

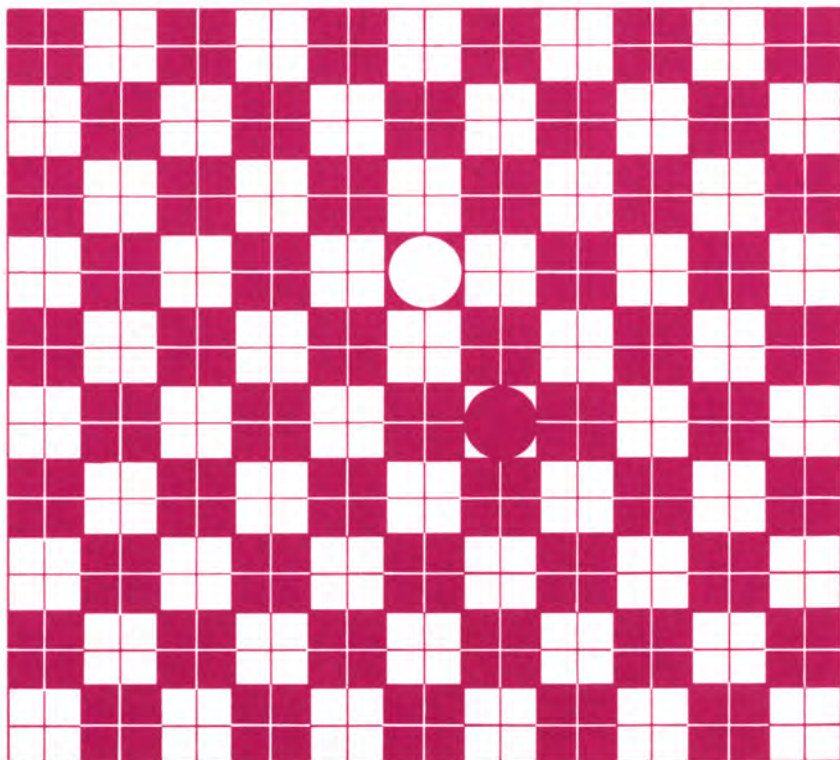
PC9661/7

ABOLITION OF FORCED LABOUR

General Survey by the Committee of Experts
on the Application of Conventions and Recommendations

International Labour Conference

65th Session 1979



International Labour Office Geneva



International Labour Conference

65th Session 1979

Report III
(Part 4B)

Third Item on the Agenda:
Information and Reports on the Application
of Conventions and Recommendations

General Survey of the Reports
relating to the Forced Labour Convention,
1930 (No. 29), and the Abolition of
Forced Labour Convention, 1957 (No. 105)

Report of the Committee of Experts on the Application of Conventions and
Recommendations (Articles 19, 22 and 35 of the Constitution) - Volume B



International Labour Office Geneva

ISBN 92-2-101959-4

First published 1979

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.

ILO publications can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. A catalogue or list of new publications will be sent free of charge from the above address.

Printed by Imprimerie du Journal de Genève, Geneva, Switzerland

CONTENTS

	<u>Paragraphs</u>
CHAPTER I: <u>Introduction</u>	1-18
Background to the survey	1-5
Measures called for by the Conventions on forced or compulsory labour	6-9
Standard-setting activities of the ILO as a follow-up to the surveys on forced labour	10-12
Information available	13-14
Arrangement of the survey	15-16
CHAPTER II: <u>Forced or compulsory labour for the purpose of production or service</u>	19-87
Definition of "forced or compulsory labour" in the Forced Labour Convention, 1930 and exceptions	19-37
Compulsory military service	24-33
Normal civic obligations	34
Prison labour	35
Emergencies	36
Minor communal services	37
Meaning of "forced or compulsory labour" in the Abolition of Forced Labour Convention, 1957 ..	38-42
Progress and present-day problems in the implementation of the international standards	43-87
General obligation to work	45-48
National service obligations	49-62
Use of conscripts for non-military purposes	49-53
Enlistment of unemployed young people	54

	<u>Paragraphs</u>
Obligations of services in relation to training received	55-62
Powers to call up labour in cases of emergency	63-66
Restrictions on freedom of workers to terminate employment	67-73
Imposition of labour for specified purposes	74-83
General public works and services	75
Local public works	76-79
Transport	80
Cultivation	81-82
Miscellaneous	83
Effective enforcement of the prohibition of forced or compulsory labour	84-87
CHAPTER III: <u>Forced or compulsory labour as a sanction or punishment</u>	88-141
Section I: Prison labour	88-109
Forced Labour Convention, 1930	89-101
Compulsory labour as a consequence of a conviction	90-93
Conviction in a court of law	94-96
Conditions governing the use of prison labour	97-101
Abolition of Forced Labour Convention, 1957	102-109
Section II: Abolition of forced or compulsory labour as sanction against workers	110-132
A. Labour discipline	110-119
Sanctions of general scope	112-113
Sanctions applicable in the public sector and in certain private posts	114-116
Disciplinary measures applicable to seamen	117-119
B. Punishment for participation in strikes	120-132

CONTENTS

v

	<u>Paragraphs</u>
General prohibition of strikes	121
Specific restrictions on the right to strike	122-132
Restrictions in the case of essential services and certain other employment	123-125
Exceptional prohibition of strikes	126-127
Prohibition of political strikes	128
Conditions under which a strike may be called	129-132
Section III: The abolition of forced or compulsory labour as a means of political coercion or education or of discrimination	133-141
A. Political coercion	133-140
B. Discrimination	141
CHAPTER IV: <u>Conclusions</u>	142-156
	<u>Page</u>
APPENDIX I. Texts of the substantive Articles of the Conventions concerning the abolition of forced or compulsory labour	85
A. Forced Labour Convention, 1930 (No. 29)	85
B. Abolition of Forced Labour Convention, 1957 (NO. 105)	93
APPENDIX II. Information available	95
APPENDIX III. Cases of progress noted in the present study	100



CHAPTER I

INTRODUCTION

BACKGROUND TO THE SURVEY

1. In accordance with article 19 of the Constitution of the International Labour Organisation, the Governing Body of the International Labour Office decided at its 201st Session to request those governments which had not ratified the Conventions dealing with forced labour to supply reports in 1978 indicating the position of their law and practice in regard to the standards contained in those Conventions. The receipt of these reports has provided an opportunity for the Committee of Experts, in accordance with its usual practice, to make a general survey of the situation in the field covered by the forced labour Conventions, both in ratifying States and in countries which have not ratified both or either of these Conventions.

2. The present survey comes on the fiftieth anniversary of the first discussion in 1929 of forced labour by the International Labour Conference which, the following year, was to adopt the Forced Labour Convention, 1930 (No. 29). It is the third survey of its kind since the adoption of the Abolition of Forced Labour Convention (No. 105) in 1957. The first was carried out in 1962, shortly after Convention No. 105 came into force (17 January 1959), and the second in 1968, on the occasion of the International Year for Human Rights.¹

3. In deciding to ask governments which had not ratified the forced labour Conventions to submit reports on them in 1978 under article 19 of the Constitution, the Governing Body took up the requests which had been made by the Workers' members of the Conference Committee on the Application of Conventions and Recommendations in 1975 and 1976. Citing the comments made by the Committee of Experts, the Workers' members had pointed out that many problems continued to arise regarding the application of Conventions and considered that a review of the over-all situation by the Committee of Experts would help to ensure their more uniform application.² More generally, the International Labour Conference adopted a resolution in 1977 which called for the

¹ In addition, the Committee presented a special survey in 1969 based on the reports requested in accordance with article 19 of the Constitution of the ILO in which the governments were asked to indicate, for Conventions dealing with forced labour and for other important Conventions: (a) the extent to which it was proposed to give effect to the terms of the instruments, and (b) any difficulties which prevented or delayed ratification (ILO: The ratification outlook after 50 years: 17 selected Conventions (Geneva, 1969)).

² ILO: Record of Proceedings, International Labour Conference, 60th Session, Geneva 1975, Report of the Committee on the Application of Conventions and Recommendations, first part, general report, para. 25, and 61st Session, Geneva 1976, *ibid.*, para. 71.

strengthening of the system for supervising the application of international labour standards, particularly in the field of human rights including the abolition of forced labour, and urged the governments of member States to co-operate actively in this respect;¹ similarly, the regional Conferences of Nairobi (1973),² Mexico (1974)³ and Colombo (1975)⁴ adopted resolutions emphasising the fundamental importance for the freedom and dignity of workers and for a balanced social and economic development, of the ratification and implementation of Conventions Nos. 29 and 105, amongst others.

4. The steady increase in the number of ratifications of Conventions Nos. 29 and 105 since the general survey in 1968 is significant. Already at that time, the 1930 Convention had been ratified by 99 States and was applicable to 44 territories and the 1957 Convention had acquired 80 ratifications and was applicable to 32 territories. Altogether, 143 countries were then bound by Convention No. 29 and 112 countries by Convention No. 105. Today the number of ratifications has risen from 99 to 119 States in the case of Convention No. 29 and from 80 to 103 States in the case of Convention No. 105. Of all the international labour Conventions, the Forced Labour Convention, 1930, has acquired the largest number of ratifications and now binds 150 countries. The Abolition of Forced Labour Convention, 1957, which is one of the most frequently ratified, binds 134 countries. At present, 124 countries (93 States and 31 territories) are bound by both Conventions. Thirteen of the 20 ratifications of Convention No. 29 which have taken place since 1968 represent the confirmation by newly independent States of the obligations formerly accepted on their behalf by the States which had hitherto been responsible for their international relations. The same is true of 12 of the 23 ratifications of Convention No. 105. There are very few member States left⁵ which have not yet ratified either of the two Conventions and most of these joined the Organisation only recently. Detailed indications of the countries bound by these instruments will be found in Appendix II to this survey.

5. Although it is true that the effective application of the forced labour Conventions continues to present problems in a certain

¹ Resolution concerning the promotion, protection and strengthening of freedom of association, trade union and other human rights, adopted on 21 June 1977; ILO, Record of Proceedings, International Labour Conference, 63rd Session, Geneva 1977, p. 849.

² Resolution No. 3 concerning the ratification and implementation of international labour standards in Africa, adopted by the Fourth African Regional Conference of the ILO in December 1973. Document GB.192/4/10, Appendix III, operative paras. 3(b) and 4.

³ Resolution No. 5 concerning the role of international labour standards in the countries of the Americas, adopted by the Tenth Conference of American States Members of the ILO in December 1974. Document GB.195/8/17, Appendix II, operative paras. 2 and 3.

⁴ Resolution No. 2 concerning international labour standards in Asia, in particular those relating to human rights and trade union freedoms, adopted by the Eighth Asian Regional Conference of the ILO in October 1975. Document GB.199/2/3, Appendix IV, operative para. 4(b).

⁵ Bahrain, Bolivia, Ethiopia, German Democratic Republic, Malawi, Mongolia, Nepal, Qatar and the United Arab Emirates.

number of countries, this survey also provides an opportunity to review the by no means negligible progress made in eliminating forced or compulsory labour, and the imposition of labour as punishment in the circumstances referred to in these Conventions. Since the 1968 general survey, the Committee has recorded over 80 cases of progress in the measures adopted by governments to introduce the necessary changes in the legislation or practice of their countries in order to ensure observance of the forced labour Conventions. These improvements have taken place in countries throughout the world with widely differing political, economic and social structures.¹ In several cases, the progress made has resulted from direct contacts between the governments concerned and representatives of the Director-General.

MEASURES CALLED FOR BY THE CONVENTIONS
ON FORCED OR COMPULSORY LABOUR²

6. The States which ratify the Forced Labour Convention, 1930 (No. 29), undertake to suppress the use of forced or compulsory labour in all its forms within the shortest possible period.³ The Convention defines "forced or compulsory labour" as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily".⁴ For the purposes of the Convention, and under certain conditions, five kinds of work or service are exempted from this definition: compulsory military service, certain civic obligations, certain forms of prison labour, work exacted in emergencies and minor communal services.⁵ The definition of forced or compulsory labour and the exceptions to it provided for in the 1930 Convention are the principal provisions of this instrument currently of importance.⁶ In addition, the 1930 Convention specifically prohibits certain forms of forced or compulsory labour, such as forced or compulsory labour for the benefit of private individuals, companies or associations⁷ and forced or compulsory labour as a punishment for crimes if it is applied to the entire community to which those who commit the crime belong.⁸

¹ See the cases listed in Appendix III of this survey.

² The substantive Articles of the Forced Labour Convention, 1930, and the Abolition of Forced Labour Convention, 1957, are reproduced in Appendix I to this survey.

³ Article 1, para. 1.

⁴ Article 2, para. 1.

⁵ Article 2, para. 2.

⁶ See paras. 19-37 below.

⁷ Articles 4 and 6.

⁸ Article 20. According to the wording used and the preparatory work, this provision would seem to be applicable whether or not the punishment is imposed by judicial decision (ILO: Forced labour, Questionnaire I, International Labour Conference, 14th Session, Geneva, 1930, pp. 35-37).

7. As opposed to the forms of forced or compulsory labour which must be abolished immediately, the Convention cites those which may be used during a transitional period pending their complete suppression and as an exceptional measure, subject to the conditions and guarantees set out in the Convention.¹ These provisions, which were aimed essentially at certain colonial practices, are hardly ever invoked now as a justification for retaining forced or compulsory labour.

8. Finally, the Convention provides that the illegal exaction of forced or compulsory labour must be punishable as a penal offence and that the penalties imposed by law must be really adequate and be strictly enforced.²

9. The 1957 Convention does not constitute a revision of the earlier instrument but may be regarded as supplementing it. While the 1930 Convention provides for the general abolition of compulsory labour subject to a certain number of exceptions, the Abolition of Forced Labour Convention, 1957 (No. 105), requires the abolition of any form of forced or compulsory labour in five specified cases: (a) as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system; (b) as a means of mobilising and using labour for purposes of economic development; (c) as a means of labour discipline; (d) as a punishment for having participated in strikes; (e) as a means of racial, social, national or religious discrimination.

STANDARD-SETTING ACTIVITIES OF THE ILO AS A FOLLOW-UP TO THE SURVEYS ON FORCED LABOUR

10. Following a suggestion made by the Committee of Experts in its general survey of 1962 on forced labour and the discussion of this survey by the Conference, the Office undertook research into the relationship between the requirements of economic and social development and the application of the Conventions on forced labour. In view of the magnitude and urgency of the problems posed by the training and employment of young people that came to light in the course of this research, the matter was included in the 1969 agenda of the Conference which, the following year, adopted the Special Youth Schemes Recommendation, 1970 (No. 136).

11. Recommendation No. 136 applies to "special schemes designed to enable young persons to take part in activities directed to the economic and social development of their country and to acquire education, skills and experience facilitating their subsequent economic activity on a lasting basis and promoting their participation in society". The Recommendation - which seeks to provide guidance concerning the objectives, methods and safeguards of such special schemes - emphasises that they should have an interim character to meet current and pressing economic and social needs, that they should not duplicate or prejudice other measures of economic policy or the

¹ In particular, Article 1, para. 2, Articles 7-19 and Articles 22-24.

² Article 25.

development of regular educational vocational training programmes and that they should not be regarded as an alternative to those measures and to those regular programmes.

12. One of the matters dealt with in the 1970 Recommendation is the basis for participation in special youth schemes. According to Paragraph 7(1), "participation in special schemes should be voluntary; exceptions may be permitted only by legislative action and where there is full compliance with the terms of existing international labour Conventions on forced labour and employment policy". Paragraph 7(2) provides that "schemes in respect of which exceptions may be so permitted may include: (a) schemes of education and training involving obligatory enrolment of employed young people within a definite period after the age limit of regular school attendance; (b) schemes for young people who have previously accepted an obligation to serve for a definite period as a condition of being enabled to acquire education or technical qualifications of special value to the community for development". It is significant that the two examples cited in Paragraph 7(2) as schemes in respect of which exceptions to the principle of voluntary participation can be permitted recall comments made by the Committee in its general survey on forced labour in 1968.¹ The way in which the 1970 Recommendation and the Conference debate on the subject clarify the relationship between certain compulsory schemes and the forced labour Conventions will be dealt with later in this survey.

INFORMATION AVAILABLE

13. The present survey is based both on reports supplied under article 19 of the ILO Constitution by countries which have not ratified the Convention concerned and on the reports supplied under article 22 of the Constitution by countries bound by those instruments. The total number of reports supplied under article 19 is 11 in respect of the Forced Labour Convention, 1930, and 22 in respect of the Abolition of Forced Labour Convention, 1957. Detailed indications of the countries which have supplied these reports, as well as of the countries for which information is available from reports supplied under article 22, will be found in Appendix II to this survey. The total number of countries whose reports have been taken into consideration in the preparation of this survey is 150 (120 States and 30 territories). As usual, the Committee, in addition to examining the information contained in the reports, has also sought to take account of all relevant material available.

14. The Committee regrets that, at the time of its sittings, no report under article 19 for the period under consideration had been

¹ ILO: Report III (part IV), Report of the Committee of Experts on the Application of Conventions and Recommendations, International Labour Conference, 52nd Session, Geneva, 1968. Part three: Forced labour, paras. 26, 137 and 138. See also Report III (part 4A), International Labour Conference, 56th Session, Geneva, 1971, Part one: General Report: paras. 24-26. References to the Reports of the Committee of Experts are hereafter indicated by the abbreviation RCE, followed by the year.

received from a certain number of countries¹ which have not ratified one or other of the Conventions or which, because they have ratified them recently were not yet required to submit a report under article 22 at the time the request was sent to them. Finally, in the case of a few countries² which for some years have not sent reports on the application of the instruments they have ratified, the Committee has been unable to verify whether the Conventions in question are being observed. Information concerning violations of workers' freedom in the Republic of South Africa is contained in the special reports of the Director-General on the application of the Declaration concerning the Policy of Apartheid.³

ARRANGEMENT OF THE SURVEY

15. The various kinds of forced or compulsory labour covered by the Conventions of 1930 and 1957 may be considered to fall into two broad categories. On the one hand there are cases of call-up of labour, the imposition of obligations of service or production or the imposition of other restrictions upon free choice of work. Here the primary emphasis is on the work or service to be obtained, that is, the product of the obligations imposed. On the other hand, there are cases of labour imposed as a means of political coercion or education or as punishment in various other circumstances. In these cases, the primary emphasis is on the effect which the labour is intended to produce on the individuals concerned. There is a possibility of overlap of these main categories of forced or compulsory labour, as where forced or compulsory labour is imposed as a means of labour discipline. It is proposed to examine the available material accordingly. The following chapters will therefore deal successively with forced or compulsory labour for the purpose of production or service and with forced or compulsory labour as a penalty or punishment in connection with labour discipline and strikes, and as a means of political coercion or discrimination.

