehicles and agricultural machinery to the limitations laid down in Article 1, paragraph 3), since the Regulations No. 57 of 1963, which give effect to certain provisions of the Convention, apply only to machinery in "industry".

The Committee notes that the comprehensive revision of the labour legislation, already noted in its previous general observation, is still under way. It hopes that, as a result, legislation will be enacted which gives effect to the provisions of the Convention mentioned above, and takes account also of Article 16 (laws and regulations giving effect to the Convention to be made after consultation with the most representative organisation of employers and workers concerned and, as appropriate, manufacturers' organisations).<sup>1</sup>

Kuwait (ratification: 1964)

In its previous comments the Committee had noted that no provisions existed in the legislation relating to the sale, hire, transfer in any other manner or exhibition of inadequately guarded machinery and that there were no specific provisions concerning the use of such machinery. The Committee therefore notes with interest from the Government's report that a bill to amend the Labour Act has been prepared to prohibit the sale, hire, transfer or use of machines the dangerous parts of which are not properly guarded, and that, after promulgation of the amending act, a ministerial order will be issued to give effect to the provisions of the Convention. The Committee hopes that appropriate provisions will be adopted at an early date to give effect to the requirements of the Convention and applicable to all branches of economic activity.<sup>2</sup>

Madagascar (ratification: 1964)

The Committee has, for a number of years, been drawing attention to the need to adopt measures to give effect to Articles 2 to 4 of the Convention (prohibition of the sale, hire, transfer in any other manner and exhibition of dangerous machinery without appropriate guards).

In recent reports, the Government has referred to the provisions of the Labour Code of 1975 under which safety conditions at the workplace are to be the subject of orders. However, orders to give effect to the above-mentioned provisions of the Convention have not yet been

<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1978.

<sup>2</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session and to report in detail for the period ending 30 June 1977.

issued. The Committee once again expresses the hope that an order will shortly be issued to this end.

The Committee hopes that the Government will also take measures to ensure the application of the Convention to machinery in ships and on railways, which according to the reports are governed by separate legislation (Article 17).<sup>1</sup>

Niger (ratification: 1964)

The Committee notes, from the information supplied in reply to its previous observations, that it is the Government's intention to recast in a single decree all the earlier texts on workers' safety, including provisions on the guarding of machinery.

The Committee hopes that measures will be adopted in the near future to give effect to the Convention, more particularly as regards its application to machinery operated by manual power (Article 1, para. 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).<sup>1</sup>

Paraguay (ratification: 1967)

In its first report, the Government indicated that draft regulations to give effect to the Convention had reached the stage of final consideration. The Committee notes however, from the Government's report for 1975-76 that the regulations in question have still not been approved. It trusts that the necessary provisions will be adopted in the very near future.<sup>2</sup>

Sierra Leone (ratification: 1964)

Referring to its earlier comments, the Committee notes that the following discrepancies continue to exist between national legislation and the requirements of the Convention.

Factories. Pending issue of appropriate regulations under the Factories Act 1974, the regulations issued under the Machinery (Safe Working and Inspection) Act continue to apply. They deal only with the use of machinery (as provided for in Part III of the Convention) but do not regulate the sale, hire, transfer in any other manner, or exhibition of machinery (as required by Part II of the Convention). The Committee notes that new regulations, which are to be issued under the Factories Act 1974, are still the subject of consultation with the ministries and organisations concerned.

Other sectors of activity. The Committee had noted that the earlier legislation did not apply to road and rail vehicles, to ocean-going steamships or to government-owned steam vessels (contrary to Article 1, paragraph 3(a) and Article 17 of the Convention). It observes that the Factories Act 1974, which together with the regulations issued thereunder will replace the earlier provisions,  
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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1978.

<sup>2</sup> The Government is asked to report in detail for the period ending 30 June 1977.

applies only to factories as defined in the Act, and accordingly does not extend to road and rail vehicles, to agricultural machinery, to mines, or to shipping. According to Articles 1 and 17 of the Convention, its provisions should be applied in all these sectors.

The Committee trusts that measures will be taken at an early date to give effect to the Convention, both as regards its substantive requirements and as regards the sectors of activity to be protected.<sup>1</sup>

#### Spain (ratification: 1971)

In previous comments, the Committee had drawn attention to the need to take measures to give effect to Articles 2 to 4 of the Convention (prohibiting the sale, hire or transfer in any other manner and exhibition of new or second-hand machinery of which the dangerous parts are without appropriate guards).

The Committee notes with interest from the Government's report that it is intended to include specific provisions for the guarding of machinery and for the prohibition of the use of inadequately guarded machinery in the draft General Regulations on Industrial Safety and Health, which are at present under consideration by the Labour Inspection Service. The Committee hopes that the new Regulations will be adopted soon and will ensure the application of Articles 2 to 4 of the Convention.<sup>1</sup>

#### Tunisia (ratification: 1970)

The Committee notes with regret that the Government's report has not been received. It recalls that, although section 4 of Decree No. 67-391 of 6 November 1967 prohibits the use, offer for sale, sale or hire of dangerous machinery or parts of machinery for which guards of recognised efficiency exist without the recognised guards, paragraph 2 of this section provides that the machines or parts of machines in question shall be determined by order. In the absence of such an order, therefore, effect is not given to the Convention.

The Committee trusts that the necessary measures will be taken at an early date to ensure the application of the Convention.<sup>2</sup>

#### Turkey (ratification: 1967)

Further to its previous observations the Committee notes with regret that the report for 1974-75 (which was received in May 1976) still does not reply to the comments which it has been making since 1971.

Article 1, paragraph 3(b), of the Convention. The Committee notes the statement by a Government representative to the Conference Committee in 1976 that the provisions of Labour Law No. 1475 do not apply to protect those working with agricultural machinery and that this matter will be regulated by the draft law on agriculture. The

<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1978.

<sup>2</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session and to report in detail for the period ending 30 June 1977.

Committee trusts that this draft law will be enacted in the near future and that it will give effect to the provisions of the Convention in relation to agricultural machinery.

Since no reply has been received on the other outstanding questions, the Committee is bound to repeat its comments thereon for the fifth consecutive year. It trusts that the Government will not fail to take the measures and to supply the information called for in these comments:

Articles 2, 3 and 4. With reference to the Government's earlier statement that under the Regulations of 22 December 1969 all machinery shall be provided with appropriate guards, the Committee wishes to point out that Part II of the Convention requires specific measures to regulate the sale, hire, transfer and exhibition of machinery. The Committee further notes that according to the existing legislation, the responsibility for the guarding of machinery appears to rest exclusively with the employer, whereas this Part of the Convention prescribes obligations for the manufacturer, vendor, exhibitor, and the person letting out on hire or transferring the machinery, or - where appropriate under national laws or regulations - their respective agents. In these circumstances, the Committee hopes that the Government will take appropriate measures to ensure the application of Articles 2, 3 and 4 of the Convention and will supply detailed information in this regard.

Article 8. The Government is asked to indicate whether and to what extent use has been made of the provisions of this Article.

Article 10, paragraph 1. In its first report, the Government indicates that section 2 of the Regulations of 22 December 1969 lays down an obligation for the employer to bring the national laws and regulations relating to the guarding of machinery to the notice of workers and to instruct them regarding the dangers arising out of, and the precautions to be observed in, the use of machinery. Please indicate in detail the steps which employers must take to comply with this provision of the Convention, and how the authorities ensure compliance by all employers concerned.

Article 10, paragraph 2. The Government is asked to indicate the principal requirements as to the environmental conditions which employers are required to establish and maintain.

Article 15, paragraphs 1 and 2. The Committee notes that the sanctions provided for in section 102 of the Labour Act of 1971 and the inspection provided for in Chapter VII of the Labour Act and in section 521 of the Regulations of 22 December 1969 concern only the employer. Please indicate what steps have been taken or are contemplated to ensure the application of these provisions of the Convention and also to the manufacturer, vendor, exhibitor, and the person letting out on hire or transferring the machinery, or - where appropriate under national laws or regulations - to their respective agents.

Article 17, paragraph 1. The Committee notes that, according to section 5 of the Labour Act, sea and air transport as well as agriculture are excluded from the scope of the Act. Since the provisions of the Convention apply to all branches of economic activity, the Committee hopes that the Government will indicate the measures taken or contemplated to ensure the application of the Convention to sea and air transport, as well as to agriculture.

Zaire (ratification: 1967)

In previous direct requests, the Committee had drawn attention to the following matters:

Articles 2 to 4 of the Convention. There are no provisions prohibiting the sale, hire, transfer or exhibition of machinery without appropriate guards.

Article 17, in relation with Article 1, paragraph 3. Although the Government had stated that the Convention was enforced in the agricultural sector by virtue of the powers conferred on the Department of Agriculture, it had provided no information on the provisions which ensured its implementation in that sector.

The Committee notes from the Government's report that no legislative measures have yet been taken on the above-mentioned matters because they concern several ministries and bodies, and time is needed to obtain their views on the subject. The Committee trusts that the necessary legislation will be adopted in the near future.<sup>1</sup>

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In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Cyprus, Ghana, Guatemala, Japan, Malaysia, Morocco.

Information supplied by the Syrian Arab Republic in answer to a direct request has been noted by the Committee.

**Convention No. 120: Hygiene (Commerce and Offices), 1964**Ecuador (ratification: 1967)

The Committee notes with satisfaction that following its previous comments the Occupational Safety and Hygiene Regulations 1975 have been issued, which give effect to Articles 13 (sufficient and suitable washing facilities and sanitary conveniences), 14 (sufficient and suitable seats to be supplied for workers), 16 (standards of hygiene for underground or windowless premises) and 18 (measures to reduce noise and vibration) of the Convention.

Jordan (ratification: 1964)

The Committee has, in previous comments, drawn attention to the fact that only partial effect is given to the Convention. Thus, there are no provisions in the national legislation on the matters dealt with in Articles 10, 11, 14, 15, 16 and 18, nor any provision requiring the setting-up of dispensaries or first-aid posts when the size and possible risks of the establishment justify it, in accordance with Article 19. Furthermore, the provisions of the Labour Act which give effect to certain requirements of the Convention do not apply to undertakings employing fewer than five workers.

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1978.

The Committee notes that the comprehensive revision of the labour legislation, already noted in its previous general observation, is still under way. It hopes that as a result legislation will be enacted which will ensure the application of the provisions of the Convention mentioned above, and which, in accordance with Article 4(b), will give such effect as may be possible and desirable under national conditions to the provisions of the Hygiene (Commerce and Offices) Recommendation, 1964. The Committee also hopes that, in accordance with Article 5 of the Convention, the relevant laws and regulations will be framed after consultation with the representative organisations of employers and workers concerned.<sup>1</sup>

Paraguay (ratification: 1967)

In earlier comments, the Committee has drawn attention to the need to adopt detailed regulations to supplement the general provisions of the Labour Code, in order in particular to ensure the application of Articles 10 and 18 of the Convention and, in accordance with Article 4(b) of the Convention, to give such effect as may be possible and desirable under national conditions to the provisions of the Hygiene (Commerce and Offices) Recommendation, 1964. Since 1973 the Government has referred to draft regulations on occupational hygiene and safety which would take account of the Committee's comments.

The Committee notes that these regulations have not yet been adopted, but are still at the stage of consultations with employers' and workers' organisations. It trusts that the necessary regulations will be adopted in the near future, and that the Government will be able to supply full information thereon in the next report.<sup>1</sup>

Switzerland (ratification: 1966)

In previous comments, the Committee had noted that the only legislative provision relating to hygiene in commerce and offices was section 6 of the Federal Labour Act, which places on employers a general obligation to make the necessary arrangements to protect workers' life and health. It had pointed out that this provision was not sufficient to ensure observance of the detailed requirements of the Convention.

The Government had indicated that, by virtue of its ratification, the Convention had become applicable as part of Swiss law. The Committee had however pointed out that Article 4 of the Convention required the adoption of laws or regulations to ensure the application of its provisions and that, in accordance with Article 6 of the Convention, measures were necessary to provide for the enforcement of observance of the Convention.

In its earlier reports, the Government had indicated its intention to issue an order under the Federal Labour Act to regulate health and safety requirements in commerce and offices, following the adoption in 1969 of a corresponding order for industrial establishments. However, in its latest report, the Government indicates that the preparation of such an order has been abandoned, and that it is now proposed to lay down health and safety requirements for non-industrial undertakings within the framework of new legislation on accident insurance, which was about to be submitted to Parliament.

<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1978.

The Committee hopes that legislative provisions will be adopted at an early date which, in accordance with Article 4 of the Convention, will ensure the application of the general principles set forth in Part II of the Convention and give such effect as may be possible and desirable under national conditions to the provisions of the Hygiene (Commerce and Offices) Recommendation, 1964. It also hopes that the relevant legislation will provide for the enforcement of these requirements by means of inspection and penalties, in accordance with Article 6 of the Convention.<sup>1</sup>

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In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Ecuador, France, Indonesia, Madagascar, Paraguay, Spain, Venezuela, Zaire.

### Convention No. 121: Employment Injury Benefits, 1964

Requests regarding certain points are being addressed directly to the following States: Belgium, Guinea, Ireland, Japan, Yugoslavia.

### Convention No. 122: Employment Policy, 1964

#### Guinea (ratification: 1966)

The Committee notes with regret that no report has been received. As it noted in its previous observation, in the absence of detailed information in reply to the questions contained in the report form approved by the Governing Body and to the Committee's previous comments, the Committee is unable to assess the extent to which the Government has declared and is pursuing an active policy designed to promote full, productive and freely chosen employment, as required by the Convention.

#### Ireland (ratification: 1967)

The Committee notes the information provided by the Government in reply to its previous comments. It notes with interest the Government's Green Paper on Economic and Social Development 1976-80 which sets out a number of proposals for the establishment of policy measures in consultation with the social partners to bring about an improvement in the country's economic situation and a concomitant fall in the high unemployment rate now prevailing.

In this connection the Committee has noted the further comments communicated by the Irish Congress of Trade Unions. These comments indicate that at its annual conference in 1976, the Congress adopted a motion declaring that the first objective of national policy must be the organisation of full productive employment with a view to maintaining existing employment and providing employment for those at present unemployed and for the increasing number of young persons who

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1978.

will be available for employment in the immediate future. The Congress considered that steps taken hitherto to promote unemployment were completely inadequate and called for action by the Government to establish a Development Corporation empowered to take the necessary measures to develop existing state enterprises and to establish new enterprises, to establish adequate research and development facilities, and to develop new forms of co-operation with private enterprise with a view to the fullest possible development of national resources. The Committee notes that the Green Paper mentioned above contains a number of proposals tending towards meeting the demands made by the Irish Congress of Trade Unions. The Committee hopes that the Government will provide information on the consultations which have taken place on these matters with employers' and workers' organisations, the measures taken and the progress made in increasing productive employment.