16. The survey of the implementation of the standards on forced labour covers a great variety of situations. Thus, the references to national law and practice have been chosen to illustrate most clearly the main problems examined rather than to present an exhaustive list of all the situations which have given or might give rise to comments by supervisory bodies. In the following chapters, the names of countries which have ratified either Convention are underlined; in addition, countries having ratified Convention No. 29 are indicated thus: *, and

¹ El Salvador, Lao Republic, Malawi, Mongolia, Mozambique, Nepal, Qatar, Saudi Arabia, Seychelles, Swaziland, Togo, United Arab Emirates, Viet Nam, Yemen, Yugoslavia, Zaïre.

² In particular the following countries: Albania, Democratic Kampuchea, Lao Republic, Viet Nam.

³ ILO: Fourteenth Special Report of the Director-General on the Application of the Declaration concerning the Policy of Apartheid of the Republic of South Africa (International Labour Conference, 64th Session, Geneva, 1978), and previous reports.

countries bound by Convention No. 105 are indicated thus: *. The years of ratification are specified in Appendix II.

*
* *

17. Mr. Tunkin, member of the Committee, stated that in some instances, especially in paragraphs 47, 124 and 137, the interpretation of the legislation and practice of some socialist countries was inexact and he could not agree with it. Another member of the Committee, Mr. Gubinski, stated that he associated himself with Mr. Tunkin's remarks. Mrs. Bokor-Szegő, member of the Committee, stated that some paragraphs regarding the interpretation given to legislation of certain socialist countries did not fully take account of the spirit of relevant international standards.

18. Mr. Tunkin further expressed the view that, on the occasion of the general survey to be carried out by the Committee in 1980 as regards ILO Conventions and Recommendations concerning migrant workers, the position of immigrant workers should be examined with due account taken also of the provisions of Convention No. 29.

CHAPTER II

FORCED OR COMPULSORY LABOUR FOR THE PURPOSE OF PRODUCTION OR SERVICE

DEFINITION OF "FORCED OR COMPULSORY LABOUR" IN THE FORCED LABOUR CONVENTION, 1930, AND EXCEPTIONS

19. The Forced Labour Convention, 1930 (No. 29), requires the suppression of the use of forced or compulsory labour in all its forms. The Convention defines "forced or compulsory labour" as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily".¹ Apart from the express exceptions to be considered later, the Committee has had occasion in examining governments' reports to consider certain aspects of this definition so as to distinguish cases falling within the scope of the Convention from others which could be regarded as being beyond its purview.

20. In the first place, the definition refers to "work or service". The exaction of work or service may be distinguished from cases in which an obligation is imposed to undergo education or training. The principle of compulsory education is recognised in various international standards as a means of securing the right to education,² and it is also provided for in several ILO instruments.³ A similar distinction is to be found in other international labour standards between work and vocational training.⁴ The Committee has also

¹ Article 2, para. 1.

² Universal Declaration of Human Rights, article 26; International Covenant on Economic, Social and Cultural Rights, articles 13 and 14.

³ Provisions concerning the prescription of a school-leaving age appear in the following instruments: paras. 1, 2 and 4 of the Unemployment (Young Persons) Recommendation, 1935 (No. 45); Article 19, para. 2, of the Social Policy (Non-Metropolitan Territories) Convention, 1947 (No. 82); Article 15, para. 2, of the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117).

⁴ The Special Youth Schemes Recommendation, 1970 (No. 136) indicates (Paras. 7(1) and (2)(a)) that schemes of education and training involving obligatory enrolment of unemployed young people are compatible with the Conventions on forced labour. The Unemployment (Young Persons) Recommendation 1935 (No. 45), provides for compulsory attendance by unemployed juveniles at continuation courses combining general and vocational education (Paras. 8 and 9). This instrument also provides for the establishment of special employment centres the principal object of which is not to give vocational training but to
(Footnote continued on next page)

pointed out that a compulsory scheme of vocational training by analogy with and considered as an extension to compulsory general education, does not constitute compulsory work or service within the meaning of the forced labour Convention.¹ However, as vocational training usually entails a certain amount of practical work, the distinction between training and employment is not always easy to draw. It is by reference to the various elements involved in the general context of a particular scheme of training that one may determine whether it is unequivocally one of vocational training or on the contrary involves the exaction of work or service within the definition of "forced or compulsory labour".²

21. To fall within the definition of "forced or compulsory labour" in the 1930 Convention, work or service must be exacted "under the menace of any penalty". It was made clear during the consideration of the draft instrument by the Conference that the penalty here in question need not be in the form of penal sanctions, but might take the form also of a loss of rights or privileges.³

22. Compulsory labour as defined in the 1930 Convention may be distinguished from obligations imposed in certain cases on occupiers of land in connection with land use. For instance, where holders of irrigated land are required to participate in the maintenance of irrigation channels from which they derive direct benefit, their obligations - provided that these are commensurate with the benefits enjoyed - may be regarded as a form of consideration due from the land holder.⁴ This kind of obligation is to be distinguished both from obligations which may be imposed on holders of land to render services to other persons for purposes unconnected with the use of their own land⁵ and from compulsory cultivation, which is specifically referred to in the Convention.⁶

23. In addition to the cases that are not covered by the actual terms of the definition of "forced or compulsory labour", the 1930

(Footnote continued from previous page)

provide work; it states that attendance at such centres should be strictly voluntary (Paras. 19 and 20).

¹ RCE, 1965, p. 140; RCE, general survey of 1968, paras. 26 and 137; RCE, 1971, general report, para. 25, pp. 11-12.

² RCE, 1965, p. 140, and the general survey of 1968, para. 26. Reference may also be made to various aspects of training dealt with in the Human Resources Development Recommendation, 1975 (No. 150).

³ Record of Proceedings, International Labour Conference, 14th Session, Geneva, 1930, p. 691.

⁴ For example, (country which has ratified Convention No. 29) India* - (Punjab Minor Canals Act, 1905, sections 26 and 27; Central Provinces Irrigation Act, 1931, as amended, sections 69 and 72). The position is different if the obligation also cover persons who do not derive benefit from the works concerned; see RCE, 1976, p. 68 (India* - observation noting with satisfaction the repeal of provisions authorising the exaction of such obligations from all the residents of a given place).

⁵ RCE, general survey of 1968, para. 28, p. 187.

⁶ Article 19, see also paras. 81-82 below.

Convention provides specifically for the exemption of certain forms of compulsory service. These forms, which would otherwise have fallen within the general definition of "forced or compulsory labour", are thus excluded from the scope of the Convention.¹ The exceptions are subject to the observance of certain conditions. Where countries bound by the Convention have recourse to the excepted categories of compulsory service, the Committee is therefore obliged to verify that the conditions set by the Convention are observed. The applicable provisions are considered below.

Compulsory military service

24. The 1930 Convention exempts from its provisions "any work or service exacted in virtue of compulsory military service laws for work of a purely military character".² The discussions which took place when the draft Convention was under consideration by the Conference help to explain both the purpose and scope of this exception. There was general agreement that compulsory military service as such should remain beyond the purview of the Convention. Considerable discussion however took place with regard to systems existing at the time in various territories, whereby persons liable to military service but not in fact incorporated in the armed forces might be called up for public works. It was pointed out that to sanction this form of labour implicitly by excluding it from the scope of the Convention would be to sanction a system which ran counter to the avowed purpose of the Convention - namely the abolition of forced or compulsory labour in all its forms, for public purposes as well as for private employers. It was also stressed that the reason and justification for compulsory military service was the necessity for national defence, but that no such reason or justification existed for imposing compulsory service obligations for the execution of public works. The Conference accordingly decided that compulsory military service should be excluded from the Convention only if used for work of a purely military character.³

25. The question of the use of conscripts for non-military purposes came up again when the Conference examined the draft text of the Special Youth Schemes Recommendation, 1970 (No. 136). A first draft submitted to the Conference would have permitted the obligatory participation by young people in special employment schemes directed to national development, provided they were undertaken within the framework of compulsory military service or as an alternative to such service.⁴ However, this proposal was omitted from the text drawn up by

¹ Article 2, para.2.

² Article 2, para. 2(a).

³ ILO: Forced labour, Report I, International Labour Conference, 14th Session, Geneva, 1930, pp. 137-140; Record of Proceedings, International Labour Conference, 14th Session, Geneva, 1930, Vol. I, p. 301.

⁴ ILO: Special youth employment and training schemes for development purposes, Report VIII(2), International Labour Conference, 53rd Session, Geneva, 1969, pp. 167-173, proposed conclusions, point 13(b).

the competent Conference Committees, largely because it was deemed to be incompatible with the Conventions on forced labour.¹

26. There are, however, a certain number of cases in which a non-military activity performed during compulsory military service is not covered by the Conventions on forced labour because it comes under other exceptions provided for in the Convention, because it forms part of national defence activities or because it is a form of education or training or a privilege granted to certain people. All these cases, which will be taken up in greater detail below, also seem to be compatible with Article 1(b) of the 1957 Convention in so far as the compulsory service is not used for purposes of economic development.

27. In the first place, during the preparation of the 1930 Convention, it was recognised that the Convention should permit the use of soldiers in the same way as other citizens in cases of emergency.² The use of conscripts in such circumstances for non-military purposes would be covered by the separate exception in respect of work or service exacted in cases of emergency (considered below). Conscripts performing their military service may, for example, be used in the event of natural disasters or where, on account of insurgency or other threats to national security, the armed forces assume responsibility for various services which under normal conditions are entrusted to civil authorities.

28. It was also accepted that the Convention, in limiting compulsory military service to work of a purely military character, would not affect the labour of military engineers, pioneers or other similar arms which is performed as a part of their military training or for the defence of the national territory.³

29. Frequently, apart from training which is intended for defence purposes, conscripts undergoing military service are provided with general education and vocational training intended to facilitate their subsequent resettlement in civilian life. They may even be organised, for this purpose, in formations distinct from the armed forces. In these cases, provided that the arrangements present the objective characteristics of training schemes, they may be considered as lying outside the scope of the Convention, on the basis of the distinction between "work and service", on the one hand, and education and training, on the other.⁴

30. Many countries provide for the exemption from military service of conscientious objectors but may require them to perform alternative service. While the 1930 Convention - unlike certain subsequent international instruments⁵ - does not refer specifically to

¹ Record of Proceedings, International Labour Conference, 53rd Session, Geneva, 1969, pp. 691-694, paras. 37-60; and Record of Proceedings, 54th Session, Geneva, 1970, p. 388, para. 23.

² ILO: Forced labour, Report I, International Labour Conference, 14th Session, Geneva, 1930, p. 138.

³ Forced Labour, op. cit., p. 138.

⁴ See para. 20 above.

⁵ International Covenant on Civil and Political Rights, article 8; American Convention on Human Rights, article 6, 3(b); European Convention for the Protection of Human Rights and Fundamental Freedoms, article 4.

this matter, the Committee has considered¹ that in such cases conscientious objectors are in a more favourable position² than in countries where their status is not recognised and where refusal to serve is punishable with imprisonment.

31. The preceding paragraph deals with a special concession granted to certain individuals. The question has been raised whether, in countries where part of the contingent liable to call-up under military service laws may be used for work of a non-military character, the fact that a choice is given between military service proper and non-military work affects the application of the Convention. While the existence of a choice may provide a useful safeguard, the Committee has considered that this does not in itself exclude the application of the Convention when the choice between different forms of service is made within the framework and on the basis of a compulsory service obligation.³ In deciding whether it is a privilege granted to individuals on request, or whether, on the contrary, national service is being used as a means of promoting economic and social development through the use of compulsory labour, due account should therefore also be taken of the number of persons concerned and the conditions under which they make their choice. On this point, the view has been taken that there is nothing in the Convention to prevent qualified young people from requesting, even before they are called up, that they should be allowed to perform their active national service as teachers, engineers, doctors, specialists or technical experts abroad under a technical co-operation system.⁴

32. Even in the absence of an individual request, when teachers employed by the Ministry of Education perform their national service as teachers in villages designated by the Ministry whilst retaining their status of public servant and their salary, unless they specifically ask to perform their national service as soldiers in the armed forces,⁵ their situation can be assimilated for all practical purposes to the exemptions from military service which are sometimes granted to certain people on account of the importance of their occupation.⁶

33. It should be recalled that the provisions of the 1930 Convention relating to compulsory military service do not apply to career servicemen. Consequently, on the one hand, the Convention is not opposed to the performance of non-military work by persons who are serving in the armed forces on a voluntary basis,⁷ and, on the other hand, the fact that compulsory military service is not covered by the

¹ RCE, general surveys of 1962, para. 44, and of 1968, para. 34.

² Article 19, para. 8, of the ILO Constitution.

³ RCE, general survey of 1968, para. 35.

⁴ Country which has ratified the Conventions: France*, Act No. 66-479 of 6 July 1966 respecting the status of personnel performing active national service in the co-operation service.

⁵ Country which has ratified Convention No. 105 only: Turkey*: see Summary of Reports on Non-ratified Conventions, Report III (part 2), International Labour Conference, 65th Session, Geneva, 1979, p. 18.

⁶ RCE, general survey of 1968, para. 35.

⁷ RCE, general survey of 1968, para. 36.

Convention cannot be invoked to justify denying career servicemen the right to leave the service either at certain reasonable intervals or by means of notice of reasonable length.¹

Normal civic obligations

34. The Forced Labour Convention exempts from its provisions "any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country".² Three exceptions specifically provided for in the Convention refer to certain forms of work or service which constitute normal civic obligations: compulsory military service, work or service required in cases of emergency, and minor communal services. Other examples of normal civic obligations are compulsory jury service and the duty to assist a person in danger or to assist in the enforcement of law and order. The Committee has had occasion to point out that these exceptions must be read in the light of other provisions of the Convention and cannot be invoked to justify recourse to forms of compulsory service which are contrary to such other provisions.³

Prison labour

35. The Convention exempts from its provisions "any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations".⁴ Unlike the other exceptions provided for in the Convention which are concerned with cases of calling up persons for the purpose of performing particular work or services, this case relates to the consequences of punishment imposed as a result of the conduct of the individuals concerned. It will accordingly be considered in greater detail in the next chapter. Two of the conditions laid down in regard to the exaction of prison labour are however of significance also in the context of the present chapter, which is concerned with forced or compulsory labour for the purpose of production or service. These are that prison labour may be imposed only as a consequence of a conviction in a court of law and that the persons concerned should not be placed at the disposal of private individuals, companies or associations. Both are important guarantees against the administration of the penal system being diverted from its true course by coming to be considered as a means of meeting labour requirements.⁵ It is significant that the imposition of labour by non-

¹ RCE, 1977, p. 84. See also paras. 68 and 71-72 below.

² Article 2, para. 2(b).

³ RCE, general surveys of 1962, para. 46, and of 1968, para. 37..

⁴ Article 2, para. 2(c).

⁵ See also paras. 89-101 below.

judicial authorities frequently arises under vagrancy laws or analogous legislation designed to enforce an obligation to work.¹

Emergencies

36. The Convention exempts from its provisions "any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population".² The concept of emergency - as indicated by the enumeration of examples in the Convention³ - involves a sudden, unforeseen happening calling for instant counter-measures. To respect the limits of the exception provided for in the Convention, the power to call up labour should be confined to genuine cases of emergency. Moreover, the duration and extent of compulsory service, as well as the purpose for which it is used, should be limited to what is strictly required by the exigencies of the situation.⁴ The Committee, in examining reports from countries bound by the Convention, is accordingly concerned to satisfy itself that both law and practice with regard to the exaction of work or service in cases of emergency remain within these limits.⁵

Minor communal services

37. The Convention also exempts from its provisions "minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services".⁶ The Committee has had occasion to draw attention to the criteria which determine the limits of this

¹ These cases are examined in paras. 95-96 below.

² Article 2, para. 2(d).

³ This enumeration was retained in the Convention as "an indication of a restrictive character as to the nature of cases of emergency" - see Forced Labour, op. cit., 1930, pp. 142-143.

⁴ A similar approach has been adopted, for example, in the International Covenant on Civil and Political Rights, article 4 of which permits derogations from its provisions in time of public emergency which threatens the life of the nation, to the extent strictly required by the exigencies of the situation.

⁵ For example, RCE, 1949, p. 28; RCE, 1957, p. 113; and RCE, 1978, pp. 92-93; general surveys of 1962, para. 60, and of 1968, para. 39.

⁶ Article 2, para. 2(e).

exception and serve to distinguish it from other forms of compulsory services which, under the terms of the Convention, must be abolished (such as forced labour for general or local public works). These criteria are as follows:

- the services must be "minor services", i.e. relate primarily to maintenance work and - in exceptional cases - to the erection of certain buildings intended to improve the social conditions of the population of the community itself (a small school, a medical consultation and treatment room, etc.);
- the services must be "communal services" performed "in the direct interest of the community", and not relate to the execution of works intended to benefit a wider group;
- the "members of the community" (i.e. the community which has to perform the services) or their "direct" representatives (e.g. the village council) must "have the right to be consulted in regard to the need for such services".¹

MEANING OF "FORCED OR COMPULSORY LABOUR" IN THE ABOLITION OF FORCED LABOUR CONVENTION, 1957

38. As has already been noted, whereas the Forced Labour Convention, 1930, aims at the suppression of forced labour generally, subject to specific exceptions, the Abolition of Forced Labour Convention, 1957, provides for the abolition of forced or compulsory labour in a defined number of cases. The present chapter deals with only two of these cases: first, forced or compulsory labour "as a means of mobilising and using labour for purposes of economic development" (Article 1(b), of the Convention) and, second, any form of forced or compulsory labour "as a means of racial, social, national or religious discrimination" (Article 1(e)).²

39. The 1957 Convention indicates that, in the cases considered, forced or compulsory labour must be abolished in all its forms. As the Convention contains no definition, the Committee has considered that the definition of the concept of forced labour contained in the earlier Convention on forced labour is generally valid and can thus serve also to determine what constitutes "forced or compulsory labour" within the meaning of the 1957 Convention - namely, "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily".³

40. The Abolition of Forced Labour Convention is however concerned only with cases where the exaction of labour is for one of

¹ RCE, 1961, p. 256; RCE, 1964, p. 72; general surveys of 1962, para. 66, and of 1968, para. 40.

² This case will only be considered here as a form of exaction of work for the purpose of production or service. In the following chapter, it will also be examined in connection with forced or compulsory labour as a form of sanction or punishment.

³ RCE, general survey of 1968, para. 42.

the purposes specified in Article 1 of that Convention. In regard to the call up of labour for the purpose of production or service, it should be noted that Article 1(b) prohibits the use of forced or compulsory labour "as a method of mobilising and using labour for purposes of economic development". This paragraph of the Convention accordingly applies only where recourse to forced or compulsory labour has a certain quantitative significance¹ and is used for economic ends.

41. As mentioned above, the Conference re-examined the question of compulsory labour for development purposes in the course of the adoption of the Special Youth Schemes Recommendation, 1970 (No. 136). The Conference considered that schemes involving the compulsory participation of young people (as part of their military service or instead of it) in activities directed towards the development of their country were incompatible with the Conventions on forced labour.² However, in two other cases the Conference considered that compulsory participation in activities directed towards economic and social development was compatible with these instruments: firstly in the case of education and training schemes for unemployed young people within a definite period after the age limit of regular school attendance,³ which corresponds to the distinction between work and vocational training referred to above;⁴ and, secondly, when young people have accepted an obligation to serve for a definite period as a condition of being enabled to acquire education or technical qualifications of special value to the community for development.⁵ In the Recommendation, these exceptions to the principle of voluntary participation are cited by way of example and do not exclude the possibility of other similar situations. When examining national schemes entailing this kind of situation, the Committee endeavours to establish above all the extent to which the criteria laid down by the Conference apply.⁶

42. Article 1(e) of the Abolition of Forced Labour Convention prohibits the use of any form of forced or compulsory labour as a means of racial, social, national or religious discrimination. Even where the labour exacted for the purpose of production or service is not otherwise covered by the Convention on forced labour (for example, in the context of minor communal services), this provision requires the abolition of any discriminatory distinctions on racial, social, national or religious grounds.⁷

¹ The Conference declined to limit the prohibition in Article 1(b) to the use of forced labour as a "normal" method of mobilising and using labour for purposes of economic development - Record of Proceedings, International Labour Conference, 39th Session, Geneva, 1956, p. 723, para. 11; *ibid.*, 40th Session, Geneva 1957, p. 709, para. 11.

² See para. 25 above.

³ Para. 7(2)(a) of the Special Youth Schemes Recommendation, 1970.

⁴ Para. 20 above.

⁵ Para. 7(2)(b) of the Recommendation.

⁶ See paras. 56-61 below.

⁷ RCE, general survey of 1978, para. 46. The discriminatory exaction of labour as consequence of a conviction in a court of law, will be examined in the next chapter in para. 141.

PROGRESS AND PRESENT-DAY PROBLEMS IN THE IMPLEMENTATION
OF THE INTERNATIONAL STANDARDS

43. In many of the countries discussed in this survey, no form of forced or compulsory labour covered by the two Conventions may be imposed for purposes of production or service. As the Committee has noted in the past, national legislation generally affords sufficient protection against the illegal exaction of labour.¹ However, a certain number of problems have arisen in countries where national legislation itself provides for the possibility of imposing compulsory labour or service contrary to the Conventions. Among the cases cited in the last general survey or in observations made by the Committee of Experts since 1968 many have been settled by amending the provisions concerned. The following paragraphs describe the progress which has been made as well as the difficulties that still exist.

44. The points which have taken the Committee's attention will be examined in the following order: general obligation to work, enforced by sanctions; compulsory labour services which are assimilated to national service obligations, and the power to call up labour and to restrict the freedom of workers to leave their employment other than in cases of emergency. The problems which are in the process of being solved still include the exaction of work for specific purposes covered by Articles 4 to 21 of the 1930 Convention, and shortcomings in the effective enforcement of the ban on forced labour.

General obligation to work

45. In various national constitutions the provisions concerning the protection of fundamental rights also contain a statement of the duties of citizens. In some cases, these include the duty to work, particularly as the counterpart of the right to work which certain constitutions grant to citizens. Some governments have emphasised that this is above all a moral duty. So long as it does not take the form of a legal obligation enforced by sanctions, it does not affect the application of the Conventions on forced or compulsory labour. In some countries, however, national legislation goes further and creates a legal obligation for all able-bodied citizens who are not receiving some kind of instruction to engage in a gainful occupation; failure to do so renders them liable to compulsory direction to specified work or to penal sanctions, which is incompatible with the 1930 and 1957 Conventions.² The Committee has noted with satisfaction that some of the texts to which it has drawn attention in the past have been repealed or amended to conform to international standards.³ In other

¹ RCE, general surveys of 1962, paras. 36-37, and of 1968, paras. 47 and 73; see also para. 84 et seq. below.

² RCE, general survey of 1968, para. 55; and RCE, 1975, p. 70, where the Committee emphasised that the exception in respect of "normal civic obligations" in Article 2(2)(b) of the 1930 Convention cannot be invoked to justify such legislation.

³ Countries which have ratified one or both of the Conventions: RCE, 1977, p. 84 (Benin*); 1971, p. 75 (Madagascar*).

cases, however, the discrepancy continues to exist¹ or has been newly introduced by the adoption of legislation designed to impose work on all persons (or those of a certain age group) who are not regularly employed.² The governments of some of the countries involved are

¹ Countries which have ratified the Conventions: Central African Empire* - Ordinances Nos. 66-04 of 8 January 1966 (as amended by Ordinance 72-083 of 18 October 1972) and No. 66-38 of 3 June 1966 (all persons, of either sex, aged between 18 and 55 years, who are not incapacitated from work or registered at an educational establishment, and who are unable to prove that they belong to one of eight specified categories of the active population, can be punished by one to three years' imprisonment and directed to cultivation work); the Government has indicated its intention to bring this legislation into conformity with the Forced Labour Convention - see RCE, 1978, p. 83; Gabon* - Ordinance No. 50-62 of 21 September 1962 (every citizen over 18 years must be able to prove that he is occupied unless physically unfit or registered at an educational establishment; any citizen without an occupation must accept any available employment indicated by the authorities); any infringement of these provisions can be punished by the sanctions provided for in the case of vagrancy under article 96 of the Penal Code, i.e. by one to six months' imprisonment; the Government has indicated that this legislation has never been applied and will be repealed.

² Countries which have ratified one or both of the Conventions: Bulgaria* - article 4 of Resolution No. 136 of the Council of Ministers, dated 31 December 1974 (within 15 days of being notified, young persons between the ages of 15 and 30 years who are not engaged in socially useful work are obliged to take up the vacancies for employment or training that have been proposed to them, unless they have taken up some other work in the meantime). The Committee has noted with interest that articles 15 and 16, para. 2, of the Resolution concerning the penalties applicable were repealed by Order No. 79 of 20 December 1977. However, article 71 of the Penal Code still provides for penalties for persons who fail to comply with the instructions, orders or decisions legally issued by government bodies. Furthermore, section 329, para. 1 of the Penal Code in the 5 December 1975 version provides for penalties for able-bodied adults who refrain from engaging in socially useful work for a considerable period of time and receive in an unacceptable and immoral manner income that does not derive from their own labour (see para. 47 below). In 1970, the Committee of Experts had noted with satisfaction that a Decree of 1962 under which citizens who failed to fulfil their constitutional obligation to work could be directed to a specific employment was repealed by section 420 of the 1968 Penal Code; Cuba* - Act No. 1231 of 16 March 1971 (work is a social duty; those who do not work, remain absent from their work without justification for more than 15 days or have had disciplinary sanctions imposed upon them three times for unjustified absences may be subjected to security measures involving an obligation to work; failure to comply with this obligation constitutes the crime of idleness and is punishable with imprisonment in a rehabilitation centre for up to two years with an obligation to work). In 1977, the Government indicated that the new draft Penal Code contained amended provisions on the crime of idleness and that Act No. 1231 would be repealed as soon as the new legislation came into force; Romania* - Acts Nos. 24 and 25 of 5 November 1976 (all able-bodied persons who have reached the age of 16 years and are not following any form of education or training and are not employed are required to register with the object of being allocated to employment, subject to a fine; any person who refuses to take an employment may be obliged by final

(Footnote continued on next page)

however planning to repeal or amend this kind of provisions.

46. A similar situation to that existing in countries where the law imposes a general obligation to work may result from unduly extensive definitions of vagrancy and similar offences.¹ In some of the cases which had given rise to comments by the Committee, it has noted with satisfaction that the vagrancy provisions have been redefined in narrower terms.² The Committee has considered that provisions relating to vagrancy and similar offences that were intended to protect society against disturbances of public order and tranquillity by persons who not only habitually refuse to work but are also without any legal means of subsistence are compatible with the Conventions on forced labour. These criteria, as well as the absence of any known abode, are frequently to be found in national legislation.³ However, a certain number of texts which are designed to repress an asocial way of life do not establish, or do not define clearly enough, any criteria other than the fact of not working regularly or refusing to work.⁴

47. In some cases, vagrancy legislation itself refers to a general obligation to work and covers persons without an employment. Sometimes, even non-wage-earning small farmers come under provisions

(Footnote continued from previous page)

and enforceable court order to work in a specific undertaking; compliance with the court order shall be enforced by the police authorities); Tunisia* - Act No. 78-22 of 8 March 1978 to institute civilian service (all Tunisians between the age of 18 and 30 years who are not employed or registered with a public teaching or training establishment or with a duly authorised private establishment may be directed to civil service). Any person who is directed to civil service and who refuses or abandons the work he is assigned may be directed to re-educational work as provided for under Legislative Decree No. 62-17 of 15 August 1962. This Legislative Decree also provides that any male person who dishonestly refuses work after receiving prior warning may be directed to rehabilitative labour on a government work site for a period of up to one year for a first offence or up to two years for a repeated offence; Uganda* - Decree of 1975 on community agricultural colonies (under which any able-bodied unemployed person can be placed in a colony, where refusal to work or desertion is punishable by imprisonment or a fine).

¹ This point was already made during the preparatory work on the Forced Labour Convention - see Forced Labour, International Labour Conference, 12th Session, Geneva, 1929, para. 365.

² Countries which have ratified the Conventions: RCE, 1974, p. 73 (Costa Rica*); 1978, p. 87 (Honduras*), p. 89 (Liberia*) and p. 184 (Sierra Leone*); 1979, observations concerning ratified Conventions, C. 29 (Paraguay*).

³ RCE, general survey of 1968, para. 56.

⁴ Country which has ratified the Conventions: Burundi* - Vagrancy Act (Decree of 6 June 1958), articles 3, 4 and 6 (mainly concerning able-bodied persons who, through idleness, live in a habitually state of vagrancy - a state which is not defined under the law). See also the cases cited in the following paragraph.

against vagrancy.¹ According to several texts, public order may be threatened by the mere fact that an able-bodied person has no regular occupation.² Some of the laws which also deal with the manner in which the person concerned ensures his means of subsistence are not restricted in scope to unlawfully acquired income. In one case, living at the expense of another person is given as an example of a reprehensible manner of ensuring one's means of subsistence;³ in

¹ Countries which have ratified one or both of the Conventions:
Dominican Republic* - Penal Code, section 270 (under which any individual engaged in agriculture who does not own any permanent plot of at least 6,290 m² of well-cultivated land and who is employed neither by a private person nor by an enterprise is deemed to be a vagrant); the Government has indicated that following recent direct contacts with the representative of the Director-General it has been decided to repeal the provisions of the Penal Code on vagrancy;
Guatemala* - Vagrancy Act (Decree No. 118 of 24 May 1945), article 2 (concerning inter alia occupiers or holders of rural land who do not derive sufficient income from it (and from any other work) for their own and their family's subsistence, as well as peasants who do not personally engage in cultivation on their own account or for an employer according to their physical aptitudes and local conditions).

² Countries which have ratified the Conventions: Ecuador* - Penal Code, sections 358 and 359 (vagrants are inter alia able-bodied persons who are not regularly engaged in a trade or occupation; they are placed in an industrial establishment or in an agricultural penal colony for a period of from one to three years). The Government has indicated that, as a result of direct contacts with a representative of the Director-General in 1974, it has decided to amend this text to meet the requirements of the Convention; Nicaragua* - Police Regulation, Act of 26 October 1880, eighth official edition, 1952 (Title III, Chapters XIV and V, and Title V, Chapter V, section 521, para. 22, of which contain provisions to the effect that craftsmen, day workers and domestic employees are subjected to strict police control: any such person who is not engaged in any regular activity, absents himself from or deserts his work or does not perform his work properly may be sentenced as a vagrant). The Government has indicated that these provisions have been repealed by section 369 of the 1945 Labour Code and has assured the Office that the next edition of the Police Regulations will take this into account. The Committee has also noted that sections 29, 31, 32-38, 522, para. 8, 583 paras. 3, 6, 20 and 24, 545 and 575 of these Regulations contain provisions to the effect that persons who are not engaged in a regular lucrative activity in a lawful occupation may be sentenced as vagrants; moreover, vagrants may be placed with an employer by the police and apprentices who absent themselves from their workshops are liable to be imprisoned or directed to public works. The Government stated in its latest report that the competent authorities are considering what measures to take in this connection. Country having ratified neither Convention: German Democratic Republic - Penal Code as amended on 19 December 1974, section 249 (any person who endangers the social community life of the citizens or threatens public order by persisting through idleness in his refusal to engage in regular work for which he is fit may be sentenced to deprivation of freedom for up to two years and, for a repeated offence, for up to five years).

³ Country which has ratified Convention No. 29: Czechoslovakia* - section 203 of the amended Penal Code (any person who systematically refuses to engage in honest work and allows himself to be kept by somebody else or provides for his means of subsistence in some other

(Footnote continued on next page)

another country, law and jurisprudence as to persons who do not engage in socially useful work authorise living on another person's work, for example on the income of other family members or on an inheritance, as well as on one's own savings, but punish living on income not derived from work (even somebody else's) the acquisition of which is prohibited by law or contrary to socialist moral standards.¹ In other cases, governments have indicated that an able-bodied person cannot be punished simply for refusing to work, since it is permissible to live on lawful income earned previously, savings, royalties, inheritance or lottery prizes² or because the penal provision is only aimed at persons living on unlawful income deriving in particular from fortune telling or gambling activities.³ In these instances, it would seem appropriate that the scope of the penal provisions should be clearly limited to the unlawful activities.

48. Provisions on vagrancy and similar offences that are defined in an unduly extensive manner are liable to become a means of compulsion to work. This danger is particularly great when, as still occurs in some countries,⁴ these provisions are applied by non-judicial authorities (a matter to be further considered in the next chapter). The Committee has noted with interest certain cases in which the competence to deal with such matters has been transferred to the courts of law.⁵ However, it has had to recall that penalties imposed or liable to be imposed on those who merely refuse to take an employment are contrary to the 1930 Convention even if they can only be imposed by a court of law: while the Convention exempts from its scope - in the circumstances specified in Article 2, paragraph 2(c) - work exacted as

(Footnote continued from previous page)

improper manner shall be sentenced to deprivation of freedom for up to two years); in its report on Convention No. 29 for the period 1975-77, the Government indicated that these provisions would be revised in the light of the Convention.

¹ Country which has ratified Convention No. 29: Bulgaria* - report under article 22 for the period 1975-77, regarding section 329, para. 1 of the Penal Code of 5 December 1975 (any adult person fit for work who for a considerable period of time does not engage in any socially useful work and receives in an inadmissible or immoral manner income not deriving from this own work shall be deprived of his freedom of up to two years).

² Country which has ratified Convention No. 29: Hungary* - reports under article 22 for the period 1973-75 and 1975-77, regarding section 91, para. 1 of Act No. 1 of 1968 and section 214 of the Penal Code.

³ Country which has ratified Convention No. 29: USSR* - statement to the Conference Committee in 1977 regarding section 209 of the Penal Code of the RSPSR (Record of Proceedings, International Labour Conference, 63rd Session, Geneva, 1977, pp. 576-578).

⁴ Country which has ratified the Conventions: Dominican Republic* (under section 271 of the Penal Code vagrancy cases fall within the jurisdiction of communal mayors). The Government has indicated that a bill is being drafted to repeal these provisions, see para. 47, note 1; Nicaragua* - under the Act of 17 July 1948, such cases are tried by police judges who are officials of the executive power.