The Committee notes that at its 1976 Conference, the Irish Congress of Trade Unions also called for the development by the Government, in co-operation with the various economic interests involved, of an over-all National Economic and Social Plan which would have as its first priority the achievement of full employment by 1986. In this connection the Committee notes that the Government's Green Paper also proposed the preparation of a clearly defined plan for economic growth, setting out agreed priorities. The Committee hopes that the Government will be able to provide information in its next report on the measures taken in this respect, and on the objectives and programmes in the field of employment which may have been provided for in the plan.

The Irish Congress of Trade Unions also expressed concern that the Anti-Discrimination (Employment) Bill, introduced in October 1975 and dealing with discrimination on the basis of sex or marital status in respect of recruitment, training and advancement in employment, has not yet been enacted. The Committee notes from the Government's report that the Government intends to propose the inclusion in the bill of provisions for the establishment of an Employment Equality Agency. It hopes that this legislation will be enacted at an early date.

#### Jordan (ratification: 1966)

The Committee notes the brief indications in the Government's most recent report on the results of the Three-Year Development Plan 1973-75 and the aims of the Development Plan for 1976-80. It regrets, however, that the Government has not provided the detailed information which is indispensable to enable the Committee to evaluate the adequacy of these policies in achieving the objectives stated in the Convention. It trusts therefore that the Government's next report will provide all available information on the employment situation in the country and the policies and programmes pursued in this field, as requested in the report form on the Convention and indicated in greater detail in a direct request.

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In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Australia, Belgium, Brazil, Byelorussian SSR, United Republic of Cameroon, Canada, Chile, Costa Rica, Cyprus, Denmark, Ecuador, Finland, France, Federal Republic of Germany, Guinea, Hungary, Iran, Iraq, Ireland, Israel, Italy, Jordan, Libyan Arab Republic, Madagascar, Mauritania, Netherlands, New Zealand, Panama, Paraguay, Peru, Poland, Romania, Spain, Sudan, Surinam, Thailand, Tunisia, Uganda, Ukrainian SSR, USSR, United Kingdom, Yugoslavia.



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

### Convention No. 123: Minimum Age (Underground Work), 1965

Rwanda (ratification: 1970)

On ratification of this Convention, the Government specified that the minimum age for underground work in mines would be 18 years. The Committee notes, however, that the order to prescribe such a minimum age, which according to earlier reports was to be issued in application of section 124 of the Labour Code, is still under study. In the meantime, only the general minimum age for employment of 14 years, laid down by section 125 of the Labour Code, applies.

The Committee hopes that the above-mentioned order will be issued at an early date and that, in addition to establishing the requisite minimum age, it will prescribe appropriate penalties to ensure its observance, in accordance with Article 4, paragraph 1 of the Convention, and require the maintenance and accessibility to workers' representatives of the records provided for in Article 4, paragraphs 4 and 5.<sup>1</sup>

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In addition, requests regarding certain points are being addressed directly to the following States: Australia, Cyprus, Gabon, Kenya, Madagascar, Malaysia, Thailand, Uganda, Zambia.

Information supplied by Byelorussian SSR, France, Italy, Ukrainian SSR and USSR in answer to direct requests has been noted by the Committee.

### Convention No. 124: Medical Examination of Young Persons (Underground Work), 1965

A request regarding certain points is being addressed directly to Gabon.

### Convention No. 126: Accommodation of Crews (Fishermen), 1966

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

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<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.

**Convention No. 127: Maximum Weight, 1967**

Requests regarding certain points are being addressed directly to the following States: Madagascar, Thailand, Tunisia.

**Convention No. 128: Invalidity, Old-Age and Survivors' Benefits, 1967**

Netherlands (ratification: 1969)

Part VI (common provisions), Article 33, paragraph 1, of the Convention. In connection with its earlier comments the Committee notes with satisfaction that Act No. 473 of 8 September 1976 has repealed section 46(b) of the 1966 Act on incapacity insurance concerning payment of the husband's incapacity benefit simultaneously with the old-age pension for a married couple claimable by his older wife.

Uruguay (ratification: 1973)

The Committee takes note of the information supplied by the Government in its supplementary report for the period 1974-75 and in its report for the period 1974-76. It feels obliged to draw the Government's attention to the need to send precise statistical data so that the Committee may reach a decision on the conformity of the national legislation with the provisions of the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: Austria, Barbados, Cyprus, Federal Republic of Germany, Netherlands, Norway, Sweden, Uruguay.

**Convention No. 129: Labour Inspection (Agriculture), 1969**

Requests regarding certain points are being addressed directly to the following States: Federal Republic of Germany, Madagascar, Malawi, Norway, Uruguay.

**Convention No. 130: Medical Care and Sickness Benefits, 1969**

Requests regarding certain points are being addressed directly to the following States: Federal Republic of Germany, Uruguay.

**Convention No. 131: Minimum Wage Fixing, 1970**

Japan (ratification: 1970)

The Committee notes from the Government's report that four representative organisations of workers (SOHYO, DOMEI, CHUITSURORON and SHIN SANBETSU) have submitted a joint demand asking the Government to endeavour to introduce a minimum wage system with a uniform rate for all industries throughout the country, and that the rate should be revised annually to take into account the cost of living and the wages situation; and that the National Federation of Organisations of Smaller Enterprises has expressed its opposition to a nation-wide uniform minimum wage rate. It notes that the matter is now under study by the Central Minimum Wages Council, in which representatives of employers, workers and the public interest participate.

The Committee notes that the above-mentioned questions relate to possible changes within a system which is already in conformity with the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: Australia, United Republic of Cameroon, Ecuador, Libyan Arab Republic.

**Convention No. 132: Holidays with Pay (Revised), 1970**

Requests regarding certain points are being addressed directly to the following States: Madagascar, Norway.

**Convention No. 134: Prevention of Accidents (Seafarers), 1970**

Requests regarding certain points are being addressed directly to the following States: Mexico, Nigeria, Spain.

**Convention No. 135: Workers' Representatives, 1971**

Federal Republic of Germany (ratification: 1973)

The Committee has taken note of the comments sent by the German Confederation of Trade Unions and of the observations supplied by the Government on these comments.

In its comments the Confederation points out that, in the Federal Republic of Germany, there exist both elected representatives and trade union representatives. For the elected representatives, the guarantees provided for in the Convention are ensured by the national legislation. There are no specific legislative provisions concerning such guarantees for trade union representatives whose legal position and protection in the undertaking are, in the first instance, the subject of free collective bargaining.

The Confederation takes the view that collective agreements which guarantee protection and facilities to trade union representatives are admissible and compatible with the internal legal system. However, the validity of such collective agreements is becoming more and more contested by employers' associations and also in the legal and political circles closest to them. In Parliament, certain political groups are said to consider provisions in collective agreements which grant to trade union delegates facilities and special protection against dismissal as a privilege which, in the view of some, is not compatible with the German legal system.

These different points of view, continues the Confederation, impede in an intolerable manner, the conclusion of collective agreements designed to guarantee the protection and facilities envisaged in the Convention, and the negotiation of such agreements could even become impossible.

The Confederation considers that, in this situation, the Government cannot be content with recognising the conformity of the agreements in question with the law in force, but it should ensure, by means of clear and explicit legal provisions, that there can be no obstacle to the conclusion of these agreements.

In addition, the Confederation considers that the objections raised in various quarters that the agreement is dependent on the national legislation as regards who should be considered as falling within the definition of workers' representative, are not in accordance with the letter or the spirit of the Convention. In the view of the Confederation, Article 4 of the Convention expressly provides that the type (or types) of representatives who should benefit from the protection and facilities provided, can be determined by the various methods laid down in this Article. These various legal sources are given equal importance. The opinion put forward that collective agreements cannot grant to trade union representatives a protection equal to that which is guaranteed by law to representatives on works councils, is in contradiction with the terms of Article 4 of the Convention.

Finally, the Confederation refers to Article 5 which provides that measures shall be taken to ensure that the existence of elected representatives is not used to undermine the position of the trade unions concerned or their representatives.

The Government, in its comments, challenges the view of the Confederation that the Government would be obliged to adopt legislation to specify the legality of collective agreements as regards the protection and facilities to be granted to trade union representatives. The Government considers that it has implemented the obligations deriving from the Convention. Article 4 of the Convention, in fact, confers on States that are parties to the Convention the right to determine the type or types of representatives who should benefit from the guarantees provided for in the Convention. In the national legislation this possibility of choice has been exercised by establishing a legal system whereby protection and facilities are ensured to elected representatives. Article 4 places on the same footing the various legal devices which may be used in making this choice. If a State makes use of one of these possibilities, no other or wider obligation can be said to be imposed by the Convention.

As concerns Article 5, the Government points out that this constitutes a protection for the trade unions and their representatives and that such protection is afforded by a number of provisions in the legislation.

Finally, the Government recalls that it expressed its opinion, in its first report, as to the legality of collective agreements designed to ensure protection to trade union representatives.

The Committee considers that it is in conformity with the Convention to provide, by legislative means, protection and facilities to one of the types of representatives referred to in the instrument, namely, elected representatives. Having thus proceeded, the Government has chosen one of the specific methods laid down in Article 4 of the Convention to determine these representatives. This Article also mentions other means, among which are collective agreements. In other words, according to this Article, a government may have recourse to legislation in order to determine the type of representatives who will have a right to the protection and the facilities provided for in the Convention, but the means of doing so through collective agreements should remain open to trade unions and employers or their organisations. Consequently, the legislation of a country should not prevent, nor should it be so applied, as to prevent collective bargaining as provided for in the Convention. The Committee requests the Government to supply information on any measures that might be taken to this effect.

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In addition, requests regarding certain points are being addressed to the following States: Mexico, Niger.

### Convention No. 136: Benzene, 1971

Requests regarding certain points are being addressed directly to the following States: Cuba, France, Federal Republic of Germany, Hungary, Ivory Coast, Kuwait, Morocco, Spain, Zambia.

**Appendix I. Receipt of Detailed Reports on Ratified Conventions  
(States Members) as at 30 March 1977**

*(Article 22 of the Constitution)*

Reports received: 1,831      Reports not received: 369      Total: 2,200

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Afghanistan . . . . .	7	13, 14, 45, 100, 105, 106, 111	0	—	7
Algeria . . . . .	18	3, 11, 13, 14, 32, 58, 62, 68, 87, 91, 97, 98, 99, 100, 111, 119, 120, 122	0	—	18
Argentina . . . . .	28	1, 3, 5, 7, 8, 9, 11, 13, 14, 15, 20, 21, 26, 27, 30, 32, 33, 35, 36, 45, 50, 58, 68, 87, 98, 100, 107, 111	0	—	28
Australia . . . . .	15	7, 8, 11, 15, 21, 26, 27, 45, 47, 87, 98, 99, 100, 123, 131	6	9, 86, 111, 112, 122, 137	21
Austria . . . . .	17	5, 11, 13, 21, 26, 27, 33, 45, 87, 98, 99, 100, 102, 103, 111, 122, 128	0	—	17
Bahamas . . . . .	0	—	11	5, 7, 11, 14, 26, 45, 50, 64, 86, 97, 98	11
Bangladesh . . . . .	13	1, 11, 14, 15, 21, 27, 32, 45, 59, 87, 98, 106, 111	1	107	14
Barbados . . . . .	0	—	15	5, 7, 11, 26, 50, 86, 87, 97, 98, 100, 102, 108, 111, 118, 128	15
Belgium . . . . .	29	1, 5, 7, 8, 9, 11, 13, 14, 15, 21, 26, 27, 32, 33, 43, 45, 58, 62, 68, 87, 91, 96, 97, 98, 99, 100, 102, 112, 122	0	—	29
Benin . . . . .	13	4, 6, 11, 14, 26, 29, 33, 41, 85, 87, 95, 98, 100	5	5, 13, 18, 105, 111	18
Bolivia . . . . .	14	1, 5, 14, 20, 26, 30, 45, 78, 87, 98, 100, 103, 106, 107	1	42	15
Brazil . . . . .	21	5, 11, 14, 19, 21, 26, 45, 53, 58, 91, 97, 98, 99, 100, 103, 106, 107, 108, 111, 120, 122	0	—	21

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Bulgaria . . . . .	37	1, 3, 7, 8, 9, 11, 13, 14, 15, 20, 21, 26, 27, 30, 32, 35, 36, 37, 38, 39, 40, 43, 45, 49, 58, 59, 60, 62, 68, 87, 98, 100, 106, 111, 112, 120, 123	0	—	37
Burma . . . . .	9	1, 11, 14, 15, 21, 26, 27, 52, 87	0	—	9
Burundi . . . . .	23	1, 4, 11, 12, 14, 17, 18, 19, 26, 27, 29, 42, 50, 52, 59, 62, 64, 81, 89, 90, 94, 101, 105	0	—	23
Byelorussian SSR . . . . .	21	11, 14, 15, 27, 32, 45, 47, 52, 58, 59, 60, 87, 98, 100, 103, 106, 111, 119, 120, 122, 123	0	—	21
United Rep. of Cameroon	21	3, 5, 9, 11, 13, 14, 15, 26, 29, 33, 45, 50, 64, 65, 87, 97, 98, 99, 100, 123, 131	1	122	22
Canada . . . . .	16	1, 7, 8, 14, 15, 26, 27, 32, 45, 58, 68, 87, 100, 108, 111, 122	0	—	16
Central African Empire . .	15	5, 11, 13, 14, 26, 29, 33, 81, 87, 98, 99, 100, 105, 111, 119	3	3, 62, 67	18
Chad . . . . .	0	—	18	4, 5, 6, 11, 13, 14, 26, 29, 33, 41, 52, 81, 87, 95, 98, 100, 105, 111	18
Chile . . . . .	24	1, 3, 5, 7, 8, 9, 11, 13, 14, 15, 20, 26, 27, 30, 32, 34, 35, 36, 37, 38, 45, 100, 111, 122	0	—	24
Colombia . . . . .	20	1, 3, 5, 7, 8, 9, 11, 13, 14, 15, 21, 26, 30, 62, 95, 99, 100, 106, 107, 111	2	20, 22	22
Congo . . . . .	12	5, 6, 11, 13, 14, 26, 29, 33, 87, 89, 95, 119	0	—	12
Costa Rica . . . . .	23	11, 26, 29, 45, 81, 87, 90, 92, 94, 95, 96, 98, 100, 105, 106, 107, 111, 112, 113, 114, 117, 120, 127	7	88, 89, 99, 102, 122, 129, 130	30

## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Cuba . . . . .	36	1, 3, 8, 9, 11, 13, 14, 20, 21, 26, 27, 29, 30, 32, 45, 58, 59, 60, 67, 87, 91, 92, 97, 98, 99, 100, 103, 106, 107, 110, 111, 112, 120, 122, 131, 136	0	—	36
Cyprus . . . . .	12	11, 15, 45, 87, 97, 98, 106, 111, 119, 122, 123, 128	0	—	12
Czechoslovakia . . . . .	23	1, 5, 11, 13, 14, 21, 26, 27, 35, 36, 37, 38, 39, 40, 43, 45, 49, 87, 98, 99, 100, 111, 123	0	—	23
Democratic Yemen . . . .	6	15, 58, 59, 64, 86, 98	0	—	6
Denmark . . . . .	22	5, 7, 8, 9, 11, 14, 15, 21, 32, 58, 62, 87, 98, 100, 102, 106, 108, 111, 112, 115, 120, 122	0	—	22
Dominican Republic . . . .	13	1, 5, 7, 26, 45, 81, 87, 98, 100, 106, 107, 111, 119	2	77, 95	15
Ecuador . . . . .	21	11, 26, 35, 37, 39, 45, 87, 98, 100, 102, 103, 106, 107, 110, 111, 112, 119, 120, 122, 123, 131	1	86	22
Egypt . . . . .	8	1, 26, 29, 30, 87, 88, 98, 106	13	2, 11, 14, 19, 45, 53, 89, 100, 101, 104, 107, 111, 115	21
El Salvador . . . . .	1	107	0	—	1
Ethiopia . . . . .	4	11, 87, 98, 111	0	—	4
Fiji . . . . .	18	5, 8, 11, 12, 19, 26, 45, 50, 58, 59, 64, 65, 84, 85, 86, 98, 105, 108	1	29	19
Finland . . . . .	25	8, 9, 11, 13, 14, 20, 21, 27, 30, 32, 45, 53, 62, 87, 91, 98, 100, 108, 111, 119, 120, 122, 129, 130, 134	0	—	25
France . . . . .	37	3, 5, 8, 9, 11, 13, 14, 15, 26, 27, 32, 33, 35, 36, 37, 38, 43, 45, 49, 58, 62, 68, 84, 87, 91, 97, 98, 99, 100, 106, 108, 112, 120, 122, 123, 131, 136	2	102, 118	39
Gabon . . . . .	11	4, 6, 10, 12, 52, 87, 95, 96, 101, 105, 106	14	3, 5, 11, 13, 14, 19, 26, 33, 45, 98, 99, 100, 111, 123	25



State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
German Democratic Republic . . . . .	2	11, 27	0	—	2
Federal Republic of Germany . . . . .	27	3, 7, 8, 9, 11, 15, 22, 26, 27, 45, 62, 87, 92, 97, 98, 99, 100, 102, 111, 112, 120, 122, 126, 128, 130, 134, 136	0	—	27
Ghana . . . . .	22	1, 8, 11, 14, 15, 26, 30, 45, 50, 58, 59, 64, 87, 96, 98, 100, 106, 107, 108, 111, 119, 120	0	—	22
Greece . . . . .	17	1, 3, 5, 7, 8, 9, 11, 13, 14, 15, 27, 45, 58, 87, 95, 98, 108	1	102	18
Guatemala . . . . .	17	26, 30, 45, 58, 62, 86, 87, 97, 98, 99, 100, 106, 108, 110, 111, 112, 119	0	—	17
Guinea . . . . .	33	3, 5, 10, 11, 13, 14, 16, 17, 18, 26, 29, 33, 45, 52, 62, 81, 87, 90, 94, 95, 98, 99, 100, 105, 111, 112, 113, 114, 115, 118, 119, 120, 121	2	117, 122	35
Guyana . . . . .	13	5, 7, 11, 15, 26, 45, 50, 64, 86, 87, 97, 98, 108	0	—	13
Haiti . . . . .	19	1, 5, 12, 14, 17, 19, 29, 30, 42, 45, 77, 78, 81, 90, 98, 100, 105, 106, 107	0	—	19
Honduras . . . . .	5	32, 62, 87, 108, 111	5	14, 45, 98, 100, 106	10
Hungary . . . . .	19	3, 7, 13, 14, 15, 21, 26, 27, 45, 62, 87, 98, 99, 100, 103, 111, 122, 123, 136	0	—	19
Iceland . . . . .	11	11, 15, 29, 58, 87, 91, 98, 100, 102, 108, 111	0	—	11
India . . . . .	13	1, 5, 11, 14, 15, 21, 26, 27, 32, 45, 100, 107, 111	0	—	13
Indonesia . . . . .	7	27, 29, 45, 98, 100, 106, 120	0	—	7
Iran . . . . .	6	14, 100, 106, 108, 111, 122	0	—	6

## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Iraq . . . . .	26	1, 8, 13, 14, 15, 16, 18, 19, 26, 27, 29, 30, 42, 58, 59, 77, 98, 100, 105, 106, 111, 122, 131, 132, 135, 136	0	—	26
Ireland . . . . .	24	5, 7, 8, 11, 14, 15, 20, 21, 26, 27, 32, 43, 45, 49, 62, 68, 81, 87, 98, 100, 102, 108, 122, 132	0	—	24
Israel . . . . .	16	1, 5, 9, 14, 20, 30, 87, 91, 97, 98, 100, 102, 106, 111, 112, 122	0	—	16
Italy . . . . .	38	3, 7, 8, 9, 11, 13, 14, 15, 26, 27, 32, 35, 36, 37, 38, 39, 40, 45, 58, 59, 60, 68, 87, 91, 97, 98, 99, 100, 102, 103, 106, 108, 111, 112, 119, 120, 122, 123	0	—	38
Ivory Coast . . . . .	9	3, 5, 11, 13, 14, 87, 98, 99, 100	7	26, 33, 45, 105, 110, 111, 136	16
Jamaica . . . . .	9	11, 19, 26, 50, 64, 86, 87, 97, 98	4	7, 8, 15, 58	13
Japan . . . . .	17	5, 7, 8, 9, 15, 21, 26, 27, 45, 50, 58, 87, 98, 100, 119, 121, 131	0	—	17
Jordan . . . . .	6	100, 105, 111, 119, 120, 122	2	98, 123	8
Kenya . . . . .	18	5, 11, 14, 15, 26, 27, 32, 45, 50, 58, 59, 64, 86, 97, 98, 99, 112, 123	1	63	19
Kuwait . . . . .	7	1, 30, 87, 106, 111, 119, 136	1	105	8
Lao Republic . . . . .	0	—	4	4, 6, 13, 29	4
Lebanon . . . . .	0	—	6	14, 26, 45, 52, 89, 90	6
Liberia . . . . .	5	29, 87, 98, 104, 111	4	55, 58, 112, 113	9
Libyan Arab Republic . .	5	1, 3, 14, 98, 100	9	26, 53, 59, 89, 96, 104, 111, 122, 131	14
Luxembourg . . . . .	22	1, 5, 7, 8, 9, 11, 13, 14, 20, 21, 26, 27, 28, 30, 45, 59, 60, 87, 98, 100, 102, 103	3	3, 15, 16	25
Madagascar . . . . .	8	4, 6, 12, 26, 41, 87, 95, 127	11	5, 11, 13, 14, 33, 100, 111, 119, 120, 122, 123	19

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Malawi . . . . .	17	12, 19, 26, 45, 50, 64, 65, 81, 86, 89, 97, 98, 99, 100, 104, 107, 129	2	11, 111	19
Malaysia . . . . .	7	50, 64, 88, 98, 105, 119, 123	0	—	7
Peninsular Malaysia . . .	2	11, 45	0	—	2
Sabah . . . . .	3	15, 86, 97	0	—	3
Sarawak . . . . .	5	7, 11, 14, 15, 86	0	—	5
Mali . . . . .	10	5, 11, 13, 14, 26, 33, 87, 98, 100, 111	0	—	10
Malta . . . . .	0	—	14	5, 7, 8, 11, 15, 26, 32, 35, 36, 87, 98, 99, 108, 111	14
Mauritania . . . . .	0	—	34	3, 5, 6, 11, 13, 14, 15, 17, 18, 19, 22, 23, 26, 29, 33, 52, 53, 58, 62, 81, 84, 87, 89, 90, 91, 94, 95, 96, 101, 102, 111, 112, 114, 122	34
Mauritius . . . . .	18	5, 7, 8, 11, 14, 15, 26, 32, 50, 58, 59, 64, 84, 86, 97, 98, 99, 108	0	—	18
Mexico . . . . .	32	8, 9, 11, 13, 14, 21, 22, 26, 27, 30, 32, 43, 45, 49, 58, 62, 87, 99, 100, 102, 105, 106, 107, 108, 110, 111, 112, 120, 123, 131, 134, 135	0	—	32
Mongolia . . . . .	0	—	6	59, 87, 98, 100, 103, 111	6
Morocco . . . . .	14	11, 13, 14, 15, 26, 27, 30, 45, 98, 99, 106, 111, 119, 136	0	—	14
Nepal . . . . .	0	—	2	111, 131	2
Netherlands . . . . .	29	5, 8, 9, 11, 13, 14, 15, 21, 26, 27, 32, 33, 45, 58, 62, 68, 87, 91, 97, 99, 100, 102, 106, 111, 112, 122, 123, 128, 131	0	—	29

## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
New Zealand . . . . .	20	1, 9, 11, 14, 15, 21, 26, 30, 32, 45, 47, 49, 50, 58, 59, 64, 84, 97, 99, 122	0	—	20
Nicaragua . . . . .	18	1, 3, 5, 7, 8, 9, 11, 13, 14, 15, 21, 26, 27, 28, 30, 87, 98, 100	2	105, 111	20
Niger . . . . .	15	5, 11, 13, 14, 26, 33, 87, 98, 100, 102, 104, 111, 117, 119, 135	0	—	15
Nigeria . . . . .	16	8, 11, 15, 26, 32, 45, 50, 58, 59, 64, 87, 97, 98, 100, 123, 134	0	—	16
Norway . . . . .	33	5, 7, 8, 9, 11, 13, 14, 15, 21, 26, 27, 30, 32, 43, 49, 50, 58, 59, 68, 87, 91, 97, 98, 100, 102, 108, 111, 112, 119, 120, 122, 128, 137	0	—	33
Pakistan . . . . .	16	1, 11, 14, 15, 21, 27, 29, 32, 45, 59, 87, 96, 98, 106, 107, 111	0	—	16
Panama . . . . .	32	3, 8, 9, 11, 13, 15, 20, 21, 26, 27, 30, 32, 43, 45, 53, 58, 64, 68, 86, 87, 92, 98, 100, 107, 108, 110, 111, 112, 119, 120, 122, 123	0	—	32
Papua New Guinea . . . .	9	7, 8, 11, 26, 27, 45, 98, 99, 122	0	—	9
Paraguay . . . . .	21	1, 11, 14, 26, 29, 30, 59, 60, 77, 87, 98, 99, 100, 106, 107, 111, 117, 119, 120, 122, 123	0	—	21
Peru . . . . .	13	35, 36, 37, 38, 39, 40, 52, 56, 71, 79, 87, 90, 102	28	1, 8, 9, 11, 14, 20, 26, 27, 29, 32, 45, 53, 58, 59, 62, 67, 68, 69, 81, 98, 99, 100, 101, 107, 111, 112, 114, 122	41
Philippines . . . . .	12	17, 59, 77, 87, 89, 90, 98, 99, 100, 105, 110, 111	0	—	12
Poland . . . . .	28	5, 7, 8, 9, 11, 13, 14, 15, 27, 35, 36, 37, 38, 39, 40, 45, 62, 68, 87, 91, 98, 100, 105, 111, 112, 120, 122, 123	0	—	28

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Portugal . . . . .	13	1, 7, 14, 26, 27, 45, 68, 91, 98, 100, 106, 108, 111	1	107	14
Romania . . . . .	14	1, 3, 8, 9, 11, 13, 14, 27, 59, 87, 98, 100, 111, 122	0	—	14
Rwanda . . . . .	7	11, 14, 26, 50, 62, 64, 123	0	—	7
Senegal . . . . .	15	5, 11, 13, 14, 26, 33, 87, 98, 99, 100, 101, 102, 111, 120, 122	0	—	15
Sierra Leone . . . . .	19	5, 7, 8, 15, 26, 32, 45, 50, 58, 59, 64, 86, 87, 98, 99, 100, 105, 111, 119	0	—	19
Singapore . . . . .	11	5, 7, 8, 11, 15, 32, 45, 50, 64, 86, 98	0	—	11
Somalia . . . . .	5	29, 45, 84, 94, 111	4	16, 23, 65, 85	9
Former British Somaliland . . . . .	0	—	2	50, 64	2
Spain . . . . .	37	1, 3, 5, 7, 8, 9, 11, 13, 14, 15, 20, 26, 27, 30, 32, 45, 58, 59, 60, 62, 68, 91, 97, 99, 100, 103, 106, 108, 111, 112, 119, 120, 122, 123, 131, 134, 136	0	—	37
Sri Lanka . . . . .	10	5, 7, 8, 11, 15, 26, 45, 58, 98, 99	0	—	10
Sudan . . . . .	5	26, 98, 100, 111, 122	0	—	5
Surinam . . . . .	8	11, 13, 14, 27, 62, 87, 106, 112	1	122	9
Sweden . . . . .	23	7, 8, 9, 11, 13, 14, 15, 21, 27, 32, 58, 87, 98, 100, 102, 108, 111, 119, 120, 122, 128, 134, 137	0	—	23
Switzerland . . . . .	14	5, 8, 11, 14, 15, 26, 27, 45, 58, 62, 100, 111, 120, 123	0	—	14
Syrian Arab Republic . . . . .	17	1, 11, 14, 26, 30, 45, 98, 99, 100, 106, 107, 111, 118, 119, 120, 123, 131	1	87	18
Tanzania . . . . .	10	11, 15, 26, 50, 59, 64, 86, 94, 95, 98	3	17, 29, 105	13
Tanganyika . . . . .	3	32, 45, 101	2	88, 108	5
Zanzibar . . . . .	4	5, 7, 58, 97	1	85	5

## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Thailand . . . . .	0	—	9	14, 19, 29, 88, 104, 105, 122, 123, 127	9
Togo . . . . .	0	—	9	5, 11, 13, 14, 26, 29, 33, 84, 87	9
Trinidad and Tobago . . .	6	15, 50, 87, 97, 98, 111	0	—	6
Tunisia . . . . .	6	45, 81, 87, 100, 105, 106	22	8, 11, 13, 14, 26, 58, 59, 62, 88, 91, 98, 99, 107, 108, 111, 112, 117, 119, 120, 122, 123, 127	28
Turkey . . . . .	0	—	14	11, 14, 15, 45, 58, 81, 95, 96, 98, 99, 100, 111, 118, 119	14
Uganda . . . . .	11	5, 11, 26, 45, 50, 64, 86, 98, 105, 122, 123	0	—	11
Ukrainian SSR . . . . .	22	11, 14, 15, 27, 32, 45, 47, 58, 59, 60, 87, 98, 100, 103, 106, 108, 111, 112, 119, 120, 122, 123	0	—	22
USSR . . . . .	24	11, 14, 15, 27, 29, 32, 45, 47, 52, 58, 59, 60, 87, 98, 100, 103, 106, 108, 111, 112, 119, 120, 122, 123	0	—	24
United Kingdom . . . . .	28	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 87, 97, 98, 99, 100, 102, 108, 114, 120, 122	1	45	29
United States . . . . .	1	58	0	—	1
Upper Volta . . . . .	0	—	25	3, 4, 5, 6, 11, 13, 14, 17, 18, 19, 26, 29, 33, 41, 81, 87, 95, 97, 98, 100, 111, 129, 131, 132, 135	25
Uruguay . . . . .	33	1, 8, 9, 11, 13, 14, 15, 20, 21, 24, 25, 26, 27, 30, 32, 43, 45, 58, 59, 60, 62, 67, 87, 94, 97, 98, 99, 103, 106, 108, 110, 112, 128	0	—	33
Venezuela . . . . .	13	1, 3, 5, 7, 11, 13, 14, 21, 26, 27, 45, 98, 111	2	22, 120	15
Viet-Nam . . . . .	0	—	11	5, 13, 14, 26, 27, 45, 98, 111, 120, 122, 123	11

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Yemen . . . . .	2	104, 111	0	—	2
Yugoslavia . . . . .	23	3, 5, 7, 8, 9, 11, 13, 14, 15, 27, 45, 48, 58, 87, 91, 97, 98, 100, 103, 106, 112, 119, 123	6	22, 81, 102, 111, 114, 122	29
Zaire . . . . .	12	11, 14, 26, 27, 50, 62, 64, 84, 98, 100, 119, 120	0	—	12
Zambia . . . . .	11	11, 26, 45, 50, 64, 86, 97, 99, 123, 131, 136	4	29, 100, 105, 135	15
<i>Other States :</i>					
Albania <sup>1</sup> . . . . .	0	—	16	5, 6, 10, 11, 16, 21, 29, 52, 58, 59, 77, 78, 87, 98, 100, 112	16
Lesotho <sup>1</sup> . . . . .	11	5, 11, 14, 19, 26, 29, 45, 64, 65, 87, 98	0	—	11
Republic of South Africa <sup>1</sup> .	0	—	7	2, 19, 26, 42, 45, 63, 89	7
Western Samoa . . . . .	3	14, 50, 64	0	—	3

<sup>1</sup> Albania, Lesotho and the Republic of South Africa have withdrawn from the ILO, but these States continue to be bound by the Conventions which they have ratified (article 1, paragraph 5, of the Constitution).

# Appendix II. Statistical Table of Reports on Ratified Conventions as at 30 March 1977

(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	65.3	648	81.1
1948-1949	806	134 <sup>1</sup>	16.6	666	82.6	695	86.2
1949-1950	831	253	30.4	597	71.8	666	80.1
1950-1951	907	288	31.7	705	77.7	761	83.9
1951-1952	981	268	27.3	743	75.7	826	84.2
1952-1953	1 026	212	20.6	840	81.8	917	89.3
1953-1954	1 175	268	22.8	1 077	91.7	1 119	95.2
1954-1955	1 234	283	22.9	1 063	86.1	1 170	94.8
1955-1956	1 333	332	24.9	1 234	92.5	1 283	96.2
1956-1957	1 418	210	14.7	1 295	91.3	1 349	95.1
1957-1958	1 558	340	21.8	1 484	95.2	1 509	96.8
1958-1959	995 <sup>2</sup>	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	1 691	82.5
1972-1974	2 189	370	16.5	1 854	84.6	1 958	89.4
1973-1975	2 034	301	14.8	1 663	81.7	1 764	86.7
1974-1976	2 200	292	13.2	1 831	83.0	—	—

<sup>1</sup> First year for which this figure is available.

<sup>2</sup> 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**

#### Denmark

The Committee regrets that none of the reports due in respect of the application of Conventions in the Faeroe Islands has been received. It hopes that the reports in question will be available for examination at its next session.

#### France

The Committee regrets that the reports due in respect of the application of Conventions in St. Pierre and Miquelon and the first reports due for two years on Conventions Nos. 24 and 105 in respect of the Overseas Departments (French Guiana, Guadeloupe, Martinique and Réunion) have not been received. It hopes that the reports in question will be available for examination at its next session.

The Committee noted that the French Territory of the Afars and Issas is soon to become independent. It has refrained, therefore, from addressing comments to France concerning the application of Conventions in this territory.

#### United Kingdom

The Committee notes that once again no reports have been received in respect of the application of Conventions in Southern Rhodesia (Zimbabwe), and that accordingly no information is available in answer to the observations previously made concerning the observance in this territory of Conventions Nos. 81, 82, 84, 86 and 105. It recalls that the decisions of the United Nations concerning the right of the people of Zimbabwe to self-determination, and in particular General Assembly Resolution 3297 (XXIX) of 13 December 1974, have affirmed the primary responsibility for the territory of the Government of the United Kingdom as administering power under Chapter XI of the United Nations Charter, and expresses the hope that appropriate measures will be taken to ensure the observance of the obligations accepted in respect of Southern Rhodesia (Zimbabwe) under or in relation to international labour Conventions.

It would appear from the relevant reports that consideration might be given to the possibility of making declarations of application pursuant to article 35 of the ILO Constitution in respect of Antigua and British Virgin Islands (Convention No. 120), Dominica (Convention No. 90), Gibraltar and Hong Kong (Convention No. 100).

## B. INDIVIDUAL OBSERVATIONS

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

A request regarding certain points is being addressed directly to France (French Polynesia).

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

Requests regarding certain points are being addressed directly to the following States: France (St. Pierre and Miquelon), United Kingdom (British Solomon Islands).

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

United Kingdom

Hong Kong

Article 3 of the Convention. In its previous comments, the Committee had noted that the provisions of section 2, paragraph 3(a), of the Factories and Industrial Establishments Ordinance, which excludes from its application any establishment which is "not carried on by way of trade or for purposes of gain", were not in conformity with the Convention. It notes with interest from the Government's last report that the necessary amendments are being prepared to bring national legislation into conformity with the Convention. The Committee hopes that these amendments will be adopted in the near future.

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Information supplied by Denmark (Faeroe Islands) in answer to a direct request has been noted by the Committee.

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

Information supplied by Denmark (Faeroe Islands) in answer to a direct request has been noted by the Committee.

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

Requests regarding certain points are being addressed directly to the following States: Denmark (Faeroe Islands), France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion), United Kingdom (Belize, British Solomon Islands, British Virgin Islands, Dominica, Falkland Islands (Malvinas), Gibraltar, Hong Kong, Montserrat, St. Helena, St. Kitts-Nevis-Anguilla, St. Lucia, St. Vincent).

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

Requests regarding certain points are being addressed directly to the following States: Denmark (Faeroe Islands), France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion; New Caledonia, St. Pierre and Miquelon).

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

A request regarding certain points is being addressed directly to the United Kingdom (Antigua).

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

Requests regarding certain points are being addressed directly to the United Kingdom (Antigua, British Solomon Islands, Hong Kong).

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

Requests regarding certain points are being addressed directly to the following States: Denmark (Faeroe Islands), United Kingdom (British Solomon Islands).

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

Requests regarding certain points are being addressed directly to the following States: France (French Polynesia), United Kingdom (St. Helena, St. Lucia).

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

Information supplied by Denmark (Faeroe Islands) in answer to a direct request has been noted by the Committee.

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

Requests regarding certain points are being addressed directly to the following States: France (French Polynesia), United Kingdom (British Solomon Islands, Brunei, Dominica, Montserrat, St. Helena, St. Lucia, St. Vincent).

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

Requests regarding certain points are being addressed directly to France (French Polynesia, New Caledonia).

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

Requests regarding certain points are being addressed directly to France (French Polynesia, New Caledonia).

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

A request regarding certain points is being addressed directly to the Netherlands (Netherlands Antilles).

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

Requests regarding certain points are being addressed directly to the United Kingdom (British Virgin Islands, Montserrat, St. Lucia).

Information supplied by the United Kingdom (Dominica, Hong Kong) in answer to direct requests has been noted by the Committee.

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

Article 2, paragraph 2(c), of the Convention. With reference to its earlier comments the Committee notes that the Government confirms its intention of repealing section 87(2) of Order No. 10.74/APA of 25 August 1951 on the prison system which provides that prisoners may be placed without their consent at the disposal of private individuals, and repeats that in spite of this text there have been no cases in which prison labour has been hired out to private individuals.

The Committee again requests the Government to indicate in its next report the steps which have been taken to bring the law into conformity with the national practice and the Convention on this point.

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In addition, requests regarding certain points are being addressed directly to France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion).

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

Requests regarding certain points are being addressed directly to the following States: France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion), United Kingdom (Falkland Islands (Malvinas)).

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

Article 5 of the Convention. In reference to its previous observations, the Committee recalls that section 17(1) of the Ordinance of 22 August 1952 prohibits the employment of persons of less than 18 years of age in work which is dangerous as defined by government order. It hopes that an order to implement this prohibition will be issued in the near future.

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

Requests regarding certain points are being addressed directly to France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion; New Caledonia, St. Pierre and Miquelon).

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

Requests regarding certain points are being addressed directly to France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion; New Caledonia, St. Pierre and Miquelon).

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

Requests regarding certain points are being addressed directly to France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion; New Caledonia, St. Pierre and Miquelon).

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

Requests regarding certain points are being addressed directly to France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion; New Caledonia, St. Pierre and Miquelon).

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

In reply to the Committee's earlier comments the Government states that the inclusion of tuberculosis under the item relating to silicosis is at present being considered, with the assistance of the Director of Medical Services, and that, while it is not yet possible to give a precise date for the adoption of the proposed amendments, there should not be any undue delay.

The Committee notes this statement and hopes that the amendments can be adopted in the very near future so that the item relating to silicosis will also cover tuberculosis, as required by the Convention.

The Committee requests the Government to report on any progress made towards the adoption of the amendments.

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In addition, a request regarding certain points is being addressed directly to France (French Polynesia).

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

A request regarding certain points is being addressed directly to France (French Polynesia).

**Convention No. 50: Recruiting of Indigenous Workers, 1936**

A request regarding certain points is being addressed directly to United Kingdom (British Solomon Islands).

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

Requests regarding certain points are being addressed directly to France (French Polynesia, New Caledonia).

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

A request regarding certain points is being addressed directly to France (French Polynesia).

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

In connection with its earlier observations, the Committee notes from the Government's report that the draft regulations fixing the minimum age for admission to sea-going employment are to be submitted to the competent authorities. As there are at present no provisions in this field, the Committee trusts that the draft will be adopted in the near future.<sup>1</sup>

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In addition, requests regarding certain points are being addressed directly to the United Kingdom (Falkland Islands (Malvinas), Montserrat, St. Helena).

Information supplied by the United Kingdom (Gilbert Islands, Tuvalu) in answer to direct requests has been noted by the Committee.

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

Requests regarding certain points are being addressed directly to the United Kingdom (Antigua, Bermuda, British Solomon Islands, British Virgin Islands, Falkland Islands (Malvinas), Gibraltar, Gilbert Islands, Hong Kong, Montserrat, St. Kitts-Nevis-Anguilla, St. Lucia, Tuvalu).

**Convention No. 63: Statistics of Wages and Hours of Work, 1938**United KingdomSt. Lucia

Article 1(b) of the Convention. The Committee notes from the information supplied by the Government in reply to its previous observation and direct requests, that, although certain statistics have been compiled for the period 1970-75 and these are made available to interested persons, no statistics have yet been published as required under this Article. It requests the Government to indicate what steps are being taken to ensure publication of the data required under Articles 13-20 and 22 of the Convention.

Part III. The Committee notes that for most of the occupations for which statistical data are supplied only average weekly earnings are given and that the statistics include time rates of wages as required under this Part of the Convention only for certain occupations in the food and beverage industry. The Committee recalls that up to

<sup>1</sup> The Government is asked to report in detail for the period ending 30 June 1977.

1969 statistics supplied included basic wage rates, and hopes that the Government will in future compile and publish the statistics required under this Part of the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: France (French Polynesia), United Kingdom (Brunei).

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

A request regarding certain points is being addressed directly to the United Kingdom (British Solomon Islands).

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

#### Netherlands

#### Netherlands Antilles

In connection with its earlier comments, the Committee noted the detailed information given by the Government in its report for the period 1973-75, indicating that, while it would be possible to train galley boys at the sea training school, the introduction of a ships' cooks' training course would not be justified in view of the high cost since placement in international shipping has not produced satisfactory results and there is very little interest in this as a career. The Government therefore considers that it is not appropriate to prepare provisions relating to the training of ships' cooks.

The Committee would like to make it clear that the Convention requires the adoption of provisions, whether in laws or regulations or in collective agreements, which specify in relation to vessels defined as sea-going vessels (Article 1) that no person shall be engaged as a cook - i.e. as the person directly responsible for the preparation of meals for the crew (Article 2) - unless he holds a certificate of qualification (Article 3) granted by the competent authority or a body approved as indicated in Article 4, or a certificate issued in another territory (Article 6). The obligation under the Convention regarding the adoption of provisions does not necessarily therefore involve an obligation to set up or maintain a training programme for ships' cooks in the territory itself. However, according to the Government's reports, training courses have been provided and assistant cooks' certificates have been issued locally. In view of this, the Committee hopes that appropriate provisions will be adopted shortly to give effect to this Convention, which has been the subject of comments by the Committee since 1956.

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In addition, requests regarding certain points are being addressed directly to France (French Polynesia, New Caledonia).



**Convention No. 71: Seafarers' Pensions, 1946**

A request regarding certain points is being addressed directly to France (French Polynesia).

**Convention No. 81: Labour Inspection, 1947**

Requests regarding certain points are being addressed directly to the following States: France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion; New Caledonia); United Kingdom (Antigua, Brunei, Isle of Man).

Information supplied by the United Kingdom (Belize) in answer to a direct request has been noted by the Committee.

**Convention No. 82: Social Policy (Non-Metropolitan Territories), 1947**United KingdomSt. Vincent

Article 18, paragraphs 1(i) and 2, of the Convention. The Committee notes the Government's statement in its report for 1972-74 (repeated in May 1976) that the minimum wage rates for women in agriculture and in industrial undertakings are lower than those for men, but that the jobs assigned to men and women are different, those for women being less strenuous. The Committee would, however, point out that the principle of equal pay for work of equal value requires the elimination of differing wage rates established by reference to the sex of the workers concerned. While this does not prevent the fixing of different rates for different types of work, such differences should be based on criteria other than the worker's sex. The Committee therefore hopes that measures will be taken to ensure that wage rates are fixed on the basis of the work to be performed and not on the basis of sex.