⁵ Countries which have ratified Convention No. 29: RCE, 1978, p. 87 (Honduras*); 1976, p. 79 (USSR*).

a consequence of a conviction in a court of law, it nevertheless prohibits (Article 2, paragraph 1) recourse to the menace of any penalty (including penal sanctions) as a means of compulsion to work.¹

National service obligations

Use of conscripts for non-military purposes

49. In many countries, a form of service is imposed for a fixed period on a given section of the population, defined in terms of age or training and considered as having an obligation towards society. The most common form of such service is compulsory military service which is excluded from the scope of the forced labour Conventions in the circumstances described above.² In its general survey on forced labour of 1968, the Committee analysed various national legislative provisions under which conscripts may be directed to non-military work of general interest or of economic and social development, in the course of their regular military service or in separate formations that may or may not be under the control of the military authorities.³ The Committee had then deferred individual comments on the subject, while awaiting the Conference deliberations on the question of special youth schemes. In the meantime, the Conference has rejected the practice of making young people participate in development activities as part of their compulsory military service or instead of it, as being incompatible with the forced labour Conventions.⁴

50. Consequently, the Committee has further examined national situations in the light of the Special Youth Schemes Recommendation, 1970 (No. 136).⁵ Since then, some civic services have been formally discontinued⁶ and others are stated to have fallen into disuse,⁷ but

¹ Country which has ratified the Conventions: RCE, 1977, p. 97 (Tunisia*).

² See paras. 24-33 above.

³ RCE, general survey of 1968, paras. 50 and 63-67.

⁴ See para. 25 above.

⁵ See paras. 10-12 above.

⁶ Countries which have ratified one or both of the Conventions: Benin* - see the expression of satisfaction of the Committee in its 1979 report as a result of direct contacts connected with Convention No. 29; Central African Empire* - Act No. 62-304 of 8 May 1962 providing for civic service in the Organisation of National Youth Pioneers was repealed by Ordinance No. 69-145 of 1 August 1969; Zaire* - Legislative Ordinance No. 66-455 of 16 August 1966 providing for the creation of a compulsory civic service was repealed by Legislative Ordinance No. 71-083 of 11 September 1971.

⁷ Countries which have ratified one or both of the Conventions: Congo* - the Government has indicated that the civic youth service instituted by Decree 62-127 of 7 May 1962 does not at present exist but section 4 of the 1977 Labour Code continues to exclude it from the definition of the prohibition of forced labour; Guinea* - the

(Footnote continued on next page)

most of the texts mentioned in the 1968 study are still in force¹ and others have been added to them.² Bearing in mind the great difference that may exist between legislation and practice in this respect, the Committee has above all endeavoured to obtain information on the real situation in the countries that have ratified one or other of the forced labour Conventions, on the objectives pursued by compulsory labour services of a non-military nature and on the measures taken or envisaged in this connection to ensure the observance of international standards.

(Footnote continued from previous page)

Government has stated that Decree No. 416/PRG of 22 October 1964 (under which 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) is no longer applied and will be repealed: cf. RCE, 178, p. 177.

¹ Countries which have ratified one or both of the Conventions: Bulgaria* - Act of 14 February 1958 on regular military service, as amended by Decree of 21 July 1959, and the Decree of 30 March 1954, as amended in 1955 and 1969, on special labour services under which conscripts can be directed for two years to agricultural or construction work; Chad* - Ordinance No. 2/PC/CM of 27 May 1961 concerning the organisation and recruitment of the armed forces, section 7, para. 4, and Decree No. 9 of 6 January 1962 made under that Ordinance, sections 3 and 4, under which conscripts can be directed to work in the general interest in order to contribute to the country's development; Ivory Coast* - Act No. 61-209 of 12 June 1961 on the organisation of defence and of the armed forces and Act No. 61-210 of 12 June 1961 on recruitment for the armed forces under which conscripts can be directed to work of national interest or to employment in state enterprises (the Government has stated that for several years conscripts have not any more been assigned to these tasks, that every year, when recruitment by the armed forces is complete, those not called up for military service in the strict sense voluntarily join the civic service to be trained for agricultural trades, and that the Labour Advisory Committee is currently examining a draft text with a view to bringing the above-mentioned Acts into conformity with the 1930 Convention); Madagascar* - under Decree No. 76-083 of 4 March 1976, the civic service created by Decree No. 62-623 of 28 November 1962 is dissolved, but the civic service units are the first units of the Development Corps; moreover, under Act No. 68-018 of 6 December 1968 to provide for the organisation of defence and the creation of national service and under Ordinance No. 78002 issued under that Act and concerning the general principles of national service, this service is defined as participation in national defence and in economic and social development.

² Countries which have ratified the Conventions: Guyana* - National Service Act, Chapter 15:02 (under which citizens between the age of 18 and 45 years can be directed to any tasks that the Minister considers appropriate); Iraq* - Act No. 76 of 1968 concerning the organisation of chivalry and youth regiments to prepare youth to contribute to national defence and public services wherever necessary and Act No. 162 of 1975 on the same subject (the Committee has requested information on the application of the new Act); Tanzania* (Zanzibar) - Presidential Decree of 30 November 1971 requiring all Zanzibar citizens to serve in a youth camp for two years after leaving school.

51. A number of governments have pointed out that in actual fact non-military national service activities are not really what the legislation might appear to indicate. In some cases, the Government has stated that in practice the legislation applies only in the case of emergencies¹ or in respect of vocational training.² Where the information supplied indicates that compulsory non-military work is in fact restricted to emergencies as defined in Article 2, paragraph 2(d), of the Forced Labour Convention or to vocational training, it would be

¹ Countries which have ratified the Conventions: United Republic of Cameroon* - Act No. 73-04 of 9 July 1973 setting up the national civil service for participation in development and Decree No. 74-236 of 1 February 1974, issued under that Act, which permits the imposition on citizens aged from 16 to 55 years of work of general interest for a period of two years; the Government has indicated that this service is designed for the training of young people and that the legislation empowers the authorities to mobilise the whole or a part of the population to deal with a catastrophe; Egypt* - sections 31-33 of the Military and National Service Act No. 505 of 1955 (public works carried out as part of national service); the Government has undertaken to revise the legislation when the country is no longer at war and therefore no longer in a state of emergency; Norway* - section 9(2) (b) of the Military Service Act (civilian labour in the national interest); the Government has indicated that these provisions will only be applied in emergencies.

² Countries which have ratified the Conventions: United Republic of Cameroon* - see previous footnote; France* (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion) - adapted military service was instituted in 1961 in the first three departments and then extended to Réunion; the Government has indicated that this service involve participation in social promotion activities in these departments and provides conscripts assigned to it with military and vocational training for 12 months; Gabon* - Act No. 36-66 of 31 December 1966 providing for the creation of a national civic youth service and Order No. 004-15, PR/MENSC of 8 April 1967 issued under that Act (recruitment of men not doing their military service, preferably idle young people without any regular employment, with a view to participation in work of national interest); the Government has indicated that in practice the service concerns a limited number of unemployed volunteers aged 16 years; following a vocational training course of 18 months, they are placed in employment in accordance with the principle of freedom of association; Paraguay* - section 21 of Act No. 854 of 1963 respecting agrarian status (under which regulations are to be drawn up governing the collaboration of the armed forces in rural promotion activities); the Government has stated that section 21 has not been applied; moreover, in the course of direct contacts on the spot, the Government stated that the recruits are not employed on any work of general interest during their service but that they receive schooling and vocational training; Senegal* - sections 20, 23 and 24 of Act No. 70-23 of 6 June 1970 (establishing a national defence corps to provide assistance in national construction); the Government has stated that no Decree in application of section 24 to institute the national defence corps has been issued but that three school sites for agricultural and halieutic training were created to provide vocational training for soldiers and the reincorporation of those concerned in the primary sector but that these school work sites have been closed and co-operative villages set up and that the army has transferred its responsibilities in this field to the ministry responsible for agriculture.

desirable, when the occasion arises, to bring the legislation into line with actual practice; in the meantime, it would be useful for the governments concerned to indicate in their reports any change in the situation.

52. Some governments state that young people engaged in economic development work or work of general interest as part of their compulsory national service are in practice always volunteers.¹ Here again, the principle that only volunteers perform such service should be reflected in the legislation; so that there can be no question of indirect pressure, governments wishing to create a service for development purposes consisting of people who have joined the service quite freely could separate this corps from the compulsory national service, which would then be restricted to the duration of military training.² Should the development volunteers be excused from compulsory

¹ Countries which have ratified the Conventions: Algeria* - Ordinance No. 68-82 of 16 April 1968 on the institution of the national service and No. 74-103 of 15 November 1974 to promulgate a National Service Code, under which young Algerians aged 19 or above must undergo national service for two consecutive years in order to participate in, amongst other things, achievement of the higher objectives of the revolution, those of national interest and in the functioning of the various economic administrative sectors; the Government has explained that young Algerians are all volunteers for the elimination of the repercussions of underdevelopment and that, after receiving a few months military training, they perform tasks useful to society, such as those of the green belt project or the construction of farming villages; Colombia* - section 105 of Act No. 135 of 1961 on the agrarian social reform (which provides that the military headquarters should arrange with the Colombian Agrarian Reform Institute the manner in which the personnel of the armed forces can contribute to the implementation of the reform) and Decree No. 2347 of 1971; according to the Government, these civic activities of the armed forces are supposed to provide assistance to economically weak segments of the population and consist of construction programmes on roads, bridges, medical dispensaries, housing and educational centres. The work is temporary in nature and no pressure is brought to bear on the recruits, who are remunerated; Ecuador* - Act No. 625 of 14 March 1966 on military service as amended by Decree No. 1558 of 1966 (which provides that one of the objectives of that service is to permit collaboration in the country's economic development by the civic action service of the armed forces) and Decree No. 177 of 1967 under which recruits can be required to perform forestry work for a period of at least 30 days annually; according to the Government, the services performed by the conscripts on development projects are remunerated and the people concerned are free to choose the kind of service in which they wish to engage; Morocco* - section 4 of Royal Decree No. 137-66 of 1966 on military service (which provides that active service can include a period of technical and vocational training and that recruits with the necessary qualifications can be placed at the disposal of the public administrations); the Government has stated that the recruits are only placed at the disposal of these administrations under conditions of extreme necessity and on a voluntary basis, for example to permit the retraining of established teachers.

² cf. the direct request addressed to Algeria* in 1978 in connection with Convention No. 29. In a report on Convention No. 29, the Government of the Ivory Coast* similarly indicated that it intended to separate the civic service from the armed forces and to organise it on a voluntary basis.

military service, this should take the form of an exemption and not be used as a means of pressure so that a civic service can recruit a number of people for whom there would in any case not be any place in the armed forces.

53. It may also occur that legislation authorising the government to call up conscripts for assignment to public services or public sector bodies may in fact be designed only to maintain public servants in their normal jobs while being legally enlisted for compulsory military service. This situation is comparable in its effect to an exemption from military service¹ and, in a recent case, the Committee took note of a government's statement that the scope of the legislation had been specified in a circular issued by the Supreme Commander of the Armed Forces.²

Enlistment of unemployed young people

54. In some countries, participation in civic service is restricted in law³ or in practice⁴ to young persons who have no employment and are not receiving any form of instruction. In so far as it only imposes education and training programmes, the recruitment of unemployed young persons is compatible with the Special Youth Schemes Recommendation, 1970 (No. 136), and has no bearing upon the forced labour Conventions.⁵ However, where the service takes the form of compulsory labour, the situation is similar to that where the law provides for a general obligation to work.⁶

Obligations of service in relation to training received

55. A number of countries impose service on persons who have completed certain kinds of studies. Sometimes such an obligation applies only to a narrow range of professions, particularly young doctors, dentists and pharmacists and also engineers, who may be required for a fixed period to exercise their occupation in a post to

¹ See para. 32 above.

² Country which has ratified the Conventions: Syrian Arab Republic* - Legislative Decree No. 123 of 21 May 1970 and circular issued by the Supreme Commander of the Armed Forces on 28 February 1977.

³ Country which has ratified the Conventions: Tunisia* - Civic Service Act No. 78-22 of 8 March 1978.

⁴ Country which has ratified the Conventions: Gabon* - Act No. 36-66 of 31 December 1966 providing for the creation of a national civic youth service and Order No. 004-15 PR/MENSC issued under that Act (see the second footnote to para. 51 above).

⁵ See paras. 12 and 20 above.

⁶ See para. 45 above.

which they are directed by the authorities.¹ In other cases, the obligation may be imposed on a large proportion of graduates from higher educational establishments, namely those whose branch of activity corresponds to the sectors of the economy with the greatest needs² on all university graduates whose higher education³ or studies⁴ have been financed or subsidised by public funds; or on all nationals having graduated from national or foreign universities.⁵ Elsewhere, even secondary school leavers⁶ or those having completed specialised

¹ Countries which have ratified one or both of the Conventions:
Egypt* - Act No. 183 of 1961 as amended by Act No. 29 of 1974 respecting the calling up of new doctors, pharmacists and dentists for a period of two years, once renewable, refusal to accept mobilisation being punishable by two years imprisonment, and Act No. 54 of 1976 respecting the calling up of Egyptian engineers who have graduated from Egyptian universities and institutes for a period of six years; India* - National Service Act of 1972 under which persons who have received a diploma in a medical or paramedical profession or a university diploma of a level equal to that of engineer may be called up for a period of four years to engage in tasks of public utility; the Government has stated that this text has not been applied and that no specification of the type of services to which such persons might be directed has yet been issued.

² Country which has ratified the Conventions: Poland* - Act of 25 February 1964 on the employment of persons holding diplomas from higher education establishments and ordinances issues under that Act respecting the obligation to reimburse study expenses and the branches subjected to graduate employment planning; however, only graduates who have not found employment in their branch on their own initiative are assigned jobs directly.

³ Country which has ratified Convention No. 29: Sri Lanka* - Compulsory Public Service Act, No. 70 of 1961 under which university graduates are required to perform compulsory service for five years, non-compliance being punishable by a fine; however, the Government has indicated that in practice the Act is only applied to young doctors: furthermore, a ministerial committee has recommended that young doctors with personal problems can be exempted from this service and that, where the Act is applicable to other categories of graduates, the minister concerned is empowered to act at his discretion; the Government has also undertaken to modify the legislation to make it more liberal.

⁴ Country which has ratified the Conventions: Uganda* - Decree on university graduates (obligation of public service) of 1973 which requires graduates who have received training financed by public funds to serve for five years in the public service.

⁵ Country which has ratified Convention No. 29: Indonesia* - Act of 1961 on compulsory service required from university graduates for three years in the public service or in designated enterprises; non-compliance is punishable by imprisonment or a fine.

⁶ Country which has ratified Convention No. 29: Zaire* - Ordinance No. 72-058 of 22 September 1972 providing for the call-up of Zairois graduates under which secondary education graduates can be called up for two years and higher education or university graduates for a period equal to the normal duration of their studies, refusal to comply being punishable by six months' imprisonment; and Legislative Ordinance No. 68-071 of 1 March 1968 as amended by Legislative Ordinance No. 69-020

(Footnote continued on next page)

secondary education¹ may be required to remain for two or three years in an employment to which they have been directed by the authorities, any other employment normally being prohibited during this period; sometimes, they are required to engage in some economic or social service as part of their national service² or in similar units.³ In one case, all persons who have received training, who have learnt a skill or who have been specialised in their occupation at state expense are required to serve the State for at least 15 years, failing which they

(Footnote continued from previous page)

of 30 May 1969 which provides for the call-up of doctors for a period of three years, refusal to comply being punishable by imprisonment or by a temporary or permanent ban on exercising the medical profession pronounced by the Ministry of Public Health.

¹ Country which has ratified Convention No. 29: USSR* - Decision No. 220 of 18 March 1968 issued by the Minister of Secondary and Higher Education to approve the regulations on the placement of young specialists who have graduated from specialised secondary establishments and establishments of higher education, and Order No. 758 of the Council of Ministers of the USSR respecting the assignment of young specialists for three years to particular posts; under Section 29 of these regulations, young specialists who refuse to accept the employment assigned to them cannot be employed by any other enterprise for three years following their assignment, without special authorisation. The Government has stated that in practice, the assignment procedure ensures that young specialists are given work corresponding to their personal wishes and abilities, that the number of job vacancies ensures young specialists a wide choice, and that upon entering school, they have voluntarily committed themselves to accepting one of the places offered to them after graduation and to work for the prescribed time. Moreover, the Government has stated that refusal by the young specialist of his assignment does not give rise to any sanction whatsoever and that the only consequence is a refusal of the authorities to act as an intermediary in finding him employment.

² Country which has ratified Convention No. 29: Madagascar* - Ordinance No. 78-003 of 16 February 1978 respecting the status of personnel subjected to obligations of service, which stipulates that members of the armed forces who do not perform their service in the armed forces are known as "teachers, professors, doctors, engineers, telegraphic operators, nurses" in the national service; and Decree No. 78-049 of the same date which makes arrangements for the performance of compulsory national service activities by persons who obtained their baccalauréat in 1977 and requires all young Madagascans between the age of 18 and 30 years who have obtained their baccalauréat to perform nine months' service; failure to comply with these provisions is punishable by penal sanctions, prohibition to leave the country, to hold public office or to enrol in a teaching establishment and the denial of any state aid.

³ Country which has ratified the Conventions: Iran* - Literacy Corps, Health Corps, Development Corps, Womens Social Service Corps. The Law of 26 July 1968 on womens' social service authorises the call-up of secondary and higher education women graduates between the ages of 18 and 25 years for a period of 18 months to work in teaching, health, welfare and other social services; recruitment is on a voluntary basis and, in the event of a shortage of personnel, by drawing lots.

are liable to five years' imprisonment and a fine.¹ Where such service obligations are enforced by the menace of any penalty, they may have a bearing on the observance of the Conventions relating to forced or compulsory labour.

56. It deserves to be recalled that in the Special Youth Schemes Recommendation, 1970 (No. 136), the Conference indicated that exceptionally, and provided there is full compliance with the Conventions on forced labour, legislative provision may be made for compulsory participation in, inter alia, "schemes for young people who have previously accepted an obligation to serve for a definite period as a condition of being enabled to acquire education or technical qualifications of special value to the community for development".² In such cases, participants should, to the greatest possible extent, be given a free choice among different available forms of activity and different regions within the country and due account should be taken in their assignment of their qualifications and aptitudes.³ The services of participants should not be used for the advantage of private persons or undertakings.⁴ The duration of service should not normally exceed two years.⁵ Within the framework of national development plans, special schemes should have an interim character to meet current and pressing economic and social needs.⁶ In the light of the standards adopted in the 1970 Recommendation, the following criteria among others would seem to be applicable for assessing the extent to which obligations of service in relation to training received are compatible with the Conventions on forced labour.

57. In the first place, the training or technical skills acquired must be of special value to the community for development. Due account must accordingly be taken, on the one hand, of the level of development of the country concerned and, on the other, of the range of occupations covered. If a minority which has been privileged by the studies it has been enabled to complete is called upon to perform essential services, medical or other, for the rural population of a developing country for a few years, this follows the Recommendation; on the other hand, when obligations of service are instituted in an industrialised country or imposed on the great majority of persons who have received even secondary education, this raises the question of compliance with the Conventions on forced labour, bearing in mind also the recognition of the right to education by the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights.⁷

58. Secondly, the institution of a compulsory service should have an interim character to meet current and pressing needs; in this connection, the Committee has noted that, in several cases, the

¹ Country which has ratified the Conventions: Central African Empire* - Ordinance No. 74-017 of 26 January 1974.

² Special Youth Schemes Recommendation 1970 (No. 136), Para. 7 (2)(b).

³ *ibid.*, Para. 7 (3).

⁴ *ibid.*, Para. 3 (3).

⁵ *ibid.*, Para. 37(a).

⁶ *ibid.*, Para. 3 (2).

⁷ RCE, general survey of 1968, para. 138.

relevant legislation has been repealed after just a few years¹ or, being of a temporary nature, has expired² or else has not been applied in practice.³ Other countries have indicated that, at the time the legislation was adopted, the expertise of university graduates in certain fields was indispensable for the country's development but that now, with a growing number of graduates looking for work, the application of the law no longer corresponds to the employment situation,⁴ that the legislation will be modified liberally⁵ or that the legislation will be revised as soon as the country has a sufficient number of doctors and engineers.⁶

59. As regards the duration of service, which should not normally exceed two years according to the Recommendation, the Committee also takes into account the length of the previous studies and the sacrifice they represent for the community. In one case, it noted with interest that the theoretically unlimited possibilities of calling up doctors and engineers for successive two-year periods had been restricted to a total duration of service of four or six years respectively, and it requested the Government to supply further information on any further progress in this respect.⁷

¹ Country which has ratified the Conventions: Sudan* - the National Service Act of 1970 which imposed non-military service for three years on certain university graduates depending on their studies and the Act respecting study missions and scholarships which restricted the freedom of graduates in the service of the Government and state scholarship holders to leave their employment have been repealed by the National Training Act of 1976; RCE, 1979, observation on Convention No. 29.

² Country which has ratified the Conventions: Norway* - the Act of 21 June 1956 concerning compulsory service for newly qualified dentists expired on 30 June 1973; RCE, 1974, p. 82.

³ Country which has ratified Convention No. 29: India* - Compulsory National Service Act of 1972 (providing for the call-up of persons for social services).

⁴ Country which has ratified Convention No. 29: Indonesia* - reply to the direct request made in 1974 in connection with the Forced Labour Convention.

⁵ Country which has ratified Convention No. 29: Sri Lanka* - Government report on the application of the Convention for the period 1973-75; similarly, Indonesia has indicated in its reply to the direct request of 1975 relating to the Forced Labour Convention that the Act of 1961 on compulsory service for university graduates is contrary to the principle of free choice of work embodied in Act No. 14 of 1969 and will gradually be revised.

⁶ Country which has ratified the Conventions: Egypt* - Reply to the direct request made in 1977 in connection with the Forced Labour Convention.

⁷ Egypt* - Act No. 29 of 1974 amending Act No. 183 of 1961 concerning the calling up of young doctors, pharmacists and dentists, and Act No. 54 of 1976 concerning Egyptian engineers who have graduated from Egyptian universities and institutes, which repealed Legislative Decree No. 296 of 1956 on the requisitioning of engineers.

60. As regards the previous acceptance by the persons concerned, provided for in the Recommendation, several governments have pointed out that, once compulsory service is introduced, people beginning their studies know the obligations that await them. However, in order to appreciate how much latitude they are given, account should also be taken of the more or less limited choice of careers that do not entail an obligation to serve. Moreover, in several countries refusal to serve is punishable by penal sanctions,¹ whereas, elsewhere, the graduate may only be required to reimburse the cost of his training.²

61. The freedom of participants to choose among different available forms of activity and different regions within the country and, in general, the degree of flexibility of the system can have considerable relevance in practice. A very wide range of possibilities exists, from military enlistment³ to a mere obligation to take up employment under the responsibility of the Ministry of Public Health,⁴ through compulsory assignment of all graduates to a specific post or the placement of those who have not found appropriate employment on their own initiative.⁵

62. One government intends to take steps to replace compulsory service for graduates by incentives, such as housing advantages, designed to encourage graduates to enter the enterprises where they are most needed.⁶ Similar advantages have been introduced elsewhere to encourage citizens who have completed their studies abroad to return to

¹ For example, refusal to serve is punishable with imprisonment in the following countries which have ratified one or both of the Conventions: Central African Empire*, Egypt*, Indonesia*, Madagascar* and Zaire* and by a fine in Sri Lanka* for every day during which such failure continues.

² Countries which have ratified the Conventions: Poland* - article 7 of the Act of 25 February 1964 on the employment of higher school graduates; Uganda* - the Decree of 1973 which imposes five years' public service on university graduates who have benefited from public financial assistance permits those concerned (section 4) to free themselves of this obligation by reimbursing the amount received, but only after three years in the public service.

³ See para. 55 above.

⁴ For example: Countries which have ratified the Conventions: Colombia* - Decree No. 114 of 18 January 1965 (as amended by Decree No. 858 of 1 April 1965) issued under Act No. 52 of 1964 respecting compulsory medical service, and Decree No. 386 of 26 February 1965 concerning compulsory dental service; Morocco* - Dahir No. 1-57-007 of 14 March 1957 respecting the authorisation for doctors of Moroccan nationality to exercise the medical profession, and Dahir No. 1-59-275 of 6 October 1959 respecting the authorisation for pharmacists and dental surgeons of Moroccan nationality to exercise pharmacy and dental surgery.

⁵ See para. 55 above.

⁶ Country which has ratified the Conventions: Poland* - report for the period 1974-76 on the Employment Policy Convention, 1964 (No. 122).

their country.¹ Among provisions designed to ensure certain services of public interest without imposing compulsory service on graduates, attention can be drawn to the legislation of several countries under which the members of specified occupations are normally allowed to work in certain urban areas only if they have previously worked for one or two years in rural or remote regions or, more generally, outside the principal towns.²

Powers to call up labour in cases of emergency

63. In its 1968 survey on forced labour, the Committee noted that in a number of countries legislation which, according to the Government, was intended to permit the call-up of labour in exceptional circumstances was worded in terms which might permit its application in circumstances other than cases of emergency in the sense of Article 2, paragraph 2(d), of the Forced Labour Convention, and sometimes for purposes of economic development.³ The Committee notes with satisfaction that many of these texts have been repealed⁴ or have expired.⁵ In other cases the government has indicated that the legislation was never applied and has fallen into disuse⁶ or that it has not been applied in circumstances other than cases of emergency as defined in the Convention, and that the government is examining the

¹ Country which has ratified the Conventions: Iraq* - Act No. 189 of 1970 on the encouragement of the return of scientists.

² Countries which have ratified the Conventions: Greece* - section 14 of Act No. 4053 of 3 June 1960 on the organisation of the campaign against tuberculosis; Iraq* - Order No. 64 of 16 September 1961 respecting compulsory medical service for new medical graduates; Lebanon* - Decree No. 10-723 of 9 October 1962 which imposes on new medical graduates the obligation to practice for at least two years in rural areas before being authorised to exercise their profession throughout the Lebanese territory; Syrian Arab Republic*: Legislative Decree No. 15 of 22 January 1967 which prohibits doctors, dentists and pharmacists from exercising their profession in certain provincial, regional and district capitals.

³ RCE, 1968, general survey, paras. 51-52.

⁴ Countries which have ratified one or both of the Conventions: Czechoslovakia* - see RCE, 1977, p. 88; Kenya* - see RCE, 1976, p. 69; Ukrainian SSR* - see RCE, 1974, p. 86; USSR* - see RCE, 1972, p. 104.

⁵ Country which has ratified the Conventions: Liberia* - See RCE, 1969, p. 56.

⁶ Country which has ratified the Conventions: Tunisia* - The Decree of 7 August 1936 respecting the call-up of civilians and the Decree of 29 September 1938 respecting the organisation of the country in wartime (section 19 of which authorises the call up of labour in peacetime) allow the individual or collective call-up of persons in undertakings considered essential to meet the needs of the country.

possibility of limiting the scope of the legislation accordingly.¹ In one country, a new Act on the general organisation of civil protection provides for the calling up of manpower only in circumstances corresponding to those described in Article 2, paragraph 2(d), of the Forced Labour Convention,² but does not specifically repeal the earlier legislation.³

64. Elsewhere, earlier provisions permitting the call-up of all civilians aged 14 years or over for purposes of national security (defined so as to cover all measures taken to protect the vital interests of the nation against any major interference or any major disorders),⁴ or for work designed to preserve the welfare of the community and the normal and full operation of the activities and services ensuring the development of the country,⁵ have been replaced by an Act permitting the call-up of the population in time of war, internal disorder or the disruption or suspension of essential public services or activities.⁶ The Committee has noted a list of services considered as essential, which partially correspond to the criteria of Article 2, paragraph 2(d), of the Forced Labour Convention, and has asked the Government to insert in its legislation the principle that labour may be called up only in circumstances endangering, or likely to endanger, the existence or well-being of the whole or part of the population.

¹ Countries which have ratified one or both of the Conventions: Congo* - Reports for 1974-1976 and 1976-1978 on Convention No. 29, on the subject of Act No. 24-60 of 11 May 1960 respecting call-up, which provides that the inhabitants of circumscriptions without access roads usable by mechanical means of transport might be required to perform any work of public interest on penalty of one month's to one year's imprisonment (section 4 of the 1975 Labour Code already gives a definition of emergencies in conformity with the Convention). Nevertheless, in its Article 19 report on Convention No. 105, the Government indicates that it may mobilise all or part of the population to carry out specific tasks of economic reconstruction; the example which it cites, however, namely the imposition of agricultural work to alleviate the shortage of certain foodstuffs of prime necessity, would appear to be covered by the provisions of Article 2, paragraph 2(d), and Article 19 of the Convention. Syrian Arab Republic* - Legislative Decree No. 133 of 29 October 1952 respecting compulsory work, which permits the call-up of the population for a maximum period of two months for health, cultural or construction purposes, among others. The Government has stated in its report on Convention No. 29 that a Disasters Bill is under study in order to bring the legislation regarding call-up into conformity with the Convention.

² Country which has ratified Convention No. 29: Mauritania* - Act No. 71-059 of 25 February 1971 respecting the general organisation of civil defence.

³ Mauritania* - Ordinance No. 62-101 of 26 April 1962; the Committee has expressed the hope that this text will be repealed.

⁴ Country which has ratified the Conventions: Argentina* - Act No. 16970 of 6 October 1966 respecting national defence (sections 2, 47, 49 and 52).

⁵ Argentina* - Act No. 17192 of 2 March 1967 respecting the civil defence service (repealed).

⁶ Argentina* - Act No. 20509 of 27 May 1973 respecting the civil defence service.

65. In certain cases, the power to call up labour which had originally been granted in an emergency has been maintained for long periods, even after the circumstances giving rise to it had ceased to exist,¹ but new legislation is being prepared in one of these cases.

66. In order to ensure that recourse to compulsory call-up of labour under emergency powers remains within the limits laid down in the Forced Labour Convention² and does not develop into mobilisation of labour for purposes of economic development, certain conditions should be observed.³ In order to avoid any uncertainty as to the compatibility of national provisions with the applicable international standards, it should be clear from the legislation itself that the power to exact labour is to be limited to what is strictly required in order to cope with circumstances endangering the existence or well-being of the whole or part of the population. Once emergency measures are no longer necessary, they should be terminated by a formal and public decision or declaration unless they are automatically limited in duration.⁴

Restrictions on freedom of workers to terminate employment

67. In some cases workers are not allowed to terminate their employment without the agreement of the employer or without obtaining official consent. Under some of the relevant legislation, workers may be prevented from leaving their employment in emergency situations. In so far as these powers are limited to what is necessary to cope with cases of emergency within the meaning of Article 2, paragraph 2(d) of the Forced Labour Convention, they do not affect the observance of the Convention. In a few countries, however, exceptions to the freedom to terminate employment are applicable in broader circumstances, or even permanently, to different categories of workers.

68. Although, in such cases, employment is originally the result of a freely-concluded agreement, the worker's right to free choice of employment remains inalienable.⁵ The Committee has

¹ Countries which have ratified the Conventions: Morocco* - Dahir of 15 June 1946 to maintain in force until further notice the powers to call up labour granted under the Dahir of 13 September 1938 respecting the general organisation of the country in wartime (as amended), and Decree No. 2-063-436 of 6 November 1963 announcing the entry into force of the same provisions (without limit of time); the Government is at present preparing a new Act respecting the right to call up labour. Pakistan* - Control of Employment Ordinance and Rules, 1965; the Government has stated that these texts have never been applied except in wartime.

² Article 2, paragraph 2(d); see para. 36 above.

³ Article 1(b) of the Abolition of Forced Labour Convention.

⁴ RCE, 1968, general survey, para. 54.

⁵ As an illustration of this principle, it will be recalled that Article 1(a) of the Supplementary Convention of 1956 on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery refers, inter alia, to the status or condition arising from a pledge by a debtor of his personal services if the length and nature of those services are not respectively limited and defined.

accordingly considered that the effect of statutory provisions preventing termination of employment of indefinite duration 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, and is thus incompatible with the Conventions relating to forced labour.¹ This is also the case when a worker is required to serve beyond the expiry of a contract of fixed duration. It should, moreover, be recalled that the protection of workers against arbitrary dismissal, as advocated in the Termination of Employment Recommendation, 1963 (No. 119), provides no justification for depriving a worker of his right to free choice of employment.²

69. The Committee notes with interest developments in the relevant national provisions since its 1968 survey. In one country where the termination of most contracts of employment had for over 30 years been subject to official authorisation (unless termination was mutually agreed or the circumstances were such that a worker could not be reasonably expected to remain bound by the labour relationship), draft legislation to abolish the restrictions and the accompanying penal sanctions are pending before Parliament, and the public prosecutors have decided that there will be no further prosecutions of those who contravene these restrictions.³ In another country, where persons employed in the merchant marine, whatever the duration of their contracts of employment, were allowed to terminate their labour relationship only for certain reasons listed in the legislation, and departure from the ship for any other reason was punishable with penal sanctions and temporary exclusion from employment in the merchant marine, seamen have obtained the right to terminate contracts of indefinite duration for any reason, subject to 8 or 15 days' notice.⁴ In another country, legislation requiring the consent of the civil defence authorities before workers in public services, public institutions, transport undertakings and undertakings manufacturing foodstuffs or pharmaceuticals could leave their employment has been amended by an Act limiting its scope to cases in which a state of emergency has been declared.⁵ Likewise the Committee has requested that legislation be repealed or amended so as to apply only to cases of emergency in the sense of Article 2, paragraph 2(d), of the 1930 Convention, where national laws punish any person in the service of the State who leaves his employment without the consent of his employer

¹ RCE, 1968, general survey, para. 70.

² ibid.; see also RCE, 1978, p. 79 (Mexico*), where the Committee recalled the same principle in connection with Article 9, paragraph 1, of the Seamen's Articles of Agreement Convention, 1926 (No. 22).

³ Country which has ratified the Conventions: Netherlands* - Extraordinary (Employment Relations) Decree, 1945, section 6; see RCE, 1978, p. 93.

⁴ Country which has ratified the Conventions: Spain* - RCE, 1976, p. 165. See also the cases mentioned in paras. 117-119 below.

⁵ Country which has ratified the Conventions: Iraq* - Act No. 5 of 1962 respecting civil defence, section 4, as amended by Act No. 110 of 1975. The Committee has requested the Government to indicate whether section 1 of Act No. 37 of 1961 (dealing with the proclamation of a state of emergency in various cases of natural disasters) is still in force, and to supply information on any other legislative provision permitting the proclamation of a state of emergency.

(even if the termination of the contract by notice had been provided for)¹ or where they permit the call-up of civil servants and employees of public and private undertakings whenever circumstances require,² or the call-up of certain personnel in cases where the interruption of services would damage the economy and prejudice the higher interests of the nation.³ It has also requested that legislation in one country, under which any employment contract (subject to certain exceptions) must have a minimum duration of one year, and any worker leaving his employer before the expiry of this period must pay him 25 per cent of the wages which he would have received during the remaining period, should be amended so as to enable workers bound by a contract of indefinite duration to terminate their employment at any time by giving reasonable notice.⁴ Among the measures already adopted which are designed to ensure the freedom of workers to change their employment, mention may also be made of the repeal of a provision under which workers leaving their employment on their own initiative were prohibited from taking up new employment otherwise than through the intermediary of the authorities.⁵

70. The Committee has also noted with satisfaction that, in a country where members of agricultural co-operatives could not leave the co-operative without the agreement of its general assembly, the legislation has been amended and the departure of a member now depends solely on his own desire, subject to a period of notice which cannot be established at more than 6 months.⁶ In other countries, where practice is similar but not yet reflected in the legislation or in model

¹ Countries which have ratified the Conventions: Pakistan* - Pakistan Essential Services (Maintenance) Act, 1952, section 5, West Pakistan Essential Services (Maintenance) Act, 1958. Other restrictions on freedom to terminate employment may be imposed under the Control of Employment Ordinance, 1965, which was adopted as an emergency measure but which is still in force. The Government has stated that this legislation will never be applied in circumstances other than those provided for by the Convention and that, despite the provisions in question, persons in government service may in fact resign or leave their posts subject to previous notice of three months or less. Similar legislation to that of Pakistan still exists in Bangladesh*.