Article 19, paragraphs 2 and 3. For a number of years the Committee has been drawing the Government's attention to the need to prescribe a minimum school-leaving age and, in 1969, the Government indicated that the necessary legislation would be enacted as soon as funds became available. The Committee notes from the Government's report for 1974 to 1976 that it is continuing to give careful consideration to the Committee's comments with a view to effecting the necessary measures when it is in a position to do so, and hopes that the Government will shortly be able to indicate the progress made towards the application of these provisions of the Convention.

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

A request regarding certain points is being addressed directly to the United Kingdom (Brunei).

Information supplied by the United Kingdom (British Virgin Islands) in answer to a direct request has been noted by the Committee.

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

Requests regarding certain points are being addressed directly to the following States: Australia (Norfolk Island), United Kingdom (Antigua, Bermuda, Dominica, St. Vincent).

**Convention No. 88: Employment Service, 1948**

Requests regarding certain points are being addressed directly to France (French Polynesia, New Caledonia).

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

A request regarding certain points is being addressed directly to France (New Caledonia).

Information supplied by the United Kingdom (Dominica) in answer to a direct request has been noted by the Committee.

**Convention No. 95: Protection of Wages, 1949**

Requests regarding certain points are being addressed directly to the United Kingdom (Hong Kong, St. Lucia).

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

Requests regarding certain points are being addressed directly to France (French Polynesia, New Caledonia).

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

United Kingdom

Dominica

Following its earlier direct requests, the Committee notes with satisfaction that the Industrial Relations Act adopted in 1975 gives

workers protection against anti-union discrimination at the time of engagement, in accordance with Article 2(1) (a) of the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: Australia (Norfolk Island), France (New Caledonia), United Kingdom (Antigua, Hong Kong).

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

#### France

Overseas departments (French Guiana, Guadeloupe, Martinique, Réunion)

The Committee notes with regret that no report has been received. It recalls that for many years it has been pointing out that, while separate minimum wage rates are fixed for workers in the overseas departments, the representatives of the employers and workers concerned in those departments are not consulted when the rates applicable to them are fixed, as required by Article 3, paragraph 3, of the Convention. A Government representative informed the Conference Committee in 1976 that it was proposed to take measures to ensure the requisite consultation of the employers and workers concerned but, in the absence of a report, no information on the action taken is available.

The Committee hopes that the necessary measures to ensure the observance of the above-mentioned provisions of the Convention will be taken in the near future.<sup>1</sup>

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In addition, requests regarding certain points are being addressed directly to the following States: France (Guadeloupe, Martinique), United Kingdom (St. Kitts-Nevis-Anguilla).

### **Convention No. 100: Equal Remuneration, 1951**

A request regarding certain points is being addressed directly to France (New Caledonia).

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<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 63rd Session.

**Convention No. 105: Abolition of Forced Labour, 1957**United KingdomSouthern Rhodesia (Zimbabwe)

See under General Observations.

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In addition, requests regarding certain points are being addressed directly to the following States: Denmark (Faeroe Islands), France (Overseas Territories: French Polynesia, New Caledonia, St. Pierre and Miquelon), United Kingdom (Brunei).

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

Requests regarding certain points are being addressed directly to the following States: France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion; New Caledonia), Netherlands (Netherlands Antilles).

**Convention No. 108: Seafarers' Identity Documents, 1958**United KingdomBrunei

In connection with its previous comments the Committee notes with satisfaction the instructions appended to the Government's report, which are designed to facilitate entry to the territory of seafarers holding a valid seafarer's identity document, in accordance with Article 6 of the Convention.

Dominica

Article 4, paragraph 2, of the Convention. Further to its previous comments, the Committee notes with satisfaction that an endorsement is now put on all seafarers' certificates issued, stating that they are seafarers' identity documents for the purpose of the Convention.

St. Kitts-Nevis-Anguilla

Article 4, paragraph 2, of the Convention. In connection with its earlier comments the Committee notes with interest from the Government's report that a new type of seafarers' identity document is being printed which will contain the statement referred to in this Article. The Committee hopes that the Government will be able to enclose a copy with the next report.

Article 6. The Committee notes also with interest the Government's assurance that the current regulations will be revised so as to permit entry into the territory by seafarers holding an identity document, in accordance with this Article. It hopes the Government will be able to supply the revised text with its next report.

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In addition, requests regarding certain points are being addressed directly to the United Kingdom (Antigua, Brunei, Dominica, Falkland Islands (Malvinas), St. Vincent).

### **Convention No. 115: Radiation Protection, 1960**

Requests regarding certain points are being addressed directly to France (French Polynesia, New Caledonia).

### **Convention No. 120: Hygiene (Commerce and Offices), 1964**

Requests regarding certain points are being addressed directly to France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion; French Polynesia)

### **Convention No. 122: Employment Policy, 1964**

A request regarding certain points is being addressed directly to France (New Caledonia).

### **Convention No. 123: Minimum Age (Underground Work), 1965**

Information supplied by France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion) in answer to direct requests has been noted by the Committee.

### **Convention No. 136: Benzene, 1971**

Requests regarding certain points are being addressed directly to France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion).

**Appendix. Receipt of Detailed Reports on Ratified Conventions  
(Non-Metropolitan Territories) as at 30 March 1977**

*(Articles 22 and 35 of the Constitution)*

Reports received: 991      Reports not received: 305      Total: 1,296

The numbers of Conventions in respect of which declarations of application without modifications or declarations of application with modification had been registered by 1 January 1976 are in italics.

Countries and Territories	Reports received		Reports not received		Population <sup>1</sup> (thousands)
	Total	Conventions Nos.	Total	Conventions Nos.	
Australia . . . . .	18		3		
Norfolk Islands . . . . .	18	7, 8, 9, 11, 15, 21, 26, 27, 45, 47, 86, 99, 100, 111, 112, 122, 123, 131	3	87, 98, 137	1.6
Denmark . . . . .	22		22		
Faeroe Islands . . . . .	0	—	22	5, 7, 8, 9, 11, 14, 15, 21, 32, 58, 62, 87, 98, 100, 102, 106, 108, 111, 112, 115, 120, 122	40
Greenland . . . . .	22	5, 7, 8, 9, 11, 14, 15, 21, 32, 58, 62, 87, 98, 100, 102, 106, 108, 111, 112, 115, 120, 122	0	—	50
France . . . . .	254		165		
<i>Overseas Departments:</i>					
French Guiana . . . . .	34	3, 5, 8, 9, 11, 13, 15, 26, 27, 29, 32, 33, 35, 36, 37, 38, 43, 45, 49, 58, 62, 68, 82, 84, 91, 100, 106, 108, 112, 120, 122, 123, 131, 136	10	14, 24, 81, 87, 97, 98, 99, 102, 105, 118	60
Guadeloupe . . . . .	31	3, 5, 8, 9, 11, 13, 15, 26, 27, 32, 33, 35, 36, 37, 38, 43, 45, 49, 58, 62, 68, 91, 100, 106, 108, 112, 120, 122, 123, 131, 136	13	14, 24, 29, 81, 82, 84, 87, 97, 98, 99, 102, 105, 118	350
Martinique . . . . .	31	Idem	13	Idem	360

For footnotes, see end of table.

Countries and Territories	Reports received		Reports not received		Population <sup>1</sup> (thousands)
	Total	Conventions Nos.	Total	Conventions Nos.	
Reunion . . . . .	32	3, 5, 8, 9, 11, 13, 15, 26, 27, 32, 33, 35, 36, 37, 38, 43, 45, 49, 58, 62, 68, 84, 91, 100, 106, 108, 112, 120, 122, 123, 131, 135	13	14, 24, 29, 63, 81, 82, 87, 97, 98, 99, 102, 105, 118	490
<i>Overseas Territories :</i>					
French Polynesia . . . .	48	2, 6, 10, 12, 16, 17, 18, 19, 22, 23, 24, 27, 29, 42, 44, 52, 53, 55, 56, 63, 69, 71, 73, 74, 77, 78, 81, 82, 88, 89, 92, 94, 95, 96, 101, 105, 113, 114, 115, 120, 124, 125, 126, 127, 129, 131, 135, 136	35	3, 5, 8, 9, 11, 13, 14, 15, 26, 32, 33, 35, 36, 37, 38, 43, 45, 49, 58, 62, 68, 84, 87, 91, 97, 98, 99, 100, 102, 106, 108, 112, 122, 123	120
French Territory of the Afars and Issas . . . .	39	3, 5, 8, 9, 11, 13, 14, 15, 26, 27, 32, 33, 35, 36, 37, 38, 43, 45, 49, 58, 62, 68, 84, 87, 91, 97, 98, 99, 100, 102, 106, 108, 112, 118, 120, 122, 123, 131, 136	0	—	100
New Caledonia	39	3, 5, 8, 9, 11, 13, 14, 15, 26, 27, 32, 33, 35, 36, 37, 38, 43, 45, 49, 58, 62, 68, 84, 87, 91, 97, 98, 99, 100, 102, 106, 108, 112, 118, 120, 122, 123, 131, 136	0	—	120
St. Pierre and Miquelon .	0	—	81	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, 87, 88, 89, 91, 92, 94, 95, 96, 97, 98, 99, 100, 101, 102, 105, 106, 108, 112, 113, 114, 115, 118, 120, 122, 123, 124, 125, 126, 127, 131, 136	6
Netherlands	29		0		
Netherlands Antilles . .	29	5, 8, 9, 11, 13, 14, 15, 21, 26, 27, 32, 33, 45, 58, 62, 68, 87, 91, 97, 99, 100, 102, 106, 111, 112, 122, 123, 128, 131	0		240

## NON-METROPOLITAN TERRITORIES

Countries and Territories	Reports received		Reports not received		Population <sup>1</sup> (thousands)
	Total	Conventions Nos.	Total	Conventions Nos.	
New Zealand	40		40		
Cook Islands . . . . .	17	1, 9, 11, 14, 15, 21, 26, 30, 32, 45, 47, 49, 50, 58, 59, 64, 84	3	97, 99, 122	20
Niue Island . . . . .	3	50, 64, 84	37	1, 2, 9, 10, 11, 12, 14, 15, 16, 17, 21, 22, 26, 29, 30, 32, 42, 44, 45, 47, 49, 52, 53, 58, 59, 63, 65, 74, 81, 88, 89, 97, 99, 101, 104, 105, 122	5
Tokelau Islands . . . . .	20	1, 9, 11, 14, 15, 21, 26, 30, 32, 45, 47, 49, 50, 58, 59, 64, 84, 97, 99, 122	0	—	1.5
United Kingdom . . . . .	623		76		
Antigua . . . . .	32	5, 7, 8, 11, 14, 15, 26, 32, 35, 36, 37, 38, 39, 40, 45, 50, 58, 59, 64, 68, 84, 86, 87, 97, 98, 99, 100, 102, 108, 114, 120, 122	0	—	70
Belize . . . . .	30	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 45, 50, 58, 59, 64, 68, 84, 86, 87, 97, 98, 99, 100, 102, 108, 120, 122	1	114	140
Bermuda . . . . .	28	5, 7, 8, 15, 26, 32, 35, 36, 37, 38, 39, 40, 45, 50, 58, 59, 64, 68, 86, 87, 97, 98, 99, 100, 102, 114, 120, 122	3	11, 84, 108	60
British Virgin Islands . .	32	5, 7, 8, 11, 14, 15, 26, 32, 35, 36, 37, 38, 39, 40, 45, 50, 58, 59, 64, 68, 84, 86, 87, 97, 98, 99, 100, 102, 108, 114, 120, 122	0	—	10
Brunei . . . . .	31	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 45, 50, 58, 64, 68, 84, 86, 87, 97, 98, 99, 100, 102, 105, 108, 114, 120, 122	0	—	140
Dominica . . . . .	27	5, 7, 8, 11, 26, 32, 35, 36, 37, 38, 39, 40, 45, 50, 64, 68, 84, 86, 87, 94, 98, 99, 100, 102, 114, 120, 122	6	14, 15, 58, 59, 97, 108	73



Countries and Territories	Reports received		Reports not received		Population <sup>1</sup> (thousands)
	Total	Conventions Nos.	Total	Conventions Nos.	
Falkland Islands (Malvinas) . . . . .	32	5, 7, 8, 11, 14, 15, 26, 32, 35, 36, 37, 38, 39, 40, 45, 50, 58, 59, 64, 68, 84, 86, 87, 97, 98, 99, 100, 102, 108, 114, 120, 122	0	—	2
Gibraltar . . . . .	31	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 45, 50, 58, 59, 64, 68, 84, 86, 87, 97, 98, 99, 100, 102, 108, 114, 120, 122	0	—	30
Gilbert Islands . . . . .	32	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 45, 50, 58, 59, 64, 65, 68, 84, 86, 87, 97, 98, 99, 100, 102, 108, 114, 120, 122	0	—	30
Guernsey . . . . .	28	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 45, 50, 64, 68, 84, 86, 87, 97, 98, 99, 100, 102, 108, 120, 122	2	82, 114	53
Hong Kong . . . . .	33	5, 7, 8, 11, 14, 15, 26, 32, 35, 36, 37, 38, 39, 40, 45, 50, 58, 59, 64, 68, 84, 86, 87, 95, 97, 98, 99, 100, 102, 108, 114, 120, 122	0	—	4 250
Jersey . . . . .	29	5, 7, 8, 11, 15, 26, 29, 32, 35, 36, 37, 38, 39, 40, 45, 50, 64, 68, 84, 86, 87, 97, 98, 99, 100, 102, 108, 120, 122	3	82, 114, 135	69
Isle of Man . . . . .	29	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 45, 50, 64, 68, 84, 86, 87, 97, 98, 99, 100, 102, 108, 114, 120, 122	0	—	60
Montserrat . . . . .	32	5, 7, 8, 11, 14, 15, 26, 32, 35, 36, 37, 38, 39, 40, 45, 50, 58, 59, 64, 68, 84, 86, 87, 97, 98, 99, 100, 102, 108, 114, 120, 122	0	—	10
St. Kitts-Nevis-Anguilla	32	5, 7, 8, 11, 14, 15, 26, 32, 35, 36, 37, 38, 39, 40, 45, 50, 58, 59, 64, 68, 84, 86, 87, 97, 98, 99, 100, 102, 108, 114, 120, 122	0	—	70