² Country which has ratified Convention No. 29: Mauritania* - Act No. 70-029 of 23 January 1970.

³ Country which has ratified the Conventions: Benin* - Ordinance No. 69-14, PR/MFPRA of 19 June 1969; the Government has stated that it is examining the possibility of amending the provisions concerned so as to restrict them to the cases of emergency defined in the Convention.

⁴ Country which has ratified the Conventions: Ecuador* - sections 14, 180, 181 and 186 of the Labour Code.

⁵ Country which has ratified Convention No. 29: Bulgaria* - see RCE, 1978, p. 82.

⁶ Country which has ratified Convention No. 29: Hungary* - RCE, 1978, p. 87; see also RCE, 1970, p. 67, in which the Committee noted with satisfaction the abolition of penal sanctions for breach of contract in agriculture.

statutes for agricultural co-operatives, the governments have stated that discussions are under way with a view to giving the practice statutory effect,¹ or that the government is continuing consultations on the subject with the organisations concerned with a view to a positive solution.²

71. In one country which has ratified the Forced Labour Convention, a trade union organisation has drawn the attention of the Committee to the situation of career military officers engaged during their adolescence for seven years with the agreement of their parents, who on receiving commissions as sub-lieutenants acquire a status under which they are unable to leave the service before the age of retirement unless authorised to do so; such authorisation may be refused and is normally granted only after long periods of service.³ In another country, the Committee has noted that youths engaged in the armed forces for periods of up to 12 years have obtained the right to leave the service at specified intervals.⁴

72. As noted above,⁵ the provisions relating to compulsory military service included in the Forced Labour Convention do not apply to career military service and may not be invoked to deprive persons who have voluntarily entered into an engagement of the right to leave the service in peacetime within a reasonable period, either at specified intervals, or with previous notice, subject to the conditions which may normally be required to ensure the continuity of the service. Nevertheless, in specifying the length of a reasonable period, account may be taken of the comparable duration of compulsory military service. As regards the cost of training qualified personnel, the possibility of proportional reimbursement which may be demanded during a certain

¹ Country which has ratified Convention No. 29: Bulgaria* - Report on the Convention for the period 1975-77.

² Country which has ratified Convention No. 29: USSR* - RCE, 1978, p. 100.

³ Country which has ratified the Conventions: Belgium* - See observations on Convention No. 29 in RCE, 1977, pp. 82-84, and RCE, 1979, which notes that the instructions governing authorisation to resign have to some extent been relaxed.

⁴ Country which has ratified the Conventions: United Kingdom* - Under the regulations applicable to engagements in the armed forces until 1970, youths aged 15 or 16 were enlisted with the consent of their parents for periods of up to 12 years, and were not entitled to be freed from their engagement before time (except during an initial period of a few months), but were compelled to complete their service during the stipulated period subject to penal sanctions in the event of non-compliance. Following a number of amendments in the relevant provisions, young members of the armed forces have the right to leave the service during the first six months of their engagement and, once they have attained their majority at the age of 18, they have the choice between either confirming their engagements or opting for engagements which will enable them to leave the service three years after this date or at the end of their training, if this occurs later, or at any later date subject to previous notice of 18 months.

⁵ See para. 33 above.

period in the event of resignation has already been mentioned in another context.¹

73. It would appear that the status of career members of the armed forces and sometimes of other persons in the service of the State² is governed in a number of countries by provisions comparable to those examined above, and the Committee considers that more complete information should be provided on this question.

Imposition of labour for specified purposes

74. In its 1968 survey the Committee examined under this heading legislation permitting the imposition of labour even in normal circumstances for general and local public works and services, transport, cultivation and miscellaneous purposes, such as the recovery of taxes and services for chiefs. In a certain number of such cases, the conditions under which it was permissible to exact labour corresponded to those laid down in the 1930 Convention for cases in which forced or compulsory labour was resorted to exceptionally during a transitional period prior to its total abolition.³ These provisions of the Convention, which were aimed especially at certain colonial practices, are now hardly ever invoked to justify the provisional maintenance of compulsion to work; many of the texts mentioned in this connection in 1968 have been repealed, as well as certain much wider powers to exact labour for economic and social development purposes.

General public works and services

75. In its 1968 survey the Committee pointed out that in a number of countries there were provisions giving the public authorities wide powers to impose compulsory labour. In recent years it has been able to note with satisfaction the repeal of texts permitting the call-up of labour - enforced by penal sanctions - for the economic and social promotion of the nation, to achieve the objectives of the development plan or to perform public works or operate public enterprises.⁴ Other texts under which, in the absence of a sufficient supply of voluntary labour, adult able-bodied men could be called up for limited periods of paid or unpaid work for the construction and maintenance of public buildings and roads, afforestation and irrigation works, or for public purposes, have been formally repealed,⁵ or are considered as having been superseded by the entry into force of new

¹ See para. 60 above.

² See also para. 116 below.

³ Articles 4-21 of the Forced Labour Convention.

⁴ Countries which have ratified one or both of the Conventions: Benin* - See RCE, 1977, p. 84; Iraq* - See RCE, 1971, p. 72. and RCE, 1977, p. 91; Upper Volta* - See RCE, 1974, p. 90.

⁵ Country which has ratified Convention No. 29: Zaire* - See RCE, 1976, p. 82.

legislation,¹ and in one case no longer appear in the legislation as recently published.²

Local public works

76. A number of provisions which permitted the imposition of labour for public works of local interest have been repealed³ or rendered inoperative by the entry into force of new legislation.⁴

77. The government of a federal State has also requested the constituent states concerned to bring various texts allowing the exaction of labour for irrigation and drainage into conformity with the Forced Labour Convention; only the owners of land benefiting from irrigation and drainage works shall be subject to an obligation to supply labour, and then only for minor works, not for medium- to large-scale maintenance or repairs on the irrigation network.⁵ The same government has requested another constituent state to amend a provision permitting municipal councils to exact labour for works of general

¹ Country which has ratified the Conventions: Sudan* - The People's Local Government Act, 1971, repealed the Local Government Ordinance, 1951, while maintaining in force local orders and regulations issued in application of this Ordinance in so far as they are not incompatible with the new Act. The Government has indicated that local orders respecting compulsory work issued in application of the Ordinance are incompatible with section 12 of Part XIII of the new Act, which provides for appeals to volunteers to perform work in the interests of the community.

² Country which has ratified the Conventions: Burundi* - The 1970 edition of the Compendium of Codes and Laws of Burundi does not contain either the Decree of 14 July 1952 respecting indigenous political organisations or Ordinance No. 21-86 of 10 July 1953 which permitted the call-up of men on public work for a maximum of 40 days.

³ Countries which have ratified one or both of the Conventions: Canada* - ILC, 65th Session, 1979, Report III, Part 2, pp. 3-4; the Manitoba Municipal Act (SM 1970, Cap. 100) abolished statute labour in Manitoba; Fiji* - see RCE, 1970, p. 175; India* - Provisions concerning irrigation in Haryana and Punjab: see RCE, 1976, p. 68; Netherlands* - see RCE, 1978, pp. 92-93; Nigeria* - see RCE, 1976, p. 74.

⁴ Country which has ratified the Conventions: Denmark* - The Government indicated in its report on Convention No. 29 for 1973-1975 that Act No. 229 of 20 December 1929 respecting communal labour, which allowed the imposition of labour for the construction and maintenance of local roads, has become de facto null and void through the entry into force of local government reform and will be formally repealed at an early opportunity.

⁵ Country which has ratified Convention No. 29: India* - Section 6 of the Andhra Pradesh (Andhra Area) Compulsory Labour Act, 1858; the Government has indicated that this provision was amended in April 1976, and the Committee has asked it to communicate the new text; section 11 of the Orissa Compulsory Labour Act, 1948 (amended in 1955); the Government has indicated that the problem of recourse to compulsory labour does not arise for the time being.

usefulness to the public,¹ in order to limit its scope to minor communal services exempted from the scope of the 1930 Convention by Article 2, paragraph 2(e).² The Act in question also provides for the possibility of replacing the obligation to work by a cash payment (a solution which was envisaged at the time when the Forced Labour Convention was adopted, in the absence of the complete abolition of forced labour imposed for local purposes).

78. To fall under the exemption made in the Forced Labour Convention for minor communal services, legislation enabling chiefs to call up men for 60 days a year for work of direct interest to the community concerned and of present or imminent necessity³ should be amended clearly to limit the work to minor maintenance and, in exceptional circumstances, construction works,⁴ and substantially to reduce its duration.

79. In other cases in which legislation permitting the exaction of labour for the carrying out of local or general public works has been repealed by a new text⁵ or has been declared repealed by the government,⁶ the Committee has requested clarifications regarding the provisions at present governing the performance of such work.

Transport

80. The Committee observes that, although some of the legislative texts which still permitted the imposition of compulsory labour for transport have been repealed,⁷ others are still in force.⁸ Nevertheless, the governments concerned have given assurances in their

¹ India* - Section 19A of the Uttar Pradesh Panchayat Raj Act, 1947.

² See para. 37 above.

³ Country which has ratified the Conventions: Kenya* - Sections 13-18 of the Chiefs' Authority Act (Cap. 128); the Government has stated that these provisions are rarely invoked, and then only for the purpose of minor communal services; see RCE, 1978, p. 89.

⁴ See para. 37 above.

⁵ Country which has ratified Convention No. 29: Madagascar* - Ordinance No. 73-009 of 24 March 1973 to organise the rural areas to ensure popular control of development, repealed by Ordinance No. 76-044 of 27 December 1976 fixing rules for the organisation, operation and powers of decentralised communities.

⁶ Country which has ratified the Conventions: Liberia* - Revised Laws and Administrative Regulations for Governing the Hinterland, 1949 (see RCE, 1978, p. 89: Local public works).

⁷ Countries which have ratified one or both of the Conventions: Fiji* - See RCE, 1970, p. 175; Malaysia*, State of Sarawak - RCE, 1976, p. 74; Zaire* - Requisitions Ordinance of 11 June 1940; the Committee has accepted the Government's statement that this text has been repealed.

⁸ Countries which have ratified Convention No. 29: Burma* - Village Act (sections 7, 8 and 11(d)) and Towns Act (section 9); India* - Nagaland (Requisition of Porters) Act, 1965.

reports that new legislation is in preparation. Since the 1930 Convention expressly provides for the abolition of this form of forced labour,¹ these texts should be repealed or amended to limit their scope to cases in which it is necessary to cope with a calamity or threatened calamity endangering the existence or the well-being of the population.

Cultivation

81. The Committee notes with satisfaction that a number of texts mentioned in its general survey of 1968, which still permitted the exaction of labour for cultivation other than in cases of emergency, have been repealed.² In other cases, where similar legislation still exists, governments have sometimes indicated that powers to impose compulsory cultivation are no longer invoked³ and, in most cases, that it is envisaged to repeal the legislation or to bring it into conformity with the Forced Labour Convention⁴ which authorises recourse to compulsory cultivation only as a method of precaution

¹ Article 18.

² Countries which have ratified one or both of the Conventions: Benin* - RCE, 1977, p. 84; Fiji* - RCE, 1970, p. 175; Madagascar* - RCE, 1971, p. 75 (as regards Decree No. 63-268 of 15 May 1963 on areas and crops to be cultivated, issued in application of Ordinance No. 62-062 of 25 September 1962, repealed by Act No. 70-013 of 15 July 1970); Malaysia* - the Government has stated in its report on Convention No. 105 for 1971-1973 that the Straits Settlements Rice Cultivation Ordinance, 1934, was repealed in 1968; Zaire* - RCE, 1976, p. 82.

³ Countries which have ratified the Conventions: Burundi* - Report on Convention No. 29 for 1977-1978, Ministerial Order No. 050-26 of 24 February 1966 respecting compulsory cultivation; Malaysia* - the Government stated in its report on Convention No. 29 for 1969-1971 that section 30 of the Sarawak Local Authority Ordinance (Cap. 117) was not longer applied; in its report on Convention No. 105 for 1971-1973, and during direct contacts in 1977, it stated that the Cultivation of Rice Enactment of Negri Sembilan and the Native Rice Cultivation of Sabah were hardly ever invoked since their guiding principles were now out of date, and that the legislation would certainly be repealed in due course; the Committee requested the Government to indicate any developments in this connection; Papua New Guinea* - in its report on Convention No. 29 for 1973-1975 the Government indicated that it had only once ordered compulsory cultivation under section 121 of the Native Regulations of Papua and section 79A of the Native Administration Regulations of New Guinea, that the repeal of these regulations was envisaged and that no regulation authorising compulsory cultivation under section 12(1)(o) of the Native Local Government Councils Ordinance was in force; the Committee has requested the Government to supply information on any developments in this connection; Sierra Leone* - section 8(h) of the Chiefdom Councils Act (Cap. 61); see RCE, 1978, p. 94.

⁴ Countries which have ratified one or both of the Conventions: Burundi* - See previous note; Central African Empire* - see third footnote to para. 45 above; Malaysia*: Papua-New Guinea* and Sierra Leone* - see previous note; Tanzania* (Tanganyika) - section 52(1), subsection 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), which also apply to crops other than food crops; the local authorities have issued orders for their application, which were still being approved by the competent minister in 1976 (see RCE, 1978, p. 95). See also Congo* - first footnote to para. 63 above.

against famine or a deficiency of food supplies and always under the condition that the food or produce shall remain the property of the individuals or the community producing it.¹

82. In a country in which agricultural production co-operatives, in preparing their production plans, are under the obligation to achieve the objectives assigned to them under state plans, failure to fulfil plan targets is punishable by a fine.² In another country with a planned economy, compulsory deliveries of agricultural produce have ended and the penal sanctions for failure to observe obligations in this connection have been repealed.³ Other governments have stated that no sanction is applicable in cases where obligations in connection with agricultural planning are not met,⁴ or that the state planning targets are merely the legal confirmation of the plans worked out by the collectives, subdivisions and other units of economic organisations, and that the volume of output is determined by the production collectives themselves.⁵

Miscellaneous purposes

83. Most of the provisions which were mentioned under this heading in the 1968 survey have been repealed. The legislation of some countries, which permitted the imposition of forced labour as a means of tax recovery, has been repealed;⁶ in one case the government assured

¹ Article 2, para. 2(d), and Article 19 of the Convention.

² Country which has ratified Convention No. 29: Czechoslovakia* - Sections 115 and 117 of the Economic Code, Notifications No. 154 of 1973 of the Government of the Czech Socialist Republic and No. 169 of 1973 of the Government of the Slovak Socialist Republic, and section 29, subsection 2, of Act No. 145 of 1970. In its report on the Convention for the period 1975-1977, the Government stated that in practice the provisions of section 117 of the Economic Code are not applied to individual agricultural co-operatives, and the fines prescribed by section 26 of Act No. 145 of 1970 are not imposed on agricultural co-operatives. Moreover, the Government stated that section 10 of Act No. 51 of 1959 respecting the purchase of agricultural produce, which permits the imposition of compulsory deliveries by individual farmers and which is no longer applied, will be repealed by an Act for which the Bill has already been prepared.

³ Country which has ratified Convention No. 29: Romania* - RCE, 1970, p. 72.

⁴ Country which has ratified Convention No. 29: USSR* - RCE, 1978, p. 99.

⁵ Country which has ratified Convention No. 29: Bulgaria* - Report on the Convention for 1975-77.

⁶ Countries which have ratified one or both of the Conventions: Burundi* - see RCE, 1978, p. 89; India* - the Government stated in its report for 1975-1977 on Convention No. 29 that the Government of Bihar amended the Gram Panchayat Account Rules, 1949, by notification of 26 March 1977 to abolish the provisions relating to the payment of taxes in the form of labour; Madagascar* - see RCE, 1976, p. 73; the abolition of this form of forced labour is called for by Article 10 of the Forced Labour Convention; Upper Volta* - see RCE, 1974, p. 90.

the Conference Committee that the law would be amended.¹ The imposition of compulsory services for chiefs² or other persons³ has been abolished in some places in which it was customary. The government of one country has stated that a decree allowing workers to be called up to speed up the unloading of ships has fallen into disuse.⁴

Effective enforcement of the prohibition of
forced or compulsory labour

84. In order to ensure the effective observance of the forced labour Conventions, not only must all provisions for the imposition of forced or compulsory labour contrary to these instruments be eliminated from national legislation, but guarantees must also be established against any practices of compulsion to work. For this purpose the Forced Labour Convention provides that the illegal exaction of labour shall be punishable as a penal offence and that the government must ensure that the penalties imposed by law are really adequate and are strictly enforced.⁵

85. In the great majority of countries there are penal provisions to punish either the illegal exaction of work or any form of illegal constraint. In certain cases, where such provisions have not yet been adopted⁶ or are inadequate in scope,⁷ the government has stated that the legislation will be brought into conformity with the Convention on this point.

¹ Country which has ratified the Conventions: Chad* - see RCE, 1978, p. 84.

² Countries which have ratified one or both of the Conventions: Fiji* - see RCE, 1970, p. 175; Lesotho* - see in RCE, 1979, the observation concerning Convention No. 29.

³ Countries which have ratified the Conventions: Burundi* - see in RCE, 1979, the observation concerning Convention No. 29 as regards Legislative Decree No. 1-19 of 30 June 1977 to abolish the traditional institution of Ubugererwa, which constituted a form of bondage. Pakistan* - the Committee has noted the provisions of the System of Sardari (Abolition) Ordinance, 1976, which now forbid sardars, chiefs of tribes and other persons to exact compulsory labour, subject to penal sanctions, and has requested the Government to supply information on the application of this Ordinance and on the organisation and operation of the labour inspectorate.

⁴ Country which has ratified the Conventions: Tunisia* - Decree of 28 January 1946 respecting the operation of commercial ports.

⁵ Article 25.

⁶ Countries which have ratified the Conventions: Haiti* - RCE, 1978, p. 86; Kuwait*; Liberia* - RCE, 1978, p. 91; Syrian Arab Republic*.

⁷ Countries which have ratified the Conventions: Egypt* - Penal Code, sections 117 and 131; Morocco* - Penal Code section 195. These provisions do not cover the exaction of labour by persons other than public officials.

86. The public authorities must ensure that the sanctions imposed by law are adequate and strictly enforced. In certain cases abuses have been noted, particularly in regions which are difficult of access, where workers had been recruited by force or fraud and were prevented from leaving their workplace.¹ The Committee has requested the governments concerned to state what steps have been taken to punish the offenders and to prevent further abuses, particularly through the creation of effective labour inspection services in the rural regions concerned.²

87. In one country where bonded labour practices persisted despite the penal legislation applicable to forced labour, the Committee noted with satisfaction the adoption of an Ordinance on the abolition of the bonded labour system, which, in addition to penal sanctions, prescribes special enforcement measures, including the setting up of local control commissions and the launching of integrated development projects for the rehabilitation of the liberated workers. The Committee has requested information on the application of this legislation.³ It has addressed similar requests to countries which have recently abolished the traditional powers of certain persons to exact forced labour.⁴

¹ Countries which have ratified the Conventions: Brazil*; Pakistan* - RCE, 1978, p. 94.

² See also United Nations, Subcommittee on the Prevention of Discrimination and Protection of Minorities, report of the Working Group on Slavery on its Fourth Session (document E/CN.4/Sub. 2/410 of 30 August 1978), paras. 16-17 on Bolivia (direct requests have been addressed to the Government in connection with the Indigenous and Tribal Populations Convention, 1957) and Guatemala*. See also RCE, 1978, p. 91 (Liberia*).

³ Country which has ratified Convention No. 29: India* - Bonded Labour System (Abolition) Ordinance, 1975 (passed as an Act in February 1976) and implementing regulations of 1976 (RCE, 1976, p. 67).

⁴ Countries which have ratified the Conventions: Burundi*, Pakistan* - see fourth footnote to para. 83 above.

CHAPTER III

FORCED OR COMPULSORY LABOUR AS A SANCTION OR PUNISHMENT

88. This chapter deals with labour imposed as a means of coercion or education or as a sanction, disciplinary measure or punishment.¹ Section I examines the standards established and questions raised by the 1930 and 1957 Conventions as regards prison labour. The following sections look into the specific circumstances of occupational² or civil³ life in which the 1957 Convention affords protection against the imposition of forced or compulsory labour.

SECTION I. PRISON LABOUR

Forced Labour Convention, 1930

89. The Forced Labour Convention deals with the suppression of forced or compulsory labour generally, subject only to stated exceptions. One of these exceptions relates to prison labour, defined as "any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations".⁴ It follows that compulsory labour imposed as correction or punishment falls outside the scope of the 1930 Convention only if certain conditions are met: first, the labour must be imposed "as a consequence of a conviction"; secondly, the conviction must be pronounced "in a court of law"; thirdly, the work must be carried out under the supervision and control of a public authority and the prisoner must not be hired to or placed at the disposal of private individuals, companies or associations.

Compulsory labour as a consequence of a conviction

90. In the first place, the Forced Labour Convention provides that work can only be exacted from a prisoner as a consequence of a

¹ See para. 15 above.

² Article 1(c) and (d) of Convention No. 105.

³ Article 1(a) and (e) of Convention No. 105.

⁴ Article 2, para. 2(c).

conviction. It follows that persons who are in detention but have not been convicted - such as prisoners awaiting trial or persons detained without trial - should not be obliged to perform labour (as distinct from certain limited obligations intended merely to ensure cleanliness). The Convention does not of course prevent work from being made available to such prisoners at their own request, to be performed on a purely voluntary basis. It also follows from the use of the term "conviction" that the person concerned must have been found guilty of an offence. In the absence of such a finding of guilt, compulsory labour may not be imposed, even as a result of a decision by a court of law.¹

91. In most countries, prisoners can only be obliged to work as a consequence of a penal conviction. Over the past few years, the Committee has had occasion to note that several provisions under which prison labour could be exacted from persons detained without trial have been repealed.² In some countries, however, an accused person can still be required to perform prison labour,³ although several of the governments concerned have assured the Committee that the provisions in question were currently being amended⁴ or were no longer used and would

¹ RCE, General Survey of 1968, para. 77.

² Countries which have ratified Convention No. 29: United Republic of Cameroon* - see RCE, 1977, p. 84; Poland* - the Ordinance of 17 October 1927 which allowed labour to be exacted from vagrants awaiting trial but which was not applied in practice was repealed by the Penal Code Act of 19 April 1969.

³ Countries which have ratified Convention No. 29: Colombia* - Decree No. 1817 of 17 June 1964, section 233; Madagascar* - Decree No. 59-121 of 27 October 1959, as amended by Decree No. 63-167 of 6 March 1963; in its latest report, the Government indicated that this text has not yet been amended but that in practice, labour imposed on persons detained pending trial was limited to participation in cleaning tasks and the upkeep of premises; Nigeria* - Prisons Act and Regulations and Decrees on State Security; in its 1973 report on Convention No. 29, the Government stated that the provisions under which work can be exacted from prisoners who have not been convicted in a court of law were to be amended in the light of the observations of the Committee; the new regulations have not yet been promulgated; Panama* - Decree No. 467 of 1942, sections 3 and 4; the Government has stated that a draft Decree drawn up in the course of direct contacts with a representative of the ILO Director-General is to amend these provisions; Paraguay* - Act No. 210 of 1970 on the prison regime, section 39; Peru* - Decree No. 17-591 of 15 April 1969, section 35, and Penal Code, section 132; Togo* - Order No. 488 of 1 September 1933, section 21; the Government has stated on several occasions that this text is no longer used and that any provisions that are contrary to the Convention will be repealed under the new Penal Code. In addition, in Tanzania (Zanzibar)* the 1964 Decree on Administrative Internment provides that regulations can be issued to the effect that persons detained by administrative decision are to be treated as convicted prisoners - RCE, 1978, p. 95. Countries which have not ratified Convention No. 29: El Salvador* - Act regulating penitentiary and readaptation centres, articles 33, 34, 36, 39(d); Uruguay* - Act No. 14-470 of 1975, sections 4 and 41.

* Nigeria*, Panama*, Paraguay*.

be repealed.¹

92. In one case, where large numbers of persons have been detained in rehabilitation centres for more than ten years without having been tried by a court of law and have been obliged to participate in certain activities, particularly agricultural activities, the Government has undertaken to release all detainees who have not been tried by a court of law by the end of 1978 and has provided information on detainees who have already been released. However, since a certain number of detainees leaving the rehabilitation centres are resettled under the national transmigration programme, the Committee has requested particulars about the conditions under which they are resettled.²

93. The Committee has observed that the legislation in force in some countries under which compulsory labour may be exacted from persons subjected to forced residence or restrictions on residence following completion of a sentence do not meet the conditions of Article 2, paragraph 2(c), of the 1930 Convention.³

Conviction in a court of law

94. According to Article 2, paragraph 2(c), of the Forced Labour Convention, work can only be exacted from a person as a consequence of a conviction "in a court of law". It follows that compulsory labour imposed by administrative or other non-judicial bodies or authorities is not compatible with the Convention. This provision aims at ensuring that penal labour will not be imposed unless the guarantees laid down in the general principles of law recognised by the community of nations are observed, such as the presumption of innocence, equality before the law, regularity and impartiality of proceedings, independence and impartiality of courts, guarantees necessary for defence, clear definition of the offence and non-retroactivity of penal law.⁴

95. The Committee has noted that in a number of cases national legislation has been amended in this respect. In some countries, the provisions governing vagrancy, idleness or other forms of behaviour deemed to be anti-social, under which non-judicial authorities could

¹ Togo*.

² Country which has ratified Convention No. 29: Indonesia* - RCE, 1978, pp. 87-88, and RCE, 1979, observation concerning this Convention.

³ Countries which have ratified Convention No. 29: Chad* - the Government has indicated that the labour is not exacted in practice and the Committee has expressed the hope that the law will be amended: RCE, 1977, p. 85; Haiti* - the Government has indicated that this legislation has not been applied and that it will be brought into line with the Convention: RCE, 1978, p. 86.

⁴ RCE, general survey of 1968, para. 78; see in this connection the Universal Declaration of Human Rights, articles 7-11, and the International Covenant on Civil and Political Rights, articles 14 and 15.

impose compulsory labour on certain persons, have been repealed;¹ elsewhere, competence in the matter has been removed from the non-judicial authorities.²

96. In some countries, the legislation still empowers the administrative authorities to impose compulsory work under provisions relating to various kinds of offences,³ particularly those governing vagrants, idlers or other persons whose behaviour is described as anti-social.⁴ Sometimes, work can be exacted by non-judicial authorities under provisions governing public assistance⁵ or tax laws.⁶ Most of the governments concerned have indicated that their legislation is currently being amended in order to bring it into line with the 1930 Convention in this respect, by granting the judicial authorities sole power to impose compulsory labour in respect of reprehensible behaviour,⁷ by omitting the possibility of exacting compulsory labour

¹ Countries which have ratified Convention No. 29: For example: Austria* - RCE, 1976, p. 61; Madagascar* - RCE, 1971, p. 75; Switzerland* (cantons of St. Gallen and Schwyz) - RCE, 1972, p. 101 (in some other cantons, similar legislation still exists, however).

² Countries which have ratified Convention No. 29: Cuba* - RCE, 1975, p. 61 (see, however, para. 45 above); Honduras* - RCE, 1978, p. 87; USSR* - RCE, 1976, p. 79 (see also para. 47 above).

³ Countries which have ratified Convention No. 29: Hungary* - Act No. I of 1968 on offences (which grants the police the right to impose sanctions involving compulsory labour); Nicaragua* - Police Regulation of 1880 (as amended); Panama* - Administrative Code, sections 873 and 1708-1720.

⁴ Countries which have ratified Convention No. 29: For example: Dominican Republic* - Penal Code, section 271 (see also para. 47 above); Iceland* - Penal Code, section 108 (which authorises the administrative authorities to direct certain categories of anti-social persons to appropriate employment, failure to comply being punishable by penal sanctions; the Government has indicated that this provision has not been applied for several decades); Iran* - Penal Code, section 273 bis; Luxembourg* - Regulation of 1930 on the administration and internal regime of prison establishments, section 300, para. 2 (persons detained for notorious bad conduct; the Government has indicated that this provision is no longer applied in practice); Switzerland* - Legislation of certain cantons authorising the administrative internment of anti-social persons in labour establishments; Uganda* - Decree of 1975 on community agricultural settlements, section 2, para. 1, and section 3A, paras. 1 and 7 (see also para. 45 above); Venezuela* - Decree No. 24 of 1950 on vagrancy, sections 17-23. Similarly, in the cases referred to in para. 93 above, measures involving compulsory work are imposed by non-judicial authorities.

⁵ Country which has ratified Convention No. 29: Finland* - Act of 1956 on social welfare, section 25.

⁶ Country which has ratified Convention No. 29: Zaire* - Annex I, section 160 of the Act of 10 July 1963 on income tax, read together with sections 9 and 64 of Ordinance No. 344 of 1965 on the prison regime.

⁷ Finland*, Hungary*, Venezuela*.

from new legislation providing for the deprivation of freedom for assistance purposes,¹ by substituting fines for the deprivation of freedom,² or by purely and simply repealing the provisions concerned.³

Conditions governing the use of prison labour

97. Under the terms of the Forced Labour Convention, prison work must be carried out under the supervision and control of a public authority and the prisoner must not be hired to or placed at the disposal of private individuals, companies or associations. In adopting this provision, the Conference expressly rejected an amendment which would have permitted the hiring of prison labour to private undertakings engaged in the execution of public works.⁴ It is therefore not sufficient to limit the use of prison labour to works of public interest, since such works may be carried out by private undertakings. However, in certain countries certain prisoners may, particularly during the period preceding their release, voluntarily accept employment with private employers, subject to guarantees as to the payment of normal wages and social security, consent of trade unions, etc. The Committee has considered that, provided the necessary safeguards exist to ensure that the persons concerned offer themselves voluntarily without being subjected to pressure or the menace of any penalty, such employment does not fall within the scope of the Convention.⁵

98. The Committee has also drawn attention to the fact that the provisions of the 1930 Convention which prohibit convict labour from being hired to or placed at the disposal of private individuals, companies or associations are not limited to work outside penitentiary establishments but apply equally to workshops which may be operated by private undertakings inside prisons. Accordingly, the use of the labour of convicted persons in such workshops would be compatible with the Convention only if it were subject to the consent of the prisoners concerned and to safeguards of the kind mentioned above.⁶

99. In its general observation on Convention No. 29 in 1974, the Committee therefore requested governments to supply information on the position of law and practice regarding the use of convict labour by private individuals, companies or associations, with due regard to the indications set out above.⁷ Some countries have not yet supplied full information on the subject. Most governments have indicated that

¹ Switzerland*.

² Panama*.

³ Dominican Republic* (see para. 47 above), Haiti* (see para. 93 above), Iceland*, Luxembourg*.

⁴ Record of Proceedings, International Labour Conference, 14th Session, Geneva, 1930, pp. 305-308.

⁵ RCE, 1955, p. 43; general survey of 1968, para. 79; RCE, 1974, pp. 68-69.

⁶ RCE, 1974, p. 69.

⁷ RCE, 1974, p. 69.

convicts are not placed at the disposal of private individuals or enterprises or that this is only done with their consent and on terms comparable to those offered to free workers.

100. The Committee has noted with satisfaction that, since the general survey of 1968, a certain number of countries have repealed provisions under which prisoners could be placed at the disposal of private enterprises.¹ Other governments have indicated that in practice they are not placed at the disposal of private individuals and enterprises and that measures have been taken or are being considered to amend the legislation accordingly.²

101. In an increasing number of countries, prisoners work for private enterprises both inside and outside prison, but under conditions that are similar to those which prevail for free workers. Some countries have amended their legislation so as to require the formal consent of the prisoner³ or to improve their situation as regards wages, conditions of work and social security.⁴ Among the

¹ Countries which have ratified one or both of the Conventions: Canada* - RCE, 1978, pp. 172-173; Honduras*, RCE, 1978, p. 87; Liberia*, RCE, 1977, pp. 91-92; Mali*, RCE, 1974, p. 82; Norway*, RCE, 1972, p. 99; United Kingdom (St. Vincent)*, RCE, 1970, p. 175; Upper Volta*, RCE, 1974, p. 90.

² Countries which have ratified one or both of the Conventions: Burma*, Dominican Republic* (the legislation makes no mention of this subject: a specific prohibition is currently under consideration), Ivory Coast*, Morocco*, Togo*, France (French Polynesia)*, United Kingdom (St. Helena)*; see also Tunisia*, RCE, 1977, pp. 96-97.

³ Countries which have ratified the Conventions: Austria*, section 126, para. 3, inserted in 1974 into the Act on the performance of prison sentences requires the consent of the prisoner for work outside the prison; in so far as prisoners work inside the prison under the direction of private enterprises, the Committee has requested the Government to send more detailed information on existing arrangements; Federal Republic of Germany* - according to section 41, para. 3, of the 1976 Act on the performance of prison sentences, which will come into force in 1982, prisoners can only be employed in a workshop run by a private undertaking with their consent, which they may withdraw with six weeks' notice; furthermore, workers employed in undertakings outside the prison (section 39) are employed under the same working conditions and with the same wages and social security benefits as free workers; however, prisoners working in private workshops inside the prison still earn only 5 per cent of average wages (an increase is planned for 1981) and, although they are now covered by unemployment insurance, their coverage by sickness and old-age insurance is to be provided for subsequently under a special act (section 198, para. 3).

⁴ Countries which have ratified the Conventions: Brazil* - Act No. 6-416 of 24 May 1977 has brought prison labour into line with the labour performed by free workers and affords prisoners the possibility of being covered by labour and social security legislation: the Committee has requested the Government to indicate also what steps have been taken to ensure that prisoners' employment by a private individual is always with their consent; France* - Decree No. 77-238 of 15 March 1977 extends sickness insurance and maternity benefits under the general social security scheme to the families of prisoners and to the prisoners themselves when they leave prison, and Decree No. 77-239 of the same date allows convicts to count periods of detention during

(Footnote continued on next page)

governments which have sent details of employment relationships, remuneration or social security for convicts working for private employers,¹ many have indicated that only volunteers engage in this type of employment in practice.² The Committee has requested all governments concerned to indicate the steps taken or envisaged to ensure that prisoners can only be placed at the disposal of private persons or enterprises with their consent, and provided the safeguards mentioned above exist.³

Abolition of Forced Labour Convention, 1957

102. As previously noted, the States which ratify the Abolition of Forced Labour Convention undertake to abolish forced or compulsory labour in five specific cases. Three of these relate to the use of forced or compulsory labour "as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system",⁴ "as a means of labour discipline",⁵ and "as a

(Footnote continued from previous page)

which they have worked as a contributory period towards their old-age pension; generally, concession workers receive at least the minimum legal wage, from which deductions may be made for their keep; furthermore, the contractual provisions relating to the concession of prison labour are currently being revised, and the Committee has expressed the hope that this opportunity will be taken to embody in the new text the principle that prisoners should only be placed at the disposal of private individuals, companies or associations with their consent.