NON-METROPOLITAN TERRITORIES

Countries and Territories	Reports received		Reports not received		Population <sup>1</sup> (thousands)
	Total	Conventions Nos.	Total	Conventions Nos.	
St. Helena . . . . .	32	5, 7, 8, 11, 14, 15, 26, 32, 35, 36, 37, 38, 39, 40, 45, 50, 58, 59, 64, 68, 82, 84, 86, 87, 97, 98, 99, 100, 102, 108, 120, 122	1	114	5
St. Lucia . . . . .	34	5, 7, 8, 11, 14, 15, 26, 32, 35, 36, 37, 38, 39, 40, 45, 50, 58, 59, 64, 68, 84, 86, 87, 95, 97, 98, 99, 100, 101, 102, 108, 114, 120, 122	0	—	110
St. Vincent . . . . .	34	5, 7, 8, 11, 14, 15, 25, 26, 32, 35, 36, 37, 38, 39, 40, 45, 50, 58, 59, 64, 65, 68, 84, 86, 87, 97, 98, 99, 100, 102, 108, 114, 120, 122	0	—	100
Solomon Islands . . . . .	33	3, 5, 7, 8, 11, 14, 15, 26, 32, 35, 36, 37, 38, 39, 40, 45, 50, 58, 59, 64, 68, 84, 86, 87, 97, 98, 99, 100, 102, 108, 114, 120, 122	0	—	180
Southern Rhodesia . . . . .	0	—	60	2, 3, 5, 7, 8, 10, 11, 12, 14, 15, 16, 17, 19, 22, 24, 25, 26, 29, 32, 35, 36, 37, 38, 39, 40, 42, 44, 45, 50, 56, 59, 63, 64, 65, 68, 69, 74, 81, 82, 84, 86, 87, 88, 92, 94, 95, 97, 98, 99, 100, 101, 102, 105, 108, 114, 115, 120, 122, 124, 135	6 100
Tuvalu . . . . .	32	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 45, 50, 58, 59, 64, 65, 68, 84, 86, 87, 97, 98, 99, 100, 102, 108, 114, 120, 122	0	—	30
United States . . . . .	5		0		
American Samoa . . . . .	1	58	0	—	30
Guam . . . . .	1	58	0	—	100
Puerto Rico . . . . .	1	58	0	—	3 030
Trust Territory of Pacific Islands . . . . .	1	58	0	—	110
Virgin Islands . . . . .	1	58	0	—	70

<sup>1</sup> Source: United Nations: *Demographic Year Book*, 1974.

### **III. Observations concerning the Submission to the Competent Authorities of the Conventions and Recommendations Adopted by the International Labour Conference (Article 19 of the Constitution)**

#### Afghanistan

The Committee notes from the information supplied by the Government that the instruments adopted at the 60th Session of the Conference are being translated.

The Committee hopes that the instruments adopted from the 52nd to the 60th Sessions of the Conference will be submitted in the near future and that the Government will supply, with regard to these instruments and those adopted from the 46th to the 51st Sessions which have already been submitted, the information and documents called for in the Memorandum adopted by the Governing Body.

#### Bangladesh

The Committee notes with regret that the Government has not replied to its previous direct requests. It hopes that it will shortly indicate whether the instruments adopted at the 58th, 59th and 60th 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.

#### Benin

The Committee regrets that, as the Government has not replied to its observations of 1975 and 1976, it has no information regarding the measures taken to submit to the competent authority the Conventions and Recommendations adopted at numerous sessions of the Conference (namely, 45th to 48th, 50th, 51st and 53rd to 60th Sessions). It trusts that the necessary measures will be taken in the very near future and that the Government will provide in this connection the information and documents called for in the Memorandum adopted by the Governing Body.

#### Bolivia

The Committee notes with satisfaction the submission to the competent authorities of all the instruments adopted from the 31st to the 60th Sessions of the Conference.

#### Brazil

The Committee notes from the information supplied by the Government that the Ministry of Labour is carrying out an examination

of all the remaining instruments with a view to their submission to Congress. It trusts that the Government will shortly be able to indicate that the numerous Conventions and Recommendations listed in the last column of the table in Appendix I to 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). It also hopes that the Government will supply the documents submitting Conventions Nos. 133 and 134 and Recommendations Nos. 116 and 144 to Congress.

#### Bulgaria

The Committee takes note of the information and documents regarding submission to the Council of State of the instruments adopted at the 60th Session of the Conference. It reiterates the hope that the Government will submit the instruments adopted by the Conference not only to the Council of State but also to the National Assembly as the legislative body.

#### Byelorussian SSR

The Committee notes from the information supplied by the Government that the instruments adopted at the 60th Session of the Conference have been submitted to the Praesidium of the Supreme Soviet of the Byelorussian SSR.

With regard to the comments it has been making for a certain number of years concerning the submission of Conventions and Recommendations to the Supreme Soviet itself as the legislative body, and the communication to the ILO of information and documents called for in the Memorandum adopted by the Governing Body, the Committee notes that the discussion which took place at the Conference Committee in 1975 and 1976 concerning the USSR also applied to the Byelorussian SSR. Consequently, the Committee refers to the comments made concerning the USSR.

#### Central African Empire

The Committee regrets to note that no further information has been supplied by the Government in reply to its previous observation. It hopes that the Government will soon be in a position to state that the instruments adopted at the 49th, 50th, 52nd and 60th Sessions of the Conference have been submitted to the competent authorities, and that it will supply, regarding these instruments as well as the instruments adopted at the 53rd Session, the information and documents called for in the Memorandum adopted by the Governing Body.

In addition, the Committee again requests the Government to supply a copy of the document whereby the instruments adopted at the 59th Session were submitted.

#### Chad

The Committee notes from the information supplied by the Government that the submission to the competent authorities of the instruments adopted by the Conference during recent years was about to take place. It hopes that the Government will indicate in the near future that the instruments adopted at the 55th, 56th, 58th, 59th and 60th Sessions of the Conference have been submitted to the competent

authorities, and will communicate, in this respect, as well as in regard to the instruments adopted from the 50th to the 54th Sessions and already submitted, the information and documents called for in the Memorandum adopted by the Governing Body (points II and III of the questionnaire).

#### Chile

Further to its earlier comments, the Committee notes from the information and documents supplied by the Government that all the instruments adopted from the 50th to the 60th Sessions of the Conference have been submitted to the competent authorities. The Committee would be grateful if the Government would supply copies of the communications dated 2 and 17 September 1976 whereby these instruments were submitted.

#### Colombia

The Committee regrets to note once again that the Government has supplied no information on the submission to the competent authorities of the numerous instruments adopted by the Conference from its 40th to its 60th Sessions as listed in the last column of the table in Appendix I of this section. The Committee must again recall the fundamental importance of the obligation incumbent upon every member State, by virtue of article 19 of the ILO Constitution, to submit to the competent authorities all Conventions and Recommendations adopted by the Conference, even where it does not intend to ratify a Convention or accept a Recommendation. The Committee hopes that the Government will be able to indicate shortly that all the instruments in question have been submitted to the competent authorities and that it will communicate in this connection the information and documents called for in the Memorandum adopted by the Governing Body (points II and III of the questionnaire).

#### Dominican Republic

The Committee notes with satisfaction that, following the direct contacts which took place in 1976 between the national services concerned and a representative of the Director-General of the ILO, the Government submitted to Congress 11 Conventions and 12 Recommendations adopted from the 52nd to the 60th Sessions of the Conference and supplied in this regard the information and documents called for in the Memorandum adopted by the Governing Body.

The Committee hopes that the Government will also be able to supply shortly the information and documents relating to the instruments adopted at the 44th to the 51st Sessions, which had already been submitted to Congress.

#### Gabon

The Committee has noted the information supplied by the Government on the submission to the President of the Republic, through the Council of Ministers, of the instruments adopted from the 51st to the 60th Sessions of the Conference. It has also noted the statement, made by a Government representative to the Conference Committee in 1976, and that it was the practice in Gabon for Conventions which it was proposed to ratify to be submitted to the National Assembly, but not instruments on which no decision was required.

The Committee wishes to point out that the competent authority, for the purposes of article 19 of the Constitution of the ILO, is the body empowered to legislate, and that Conventions, as well as Recommendations, must be submitted to the competent authority in all cases, even when it is not proposed to ratify a Convention or give effect to a Recommendation.

The Committee therefore hopes that the instruments adopted from the 51st to the 60th Session of the Conference (other than Convention No. 135 already ratified, and Recommendation No. 143) will soon be submitted to the National Assembly, as well as those adopted from the 45th to the 50th Session, already submitted to the Council of Ministers, and that the Government 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).

#### Greece

The Committee notes from the information supplied by the Government, that various instruments adopted from the 4th to the 60th Sessions of the Conference are ready for submission to the competent authority. It hopes the Government will soon be able to indicate that the submission of these and the other instruments not yet submitted has taken place.

#### Guatemala

No information having been received in reply to its previous observation, the Committee hopes the Government will shortly be able to indicate that all the instruments listed in the last column of the table in Appendix I to this section have been submitted to Congress. The Committee also hopes the Government will supply in respect of 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 110, 121, 123 to 127, 131 and 132) the information and documents called for in the Memorandum adopted by the Governing Body (points II(b) and (c) and III of the questionnaire).

#### Guyana

In connection with its earlier observations, the Committee notes from the information supplied by the Government, that final arrangements are in progress for submitting to the competent authorities the instruments adopted from the 54th to the 60th Sessions of the Conference. The Committee hopes that the Government will shortly be able to indicate that these instruments have been submitted and that it will communicate in this connection the information and documents called for in the Memorandum adopted by the Governing Body.

#### Haiti

The Committee notes with interest the information and documents supplied by the Government on the submission of the instruments adopted at the 60th Session of the Conference to the Legislative Chamber. It trusts that the Government will soon be able to indicate the submission to the Chamber of all the instruments adopted at various sessions from the 31st to the 59th as listed in the last column of the table in Appendix I to this section, and that it will communicate in this connection the information and documents called for in the Memorandum adopted by the Governing Body.

### Hungary

The Committee notes the information and documents provided by the Government on the submission to the Presidential Council of the instruments adopted at the 60th Session of the Conference. The Committee recalls that, in its previous observations, it had expressed the hope that the instruments adopted by the Conference could also be submitted to Parliament, as the authority vested with full legislative power under the Hungarian Constitution. In this connection, the Committee notes with interest the statement of the Government representative to the Conference Committee in 1976 that the comments of the Committee of Experts would be placed before the Government and the Presidential Council for a new examination and that in addition to the progress made in respect of the communication to the ILO of submission documents, further progress was to be expected.

The Committee hopes that the Government will soon be able to communicate the results of the re-examination of the matter by the competent authorities.

### Indonesia

Further to its previous observations, the Committee notes that the Government has still not provided information concerning its proposals, as well as the decisions of the competent authorities, with regard to the instruments adopted from the 52nd to the 56th Sessions of the Conference, already laid before Parliament. It trusts that the Government will supply this information in the near future.

### Iraq

The Committee notes the Government's statement that seven Conventions have been submitted to the competent authorities and that efforts are being made to examine all the remaining instruments with a view to submission. The Committee trusts that the Government will be able to submit the numerous instruments listed in the last column of the table in Appendix I to this section 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).

### Ireland

No information having been received in reply to its previous direct requests, the Committee hopes that the Government will indicate shortly whether the instruments adopted at the 58th and 59th Sessions of the Conference, as well as those adopted at the 60th Session, have been submitted to the competent authorities.

### Ivory Coast

Further to its earlier comments, the Committee notes with satisfaction the information and documents supplied by the Government on the submission to the competent authorities of Conventions and Recommendations adopted from the 50th to 60th Sessions of the Conference.

### Jamaica

Further to its earlier comments, the Committee notes with satisfaction the information and documents regarding the submission to

Parliament of various instruments adopted from the 48th to 60th Sessions of the Conference.

Jordan

As once again no information has been received this year in response to its earlier observations, the Committee can only express the hope that the Government will be able to indicate shortly whether the numerous instruments listed in the last column of the table in Appendix I to this section have been submitted to the competent authority, and to supply in this connection the information and documents called for in the Memorandum adopted by the Governing Body.

In addition, the Committee again requests the Government 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.

Lao Republic

As no information has been provided by the Government, the Committee hopes that it will shortly be in a position to indicate whether the instruments adopted from the 48th to the 60th 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.

Lebanon

Referring to its earlier observations, the Committee hopes that the instruments listed in the last column of the table in Appendix I to this section can soon be submitted to the competent authorities and that the Government will supply in this connection the information and documents called for in the Memorandum adopted by the Governing Body.

Liberia

The Committee notes with interest from the information supplied by the Government that numerous instruments adopted by the Conference from the 31st to the 60th Sessions were submitted to the President of the Republic in November 1976 for transmission to the legislative body. The Committee hopes that all these instruments, together with Conventions Nos. 109 and 116 and Recommendation No. 96, will soon be submitted to the legislative body and that the Government will be able to supply the submission document relating to these instruments and the information on the decisions taken in respect thereto by the competent authority, as called for in points II(c) and III of the questionnaire in the Memorandum adopted by the Governing Body.

Madagascar

Further to its previous observations, the Committee notes with regret that despite the assurances it gave to the Conference Committee in 1976 the Government has still not supplied any information on the submission to the competent authorities of the instruments adopted at the 55th, 56th, 58th and 59th Sessions of the Conference. The Committee hopes the Government will soon be able to indicate that the instruments in question as well as those adopted at the 60th Session 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.

#### Malawi

The Committee has noted the statement made by a Government representative to the Conference Committee in 1976 reiterating the opinion of the Government that Malawi's obligations deriving from article 19 of the Constitution of the ILO have been discharged by the submission of the ILO instruments to the President.

The Committee must recall once again that under article 19, paragraphs 5 and 6, of the ILO Constitution, the Conventions and Recommendations adopted by the Conference must be submitted to the authority or authorities competent in the matter, for the enactment of legislation or other action. Since, under 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", the National Assembly appears to be the authority competent to legislate, in accordance with article 19 of the Constitution of the ILO.

The Committee can only express again the hope that the Government will re-examine the question and submit the Conventions and Recommendations also to the National Assembly.

#### Malaysia

No information having again been received this year in response to its previous comments, the Committee trusts that the Government will shortly provide the information and documents called for in the Memorandum adopted by the Governing Body (Points II(c) and III of the questionnaire) in respect of the instruments adopted from the 47th to the 56th Sessions of the Conference and which have been submitted to Parliament. It also hopes that the instruments adopted at the 54th, 59th and 60th Sessions will shortly be submitted to Parliament and that the Government will also provide in this connection the information and documents mentioned above.

#### Malta

The Committee regrets to note once again that no information has been received in response to its previous comments. It trusts that the Government will shortly be able to indicate that the instruments adopted at the 55th, 56th, 58th, 59th and 60th 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.

#### Mauritania

The Committee regrets to note that once again no information has been provided in response to its observations since 1973. It trusts that the Government will soon be able to indicate that all the instruments listed in the last column of the table in Appendix I to this section have been submitted to the National Assembly and that it will supply, in relation to Recommendation No. 115 and all the instruments adopted from the 47th to 52nd Sessions and from the 54th to

the 60th Sessions (except Convention No. 122, which has been ratified), the information and documents called for in the Memorandum adopted by the Governing Body.

#### Mauritius

Further to its previous observation, the Committee notes with interest from the information supplied by the Government that a White Paper indicating the action to be taken on Convention No. 139 and Recommendation No. 147, adopted at the 59th Session of the Conference, is to be submitted to the Legislative Assembly shortly, and that consultations are in progress with regard to Conventions Nos. 140, 141, 142 and 143 and all the instruments adopted from the 53rd to the 58th Sessions, already submitted to the Cabinet, with a view to their submission to the Legislative Assembly. The Committee hopes that the Government will soon be able to state that all these instruments, as well as Recommendations Nos. 148, 149, 150 and 151, have been submitted to Parliament, and that it will supply in this connection the information and documents called for in the Memorandum adopted by the Governing Body.

#### Mongolia

The Committee regrets to note that the Government has not replied to its previous observations. It hopes that the Government will soon be able to report that the instruments adopted at the 55th, 58th, 59th and 60th Sessions of the Conference have been submitted to the competent authorities. The Committee also hopes that the instruments adopted by the Conference will be submitted not only to the Praesidium of the People's Great Khural, but also to the People's Great Khural itself as the legislative body.

#### Nepal

The Committee notes with regret that once again the Government has not replied to the comments that it has been making since 1969. It trusts that the Government will shortly indicate whether the instruments adopted from the 51st to the 60th Sessions of the Conference (except Convention No. 131 which has been ratified) have been submitted to the competent authorities in accordance with article 19, paragraphs 5(b) and 6(b), of the Constitution of the ILO. It also hopes that the Government will supply in this connection the information and documents called for in the Memorandum adopted by the Governing Body.

The Committee wishes to recall that the authorities to which these instruments are to be submitted are those which are empowered to legislate in the field covered by the instruments in question, i.e. in most cases, the national Parliament.

#### Niger

The Committee notes with regret that the Government has not replied to its earlier observation. It hopes that the Government will shortly indicate that various instruments adopted at the 51st, 56th, 58th, 59th and 60th 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.

Pakistan

The Committee notes the information communicated by the Government, stating that the instruments adopted at the 58th and 59th Sessions of the Conference had been submitted to the competent authorities.

The Committee also notes the information communicated to the Conference Committee in 1976, in answer to its previous observations, in which the Government stated that, under article 90(1) of the Constitution of Pakistan, read together with paragraph 3 of the Fourth Schedule containing the federal Legislation List, the federal Cabinet was the competent authority to take a decision regarding the ratification or otherwise of ILO instruments; that such instruments were required to be sent to the National Assembly only where the Cabinet decided to accept the obligations of Conventions or Recommendations and desired a law to be promulgated to enforce them; and that, since all papers submitted to the Cabinet were secret, the documents by which ILO instruments were submitted to it could not be disclosed.

The Committee wishes to recall that the competent authority to which Conventions and Recommendations are to be submitted, in accordance with article 1<sup>st</sup> of the ILO Constitution, is not the authority competent to ratify Conventions, but the authority having competence for the enactment of legislation or other action to give effect to the provisions of the instruments concerned at national level. It observes that, according to the provisions of the national Constitution referred to by the Government, although the federal Cabinet has power to make proposals for legislation, the power to legislate is vested in the National Assembly.

The Committee also wishes to recall that Conventions and Recommendations must be submitted to the authorities competent for the enactment of legislation or other action in all cases, and not only when the Government desires that a law be promulgated to give effect to their provisions. However, this procedure does not imply any obligation to propose that a Convention be ratified or a Recommendation accepted, and governments retain complete freedom when submitting Conventions and Recommendations to the competent authorities, to make such proposals (whether positive or negative) as they deem appropriate concerning the action to be taken on these instruments.

The Committee hopes that the Government will review the position in the light of the above indications, with a view to submitting Conventions and Recommendations to the National Assembly. The Committee supposes that, if such action were taken, there would be no impediment to the communication to the ILO of the documents by which the submission to the National Assembly was effected.

Paraguay

The Committee notes with satisfaction that, following the direct contacts which took place in 1976 between the national services concerned and a representative of the Director-General of the ILO, the Government submitted to Congress 27 Conventions and 20 Recommendations adopted from the 41st to the 60th Sessions of the Conference and supplied in this regard the information and documents called for in the Memorandum adopted by the Governing Body.

Peru

The Committee notes with regret that no information has been received in response to its observations since 1975. It trusts that the Government will shortly indicate that the numerous 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 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).

Poland

The Committee notes that Convention No. 139, adopted at the 59th Session of the Conference, as well as the decisions taken by the Council of State and by the Government on the action to be taken in relation to this Convention and to various instruments adopted at the 34th, 35th and 56th Sessions of the Conference have been communicated to Parliament. It would be glad if the Government would indicate whether Convention No. 138 and Recommendation No. 146, adopted at the 58th Session of the Conference, as well as the other instruments adopted at the 59th Session and those of the 60th Session have been submitted to the competent authorities. The Committee also hopes that the Government will supply, in connection with the various instruments submitted to Parliament, the information and documents called for in points II(c) and III of the questionnaire at the end of the Memorandum adopted by the Governing Body.

Qatar

The Committee regrets that no information has been supplied regarding the submission to the competent authorities of Conventions and Recommendations adopted by the Conference since Qatar became a member State of the ILO. It hopes that the Government will soon be in a position to indicate that the instruments adopted from the 58th to the 60th Session of the Conference have been submitted to the competent authorities, in accordance with article 19, paragraphs 5(b) and 6(b) of the ILO Constitution, and that it will supply, in this connection, the information and documents called for in the Memorandum adopted by the Governing Body.

The Committee wishes to recall that the authorities to which the instruments are to be submitted are those empowered to legislate in the fields covered by the instruments concerned.

Somalia

The Committee notes the communication by the Government to the Conference Committee in 1976 indicating that the Conventions and Recommendations adopted by the Conference have been regularly submitted to the competent authorities. The Committee therefore hopes that the Government will shortly be in a position to supply information regarding the proposals made by it and the decisions of the competent authority in respect of the instruments adopted from the 45th to the 56th Sessions of the Conference. It also hopes that the Government will indicate whether the instruments adopted at the 58th, 59th and 60th Sessions 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.

Sri Lanka

The Committee notes with interest, from the information supplied by the Government, that the instruments adopted at the 56th and 58th Sessions of the Conference have been submitted to the National State Assembly and that those adopted at the 59th and 60th Sessions were to be submitted to it at an early date. The Committee hopes that the Government will soon indicate that submission of the latter instruments has been effected.

The Committee further notes that, apart from having ratified one of the Conventions concerned, the Government states that it has not made any proposals regarding the action to be taken on the instruments adopted at the 56th and 58th Sessions, at the time of their submission to the legislature. The Committee refers to its previous comments and hopes that the Government will be in a position to supply information on the proposals made and on any decisions taken in respect of the instruments in question, and also in respect of those adopted at the 55th Session, which had already previously been submitted.

Tanzania

The Committee notes, from the information provided by the Government, that the instruments adopted from the 54th to the 59th Sessions of the Conference will be submitted to the National Assembly at its 1977 Session. It therefore hopes that the Government will be able to indicate that these instruments, together with those adopted at the 60th Session, have been submitted to the National Assembly and that it will supply the information and documents called for in the Memorandum adopted by the Governing Body in respect of these instruments and also the instruments adopted from the 47th to the 53rd Sessions.

Thailand

Following its earlier comments, the Committee notes with satisfaction that the instruments adopted from the 58th to the 60th Sessions of the Conference have been submitted to the competent authorities, and that the Government has supplied, in respect of these instruments and also of those adopted from the 54th to the 56th Sessions, the information and documents called for in the Memorandum adopted by the Governing Body.

The Committee hopes that the Government can also supply the information and documents in question relating to the instruments adopted at the 52nd and 53rd Sessions, which have already been submitted.

Togo

The Committee regrets that the Government has not replied to its previous observations. It hopes the Government will soon be able to indicate that the Conventions and Recommendations adopted at the 52nd, 58th, 59th and 60th 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.

Uganda

With reference to its earlier observations the Committee notes the statement by a Government representative at the Conference

Committee in 1976, that the instruments adopted from the 53rd to the 58th Sessions of the Conference are being considered with a view to submission to the Cabinet for appropriate action. The Committee hopes that the Government will shortly be able to indicate that these instruments, together with those adopted at the 59th and 60th Sessions of the Conference, have been submitted to the competent legislative authority and that it will provide, in this connection, the information and documents called for in the Memorandum adopted by the Governing Body.

#### Ukrainian SSR

The Committee notes from the information supplied by the Government that the instruments adopted at the 60th Session of the Conference have been submitted to the Praesidium of the Supreme Soviet of the Ukrainian SSR.

With regard to the comments it has been making for a number of years concerning the submission of Conventions and Recommendations to the Supreme Soviet itself, as the legislative body, and the communication to the ILO of the information and documents called for in the Memorandum adopted by the Governing Body, the Committee notes that the discussion which took place at the Conference Committee in 1975 and 1976 concerning the USSR also applied to the Ukrainian SSR. Consequently, the Committee refers to the comments made concerning the USSR.

#### United Arab Emirates

The Committee regrets that, since the United Arab Emirates became a member State of the ILO, no information has been supplied regarding the submission to the competent authorities of Conventions and Recommendations adopted by the Conference. It hopes that the Government will soon be in a position to indicate that the instruments adopted from the 59th to 60th Sessions of the Conference have been submitted to the competent authorities, in accordance with article 19, paragraphs 5(b) and 6(b), of the ILO Constitution, and that it will supply, in this connection, the information and documents called for in the Memorandum adopted by the Governing Body.

The Committee wishes to recall that the authorities to which the instruments are to be submitted are those empowered to legislate in the fields covered by the instruments concerned, i.e. in the majority of cases, the national Parliament.

#### USSR

The Committee notes the information supplied by the Government in June 1976 according to which the instruments adopted at the 60th Session of the Conference have been submitted to the Praesidium of the Supreme Soviet of the USSR.

The Committee recalls that for a number of years it has been expressing the hope that the Conventions and Recommendations adopted by the Conference might be submitted also to the Supreme Soviet itself, as the legislative body, and that the information and documents concerning submission might be transmitted to the ILO in accordance with the memorandum adopted by the Governing Body.

The Committee also recalls that, in the course of the discussion that took place on this subject at the Conference Committee in 1975,

the Government representative, while maintaining that the USSR was fulfilling its obligations under article 19(5)(c) and (d) of the Constitution of the ILO, stated that the request made by the Conference Committee concerning the submission of instruments to the Supreme Soviet and the communication of information and documents called for in the Memorandum would be brought to the attention of the authorities concerned who might take appropriate measures.

The Committee notes that the Government has not yet communicated the results of the re-examination of these questions by the authorities concerned. It hopes that the Government will soon be in a position to communicate this information.

#### Uruguay

The Committee notes with interest the information and documents supplied by the Government concerning in particular the submission to the competent authority of Conventions Nos. 132 and 140. It hopes the Government will shortly be able to indicate that all the instruments still appearing in the last column of the table in Appendix I to this section have also been submitted 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 hopes that the instruments adopted from the 50th to the 56th Sessions and at the 60th Session of the Conference (except Conventions Nos. 131, 132 and 135 which have been ratified) will shortly be submitted to the competent legislative authority and that the Government will communicate, in relation to these instruments and also to those adopted at the 49th, 58th and 59th Sessions, which have already been submitted, the information and documents called for in the Memorandum adopted by the Governing Body.

#### Yugoslavia

The Committee notes with regret that no information has been provided in reply to its previous direct requests. It hopes that the Government will indicate soon that the instruments adopted at the 55th and 58th to 60th Sessions of the Conference have been submitted to the competent authorities and that it will communicate in this connection the information and documents called for in the Memorandum adopted by the Governing Body.

#### Zaire

Further to its previous comments, the Committee notes with interest the submission to the President of the Republic of all the instruments adopted at the 54th, 55th, 56th and 59th Sessions of the Conference, as well as the information supplied by the Government on the proposals made, at the time of submission, in regard to two Conventions. It hopes that the Government will communicate very soon the document by means of which the above-mentioned instruments were submitted to the President and will supply, in regard to the instruments adopted from the 50th to the 53rd Sessions, the information and documents called for in the Memorandum adopted by the Governing Body. It requests the Government to indicate also whether the instruments adopted at the 58th and 60th Sessions have been submitted.

The Committee notes moreover that while, under article 30 of the National Constitution, the President of the Republic has full power and, in particular, presides over the Legislative Council, article 37 of the Constitution stipulates that he "exercises the power to legislate in conjunction with the Legislative Council", and article 59 provides that "the right to propose legislation belongs concurrently" to the President and "to each of the members of the Legislative Council". The Committee therefore expresses the hope that the instruments submitted to the President can also be placed before the Legislative Council.

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In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Austria, Barbados, Burma, Burundi, United Republic of Cameroon, Canada, Congo, Costa Rica, Cuba, Cyprus, Czechoslovakia, Ecuador, El Salvador, Ethiopia, Fiji, Ghana, Guinea, Iceland, India, Iran, Israel, Italy, Jamaica, Democratic Kampuchea, Kenya, Libyan Arab Republic, Malawi, Mexico, Netherlands, Nicaragua, Nigeria, Pakistan, Philippines, Portugal, Romania, Rwanda, Senegal, Sierra Leone, Singapore, Spain, Sudan, Swaziland, Syrian Arab Republic, Tunisia, Turkey, Upper Volta, Venezuela, Viet-Nam, Zambia.



**Appendix I. Information Supplied by Governments with Regard to the Obligation to Submit Conventions and Recommendations to the Competent Authorities**

*(31st to 60th Sessions of the International Labour Conference, 1948-75) <sup>1</sup>*

*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 . . . . .	31 to 51	52, 53, 54, 55, 56, 58, 59 and 60
Algeria . . . . .	47 to 60	—
Argentina . . . . .	31 to 60	—
Australia . . . . .	31 to 60	—
Austria . . . . .	31 to 59	60
Bangladesh . . . . .	—	58, 59 and 60
Barbados . . . . .	51 to 60	—
Belgium . . . . .	31 to 59	60
Benin . . . . .	49 (C 123, 124; R 124, 125) and 52	45, 46, 47, 48, 49 (R 123), 50, 51, 53, 54, 55, 56, 58, 59 and 60
Bolivia . . . . .	31 to 60	—
Brazil . . . . .	31 to 45, 46 (C 117, 118; R 116), 47 (C 119), 48 (C 120, 121, 122), 49 (C 123, 124; R 124, 125), 50 (C 125; R 126), 51 (C 127; R 128, 131), 53 (R 133, 134), 55 (C 133, 134; R 139) and 56 (C 135; R 144)	46 (R 117), 47 (R 118, 119), 48 (R 120, 121, 122), 49 (R 123), 50 (C 126; R 127), 51 (C 128; R 129, 130), 52, 53 (C 129, 130), 54, 55 (R 137, 138, 140, 141, 142), 56 (C 136; R 143), 58, 59 and 60
Bulgaria . . . . .	31 to 60	—
Burma . . . . .	31 to 58	59 and 60
Burundi . . . . .	47 to 56	58, 59 and 60
Byelorussia . . . . .	37 to 60	—
United Rep. of Cameroon . . . . .	44 to 60	—
Canada . . . . .	31 to 58	59 and 60

<sup>1</sup> The Conference did not adopt any Conventions or Recommendations at its 57th Session (June 1972).

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)
Central African Empire	45 to 48, 51, 53 to 59	49, 50, 52 and 60
Chad . . . . .	45 to 54	55, 56, 58, 59 and 60
Chile . . . . .	31 to 60	—
Colombia . . . . .	31 to 39, 40 (C 105, 106, 107; R 103), 41 (C 109; R 105, 106, 108), 42 to 44, 45 (C 116), 46 (C 118), 47 (C 119), 48 (C 120, 121, 122), 49 (C 123, 124), 50 (C 125, 126), 51 (C 127), 53 (C 129, 130), 54 (C 131, 132), 55 (C 133, 134) and 56 (C 135, 136)	40 (R 104), 41 (C 108; R 107, 109), 45 (R 115), 46 (C 117; R 116, 117), 47 (R 118, 119), 48 (R 120, 121, 122), 49 (R 123, 124, 125), 50 (R 126, 127) 51 (C 128; R 128, 129, 130, 131), 52, 53 (R 133, 134), 54 (R 135, 136), 55 (R 137, 138, 139, 140, 141, 142), 56 (R 143, 144), 58, 59 and 60
Congo . . . . .	45 to 53, 54 (C 131, 132; R 135), 55 (C 133, 134), 56 and 59	54 (R 136), 55 (R 137, 138, 139, 140, 141, 142), 58 and 60
Costa Rica . . . . .	31 to 53, 54 (C 131, 132), 55 (C 133, 134), 56 to 60	54 (R 135, 136), 55 (R 137, 138, 139, 140, 141, 142)
Cuba . . . . .	31 to 59 (C 141, 143; R 149, 151)	60 (C 142; R 150)
Cyprus . . . . .	45 to 59	60
Czechoslovakia . . . . .	31 to 59	60
Democratic Kampuchea	53, 54, 56	55, 58, 59 and 60
Democratic Yemen . .	53 to 60	—
Denmark . . . . .	31 to 60	—
Dominican Republic . .	31 to 60	—
Ecuador . . . . .	31 to 58 and 59 (C 139, 140)	59 (R 147, 148) and 60
Egypt . . . . .	31 to 60	—
El Salvador . . . . .	31 to 59	60
Ethiopia . . . . .	31 to 53, 54 (C 131, 132; R 135), 55 and 56	54 (R 136), 58, 59 and 60
Fiji . . . . .	—	59 and 60
Finland . . . . .	31 to 60	—
France . . . . .	31 to 60	—
Gabon . . . . .	45 to 50 and 56 (C 135; R 143)	51, 52, 53, 54, 55, 56 (C 136; R 144), 58, 59 and 60
German Democratic Republic . . . . .	59, 60	—

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)
Federal Republic of Germany . . . . .	34 to 60	—
Ghana . . . . .	40 to 59	60
Greece . . . . .	31 to 43, 44 (C 115; R 114), 45 (C 116), 47 to 56, 58 (C 138; R 146) and 59 (C 139; R 147)	44 (R 113), 45 (R 115), 46, 58 (C 137; R 145), 59 (C 140; R 148), and 60
Guatemala . . . . .	31 to 52 and 53 (C 129)	53 (C 130; R 133, 134), 54, 55, 56, 58, 59 and 60,
Guinea . . . . .	43 to 56 and 59 (C 139, 140)	58, 59 (R 147, 148) and 60
Guyana . . . . .	50 to 53	54, 55, 56, 58, 59 and 60
Haiti . . . . .	31 (C 90), 32 (C 98), 34 (C 99, 100), 40 to 44, 46 to 49 and 60	31 (C 87, 88, 89; R 83), 32 (C 91, 92, 93, 94, 95, 96, 97; R 84, 85, 86, 87), 33, 34 (R 89, 90, 91, 92), 35, 36, 37, 38, 39, 45, 50, 51, 52, 53, 54, 55, 56, 58 and 59
Honduras . . . . .	39 to 60	—
Hungary . . . . .	31 to 60	—
Iceland . . . . .	31 to 59	60
India . . . . .	31 to 59	60
Indonesia . . . . .	33 to 60	—
Iran . . . . .	31 to 60	—
Iraq . . . . .	31, 32 (C 95, 98), 34, 35 (C 102, 103), 36, 40 (C 105, 106), 42 (C 111; R 111), 43 (C 112, 113, 114), 44, 45 (C 116), 46 (C 117, 118), 48 (C 122), 49 (C 123, 124), 51 to 56	32 (C 91, 92, 93, 94, 96, 97; R 84, 85, 86, 87), 33, 35 (C 101; R 93, 94, 95), 37, 38, 39, 40 (C 107; R 103, 104), 41, 42 (C 110; R 110), 43 (R 112), 45 (R 115), 46 (R 116, 117), 47, 48 (C 120, 121; R 120, 121, 122), 49 (R 123, 124, 125), 50, 58, 59 and 60
Ireland . . . . .	31 to 56	58, 59 and 60
Israel . . . . .	32 to 60	—
Italy . . . . .	31 to 59	60
Ivory Coast . . . . .	45 to 60	—
Jamaica . . . . .	47, 53, 54 (C 131; R 135), 55 to 60	54 (C 132; R 136)
Japan . . . . .	35 to 60	—

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)
Jordan . . . . .	40 (C 105), 42 (C 111; R 111), 45 (C 116), 46 (C 117, 118), 47 (C 119), 48 (C 120, 122), 49 (C 123, 124), 50 (R 127), 51 (C 127; R 129, 130, 131), 53 and 56	39, 40 (C 106, 107; R 103, 104), 41, 42 (C 110; R 110), 43, 44, 45 (R 115), 46 (R 116, 117), 47 (R 118, 119), 48 (C 121; R 120, 121, 122), 49 (R 123, 124, 125), 50 (C 125, 126; R 126), 51 (C 128; R 128), 52, 54, 55, 58, 59 and 60
Kenya . . . . .	48 to 54, 56 and 58	55, 59 and 60
Kuwait . . . . .	45 to 60	—
Lao Republic . . . . .	—	48, 49, 50, 51, 52, 53, 54, 55, 56, 58, 59 and 60
Lebanon . . . . .	31 (C 88, 89, 90), 32 (C 95), 34 (C 100), 35 (C 102, 103), 44 (C 115), 45 (C 116), 46 (C 117, 118), 47 (C 119), 48 (C 120, 121, 122), 49 (C 123, 124), 50 (C 125, 126), 51 (C 127, 128) and 53 (C 129, 130)	31 (C 87; R 83), 32 (C 91, 92, 93, 94, 96, 97, 98; R 84, 85, 86, 87), 33, 34 (C 99; R 89, 90, 91, 92), 35 (C 101; R 93, 94, 95), 36, 37, 38, 39, 40, 41, 42, 43, 44 (R 113, 114), 45 (R 115), 46 (R 116, 117), 47 (R 118, 119) 48 (R 120, 121, 122), 49 (R 123, 124, 125), 50 (R 126, 127), 51 (R 128, 129, 130, 131), 52, 53 (R 133, 134), 54, 55, 56, 58, 59 and 60
Liberia . . . . .	31 (C 87), 32 (C 98), 38 (C 104), 40 (C 105), 42, 43 (C 112, 113, 114), 48, 49, 50 and 56	31 (C 88, 89, 90; R 83), 32 (C 91, 92, 93, 94, 95, 96, 97; R 84, 85, 86), 33, 34, 35, 36, 37, 38 (R 99, 100), 39, 40 (C 106, 107; R 103, 104), 41, 43 (R 112), 44, 45, 46, 47, 51, 52, 53, 54, 55, 58, 59 and 60
Libyan Arab Republic . . . . .	35 to 59	60
Luxembourg . . . . .	31 to 60	—
Madagascar . . . . .	45 to 54	55, 56, 58, 59 and 60
Malawi . . . . .	49 to 54 and 56	55, 58, 59 and 60
Malaysia . . . . .	41 to 56	58, 59 and 60
Mali . . . . .	44 to 60	—
Malta . . . . .	49 to 54	55, 56, 58, 59 and 60
Mauritania . . . . .	45, 46, 47 (C 119), 48, 49, 50 (C 125, 126), 51 (C 127, 128), 52, 53 and 55	47 (R 118, 119), 50 (R 126, 127), 51 (R 128, 129, 130, 131), 54, 56, 58, 59 and 60
Mauritius . . . . .	53 to 58	59 and 60
Mexico . . . . .	31 to 59 and 60 (R 149, 150, 151)	60 (C 141, 142, 143)
Mongolia . . . . .	53, 54 and 56	55, 58, 59 and 60

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)
Morocco . . . . .	39 to 60	—
Netherlands . . . . .	31 to 60 (C 141, 143; R 151)	60 (C 142; R 149, 150)
New Zealand . . . . .	31 to 60	—
Nepal . . . . .	54 (C 131)	51, 52, 53, 54 (C 132; R 135, 136), 55, 56, 58, 59 and 60
Nicaragua . . . . .	40 to 59 (C 139, 140)	59 (R 147, 148) and 60
Niger . . . . .	45 to 51 (C 127; R 128, 129, 130) and 52 to 56 (C 135)	51 (C 128; R 131), 56 (C 136; R 143, 144), 58, 59 and 60
Nigeria . . . . .	45 to 60	—
Norway . . . . .	31 to 60	—
Pakistan . . . . .	31 to 59	60
Panama . . . . .	31 to 60	—
Paraguay . . . . .	40 to 60	—
Peru . . . . .	31 to 43, 44 (C 115), 45 (C 116), 46 (C 117, 118), 47 (C 119), 48 (C 120, 121, 122), 49, 50 (C 125, 126; R 126), 56 and 59 (C 139)	44 (R 113, 114), 45 (R 115), 46 (R 116, 117), 47 (R 118, 119), 48 (R 120, 121, 122), 50 (R 127), 51, 52, 53, 54, 55, 58, 59 (C 140; R 147, 148) and 60
Philippines . . . . .	31 to 59	60
Poland . . . . .	31 to 56, 58 (C 137; R 145) and 59 (C 139)	58 (C 138; R 146), 59 (C 140; R 147, 148) and 60
Portugal . . . . .	31 to 56	58, 59 and 60
Qatar . . . . .	—	58, 59 and 60
Romania . . . . .	39 to 60	—
Rwanda . . . . .	47 to 59	60
Senegal . . . . .	44 to 59	60
Sierra Leone . . . . .	45 to 60	—
Singapore . . . . .	50 to 58	59 and 60
Somalia . . . . .	45 to 56	58, 59 and 60
Spain . . . . .	39 to 60	—
Sri Lanka . . . . .	31 to 58	59 and 60
Sudan . . . . .	39 to 60	—
Swaziland . . . . .	—	60

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)
Sweden . . . . .	31 to 60	—
Switzerland . . . . .	31 to 60	—
Syrian Arab Republic . . . . .	31 to 58 (C 138; R 146)	58 (C 137; R 145), 59 and 60
Tanzania . . . . .	46 to 53	54, 55, 56, 58, 59 and 60
Thailand . . . . .	31 to 60	—
Togo . . . . .	44 to 51 and 53 to 56	52, 58, 59 and 60
Trinidad and Tobago . . . . .	47 to 60	—
Tunisia . . . . .	39 to 60	—
Turkey . . . . .	31 to 59	60
Uganda . . . . .	47 to 52	53, 54, 55, 56, 58, 59 and 60
Ukraine . . . . .	37 to 60	—
USSR . . . . .	37 to 60	—
United Arab Emirates . . . . .	—	58, 59 and 60
United Kingdom . . . . .	31 to 60	—
United States . . . . .	31 to 60	—
Upper Volta . . . . .	45 to 58	59 and 60
Uruguay . . . . .	31 to 53, 54 (C 131, 132), 55 (C 134), 56, 58 (C 138) and 59 (C 140)	54 (R 135, 136), 55 (C 133; R 137, 138, 139, 140, 141, 142), 58 (C 137; R 145, 146) 59 (C 139; R 147, 148) and 60
Venezuela . . . . .	31 to 60	—
Viet-Nam . . . . .	33 to 52, 53 (R 133, 134), 54 (R 135, 136), 55 (R 137, 138, 139, 140, 141, 142), 56 (R 143, 144) and 58 (R 145, 146)	53 (C 129, 130), 54 (C 131, 132), 55 (C 133, 134), 56 (C 135, 136), 58 (C 137, 138), 59 and 60
Yemen . . . . .	49, 54 (C 131, 132), 56 (C 135), 58 and 59	50, 51, 52, 53, 54 (R 135, 136), 55, 56 (C 136; R 143, 144) and 60
Yugoslavia . . . . .	31 to 54 and 56	55, 58, 59 and 60
Zaire . . . . .	45 to 56 and 59	58 and 60
Zambia . . . . .	49 to 59	60



# Appendix II. Over-all position of Member States at 30 March 1977

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)	58th (June 1973)	59th (June 1974)	60th (June 1975)	
All the texts have been submitted .	58	57	59	61	62	63	65	64	71	72	74	76	76	78	92	93	98	102	107	103	105	104	106	100	91	100	79	72	50	
Some of these texts have been submitted . . . . .	2	4	— <sup>1</sup>	2	2	—	— <sup>1</sup>	1	—	4	1	2	2	3	6	6	7	6	5	7	6	— <sup>1</sup>	5	8	7	6	5	6	3	
None of these texts has been submitted (including cases in which no information has been supplied by the Government)	—	—	4	1	2	3	4	4	5	1	4	1	2	2	3	3	3	2	2	5	6	14	10	13	23	15	39	47	73	
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	123	125	126	

<sup>1</sup> At this session the Conference adopted one Recommendation only.