¹ Countries which have ratified one or both of the Conventions: Brazil*⁺, France*⁺ (see above); Madagascar* - In the case of workers employed outside the prison by private enterprises, circular No. 10-MJ/DIR/CAB/C of 1 July 1970 provides for the payment of normal wages; Syrian Arab Republic*⁺ - under section 6, para. 4, of Act No. 16 of 1975, persons convicted for vagrancy may be employed in private establishments, in conformity with the provisions of the Labour Code and regulations issued under the Code; according to the Government, this implies that the wishes of the person concerned must be taken into account; furthermore, sections 93, 94 and 99 of the Prison Regulations provide for the possibility of having prison workshops managed by private concessionaires, subject to the payment of wages and other conditions; these provisions are not currently applied.

² For example: Countries which have ratified one or both of the Conventions: United Republic of Cameroon*⁺, France*⁺, Madagascar*, Switzerland*⁺, Syrian Arab Republic*⁺.

³ For example: Countries which have ratified the Conventions: Colombia*⁺, Luxembourg*⁺, Zambia*⁺; see also the countries referred to in the previous footnotes.

* Article 1(a).

⁵ Article 1(c).

punishment for having participated in strikes".¹

103. The Committee has pointed out that, in these specific cases, the Convention affords protection against any work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.² However, a number of governments have experienced difficulty in determining the extent to which the Convention of 1957 covers labour exacted from persons sentenced by a court of law, inasmuch as it was excluded from the 1930 Convention.³

104. The Committee has considered that the exceptions to the 1930 Convention, and specifically the exclusion of prison labour, do not automatically apply to the later instrument, which was designed to supplement the 1930 Convention.⁴

105. Clearly, the 1957 Convention does not prohibit the exaction of forced or compulsory labour from common offenders convicted, for example, of robbery, kidnapping, bombing or other acts of violence or acts or omissions that have endangered the life or health of others. Although a prisoner may be directed to work under the menace of a punishment and against his will, the labour in this instance is not imposed on him for one of the reasons cited in the Convention. Consequently, in most cases, labour imposed on persons as a consequence of a conviction in a court of law will have no relevance to the application of the Abolition of Forced Labour Convention. On the other hand, if a person is in any way forced to work because he holds or has expressed particular political views, has committed a breach of labour discipline or has participated in a strike,⁵ the situation is covered by the Convention.⁶

106. Some governments have raised the question whether the scope of the Convention is restricted to hard labour and other particularly

¹ Article 1(d).

² See para. 39 above.

³ See paras. 89-101 above.

⁴ It will be recalled that the Convention was adopted following a survey by the UN-ILO Ad Hoc Committee on Forced Labour, which found that one of the most common forms of forced labour in the world was forced labour as a means of political coercion. Many of the specific cases from which the Ad Hoc Committee drew this conclusion related to labour resulting from penal legislation, involving conviction by a court of law. At its 127th Session (Rome, November 1954), the Governing Body of the ILO accordingly decided to include an item on forced labour in the agenda of the Conference and expressed the view that any subsequent instrument adopted by the Conference should deal with the practices which are specifically excluded from the scope of the 1930 Convention (Forced Labour: Report VI (I), International Labour Conference, 39th Session, Geneva, 1956, p. 17. See also RCE, general survey of 1968, paras. 17, 18 and 81-85).

⁵ The scope of the Convention as regards certain restrictions relating specifically to freedom of opinion and the right to strike will be examined in the following sections.

⁶ RCE, general survey of 1968, para. 85.

arduous or oppressive forms of labour, as distinct from ordinary prison labour.¹ Although this may not be decisive for the 1957 Convention, the point may be made that neither the definition of forced or compulsory labour in Article 2, paragraph 1, of Convention No. 29 nor the exception as regards work exacted as a consequence of a conviction in Article 2, paragraph 2(c), makes any distinction between different forms of work. The 1957 Convention prohibits the use "of any form" of forced or compulsory labour as a sanction, as a means of coercion, education, or discipline or as a punishment in respect of the persons within the ambit of Article 1(a), (c) and (d). Can it be argued that ordinary compulsory prison labour is nowadays accepted as a corollary of a prison sentence, that the essential punishment is the deprivation of freedom rather than the obligation to work and that ordinary prison labour, so long as it does not become a fundamental form of repression, should be excluded from the scope of the 1957 Convention?

107. The point had already been made in the course of the preparatory work on the Convention that, in most countries, it is regarded as normal that persons convicted of certain categories of crime should be required to work during the period of their sentence, that such work serves an educational purpose and helps keep up the morale of prisoners and that it may be felt that it is reasonable to permit this type of forced labour and undesirable to attempt to forbid it in any way. However, it was pointed out in the preparatory report submitted to the Conference that this same form of forced labour can lead to abuses, particularly if persons may be sentenced to penal labour on account of their political or other beliefs. The proposed instrument should guard against this.²

108. While prison labour exacted from common offenders is intended to reform or rehabilitate them, the same need does not arise in the case of persons convicted for their opinions or for having taken part in a strike. Furthermore, in the case of persons convicted for expressing certain political views, an intention to reform or educate them through labour would in itself be covered by the express terms of the Convention, which applies *inter alia* to any form of compulsory labour as a means of political education.³

109. For all these reasons, the Committee has considered that compulsory labour in any form, including compulsory prison labour, is covered by the 1957 Convention in so far as it is exacted in the five cases specified by that Convention.⁴ In many countries, the law has traditionally accorded a special status to prisoners convicted of

¹ The Commission indicated in para. 86 of its general survey of 1968 that the issue appears to have arisen partly from a terminological difficulty, "hard labour" (that is a particular type of punishment imposed under criminal law) and "forced labour" (the expression used in the Convention) being in certain languages rendered by the same or similar expressions; however, the Convention refers more generally to compulsory work.

² Forced Labour, Report VI (I), International Labour Conference, 39th Session, Geneva, 1956, (Geneva, ILO, 1955), p. 17.

³ Article 1(a) of the Convention; see RCE, general survey of 1968, para. 87.

⁴ See in particular RCE, general surveys of 1962, paras. 52 and 57, and of 1968, paras. 85-87.

certain political offences, comparable to that accorded to persons in detention while awaiting trial, under which they are free from prison labour imposed on common offenders - although they may work on request.¹ The Committee has observed that many other countries that have ratified the 1957 Convention have introduced such exemptions in their legislation in order better to ensure observance of the Convention, either in respect of all persons covered by the Convention,² or more specifically in respect of political offenders.³ Several countries have adopted provisions under which persons convicted on the basis of certain provisions relating to labour discipline or strikes are exempted from compulsory prison labour.⁴ In other cases, the government has abolished imprisonment for certain offences or amended the substantive legislative provisions in order to ensure observance of the Convention.⁵

SECTION II. ABOLITION OF FORCED OR COMPULSORY LABOUR AS A SANCTION AGAINST WORKERS

A. LABOUR DISCIPLINE

110. 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 a sanction 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 the protection of a general public interest, even though they punish an act constituting a breach of labour discipline. A distinction of this kind had already been recognised by the Conference at the time of the adoption of the earlier

¹ It is significant that, only recently, in countries where the law does not grant any special advantages to certain political prisoners, these prisoners have demanded and occasionally obtained an exemption from prison labour.

² Spain* - RCE, 1976, p. 165, and RCE, 1978, p. 185; Poland* - RCE, 1978, p. 184; Turkey*, RCE, 1978, p. 189; see also the observation made in 1979 in respect of the Syrian Arab Republic* concerning the draft legislation referred to by the Government.

³ For example: Honduras* - RCE, 1978, p. 178; Iraq*, sections 45 and 55 of the Prison Administration Act of 1969; Jordan* - the Government has indicated that section 8(c) of the Prison Regulations, adopted pursuant to section 44 of the Prison Act, exempts persons convicted of political offences from compulsory labour; Portugal* - RCE, 1965, p. 121; see also Liberia* - RCE, 1976, p. 158 (government statement); Paraguay* - RCE, 1978, p. 94 (draft law); and France* - RCE, 1977, pp. 208-209 (strengthening of existing guarantees).

⁴ Cyprus* - RCE, 1978, p. 174; Sierra Leone* - RCE, 1967, p. 128; United Kingdom (Hong Kong)* - RCE, 1964, p. 189.

⁵ See the following sections.

standards relating to penal sanctions for breaches of contracts of employment.¹ The Convention does not protect persons responsible for breaches of labour discipline that impair or are liable to endanger the operation of essential services or which are committed either in the exercise of functions that are essential to safety or in circumstances where life or health are in danger. However, in such cases there must exist an effective danger, not mere inconvenience.² Furthermore, the workers concerned must remain free to terminate their employment by reasonable notice.³

111. In some countries, forced or compulsory labour is imposed as a means of labour discipline, either under general provisions covering all workers, or under provisions applicable to specific sectors, especially the public service and merchant shipping.

Sanctions of general scope

112. There are few instances left in which national legislation provides for the use of forms of forced or compulsory labour as a general method of maintaining labour discipline. Normally, breaches of discipline are punished only by sanctions that do not involve any obligation to work. In recent years, the Committee has noted with satisfaction the abolition of penal sanctions involving compulsory labour that could be imposed on apprentices who broke or otherwise failed to fulfil their contracts,⁴ on workers in breach of obligations under a collective agreement or an arbitration award,⁵ or on workers who refused or failed to comply with a court order to fulfil their contracts.⁶

113. In some countries, however, sanctions involving compulsory labour can still be imposed for breaches of labour discipline. Some of the texts which provide for a general obligation to work also punish

¹ See Record of Proceedings, International Labour Conference, 38th Session, Geneva, 1955, p. 670, paragraph 30, where it is stated that standards on the abolition of penal sanctions for breaches of contracts of employment by indigenous workers were not intended to cover penal sanctions which "were essentially directed against acts or omissions of a kind warranting sanctions in national law in the general public interest and irrespective of whether any question of a contractual relationship was involved".

² RCE, general survey of 1968, para. 93.

³ See para. 67 et seq. above.

⁴ Countries which have ratified the Conventions: Australia** (Victoria) - RCE, 1974, p. 171; Sudan** - RCE, 1979, see the observation under Convention No. 105.

⁵ Country which has ratified the Conventions: Trinidad and Tobago** - RCE, 1973, p. 164.

⁶ Countries which have ratified the Conventions: Australia** (South Australia) - RCE, 1974, p. 171; Kenya** - RCE, 1977, p. 123; Uganda** - RCE, 1976, pp. 104-105.

such offences as the refusal to work or unjustified absence from work.¹ One country has introduced sanctions involving compulsory labour for a wide variety of breaches of labour discipline.² In other countries, such sanctions can still be imposed on workers who do not fulfil obligations arising out of a collective agreement or arbitration award³ or who do not comply with a court order to fulfil their contracts of employment⁴ or who do not perform by the agreed date work for which they have received advance payment.⁵ In some countries, penalties involving an obligation to perform labour may be imposed for failure to avoid waste of goods or materials, to conform to technical standards or to comply with general production plans.⁶ These various provisions appear to permit the imposition of a form of forced or compulsory labour in cases which are covered by the Convention.

Sanctions applicable in the public sector
and in certain private posts

114. It is particularly persons employed in public services who are subjected to special penal provisions designed to protect the public interest. Thus, in the case of public officials, it may be considered necessary to protect the population against abuse of authority. Various governments have cited provisions punishing abuse of authority as one means of preventing the illegal exaction of forced labour. In the case of essential services, such as health services and services for the supply of water, gas and electricity and fire services, governments may also consider it appropriate to punish certain breaches of discipline which impair or are liable to impair

¹ See the footnotes to para. 45 above.

² Country which has ratified the Conventions: Angola* - Act No. 11/75 of 15 December 1975 on discipline in the production process, which provides for imprisonment in a production camp, inter alia, for passive resistance to work, all actions liable to cause serious prejudice to the production process, leaving the job during compulsory unpaid working days imposed on workers by the disciplinary board for lack of assiduousness or punctuality in the performance of their work, refusal to comply with trade union decisions, absence without just cause during hours of work or an unjustified mistake.

³ Countries which have ratified the Conventions: Bangladesh* - Industrial Relations Ordinance No. XXIII of 1969, sections 54 and 55; Pakistan* - Industrial Relations Ordinance, as amended by Ordinance No. XIX of 1970, sections 54 and 55.

⁴ Country which has ratified the Conventions: Nigeria* - Labour Decree No. 21 of 1974, section 81(1)(b) and (c).

⁵ Country which has ratified the Conventions: Dominican Republic* - Act No. 3143 of 11 December 1951, sections 2 and 3.

⁶ Countries which have ratified the Conventions: Argentina* - Act No. 20840, as amended by Act No. 21459, section 7; Cuba* - Social Defence Code, as amended by Act No. 1249 of 23 June 1973, sections 557 and 560, paragraph A; Ecuador* - Penal Code, section 367; Syrian Arab Republic* - Economic Penal Code (Legislative Decree No. 37 of 16 May 1966), sections 10, 11, 13 and 19.

their proper functioning.¹ For the reasons previously stated, the Committee has considered that penal provisions of this kind are not incompatible with the Forced Labour Conventions.

115. In some cases, where certain breaches of labour discipline in public services were defined in more general terms and carried sanctions involving compulsory labour, the Committee has noted with satisfaction the repeal of provisions directed against public servants who declined to perform their duty,² postal employees who abandoned their service without notice³ and public officials and workers in the public sector who joined certain occupational organisations.⁴ Similar sanctions applicable to certain limited categories of employees in the private sector have also been abolished.⁵

116. In some countries the law still provides for sanctions falling within the scope of the 1957 Convention for public servants; in some cases these sanctions are to be abolished. These provisions concern workers in the public sector guilty of neglect in the performance of their duties,⁶ or who impair production or service

¹ These special provisions should however be limited to essential services in the strict sense (in other words, those whose interruption might endanger the existence or wellbeing of all or part of the population); see para. 123 et seq. below.

² Country which has ratified the Conventions: Mauritius* - RCE, 1973, p. 163.

³ Country which has ratified the Conventions: Iraq* - RCE, 1973, p. 162.

⁴ Country which has ratified the Conventions Greece* - RCE, 1976, pp. 154-155.

⁵ Countries which have ratified the Conventions: Cyprus* - RCE, 1970, p. 146 (concerning the termination of employment of persons employed in hotels and restaurants who leave their jobs without official permission or who are guilty of breaches of discipline); Iraq* - RCE, 1973, p. 162 (concerning the non-fulfilment of a contract involving transport or service during a voyage and non-compliance with a contract of employment of up to two years when transport to the place of work has been provided at the expense of the employer).

⁶ Countries which have ratified the Conventions: Italy* - Penal Code, sections 328, 357 and 358 (applicable to public officials and persons engaged in a public service, including, for example, employees of public savings banks, concessionary transport undertakings, tourist offices, etc.); Libyan Arab Jamahiriya* - Penal Code, section 257; Malaysia* - Telecommunications Act of 1970, section 28 (applicable to telecommunications employees who neglect or are responsible for delay in the transmission or delivery of a message); Netherlands* - Penal Code, section 358bis, ter and quater (applicable to railway officials and employees; the Government has indicated that these provisions are not applied and that procedures for their repeal are under way); Syrian Arab Republic* - Economic Penal Code (Legislative Decree No. 37 of 16 May 1966), section 7 (applicable to employees of the State); Tanzania* - Penal Code, section 284A inserted by Act No. 2 of 1970 (applicable to all persons in the service of a specified authority, including a registered trade union, the African National Union of Tanganyika or any affiliated body, or any publicly-owned company; the Government has indicated that this text is being re-examined). Country which has not

(Footnote continued on next page)

activities by failing to comply with the obligations resulting from their responsibilities, employment or occupation in a state economic enterprise,¹ persons in government service who engage in political activities,² officials who abandon their service without authorisation³ or postal service employees who leave their jobs without having given one month's notice.⁴ Sometimes, provisions imposing sanctions for breach of contract liable to interrupt the operation of essential services are worded in such a way as to prevent workers from terminating their employment, even by notice;⁵ such restrictions are compatible neither with the 1957 Convention nor with the 1930 Convention.⁶

Disciplinary measures applicable to seamen

117. In its 1962 and 1968 surveys, the Committee had noted that, in a considerable number of countries, legislation governing conditions of work of merchant seamen and fishermen contained provisions permitting the imposition of penal sanctions involving compulsory labour in respect of various breaches of labour discipline. It indicated that the Abolition of Forced Labour Convention did not cover

(Footnote continued from previous page)

ratified Convention No. 105: Japan* - Postal Act No. 165 of 1947, section 79 (respecting postal employees who deliberately and maliciously neglect or delay the delivery of mail), and Public Telecommunications Act No. 97 of 1953 (applicable to employees who, without just cause, fail to perform their duty or perform it badly).

¹ Country which has ratified the Conventions: Cuba** - Social Defence Code, section 556A.

² Country which has not ratified Convention No. 105: Japan* - National Public Service Law (No. 120 of 1947), sections 102 and 110, and Rule 14-7 of 1949 issued by the National Personnel Authority.

³ Countries which have ratified the Conventions: Brazil** - Penal Code, section 323 (desertion of a public post); Iraq** - Penal Code, section 364 (applicable to public servants who resign from their post until such time as their resignation has been accepted); Syrian Arab Republic** - Legislative Decree No. 46 of 23 July 1974, section 364A (applicable to public and semi-public sector employees who leave or interrupt their work for a period of 15 days or before the acceptance of their resignation or who fail to perform their duties following a mission or educational leave).

⁴ Countries which have ratified the Conventions: Bangladesh** - Post Office Act No. 6 of 1898, section 50; Singapore** - Post Office Ordinance (Chapter 105), section 60; the Government has indicated that this Act is to be repealed.

⁵ Country which has ratified the Conventions: Uganda** - Trade Disputes (Arbitration and Settlement) Act, 1964, section 16; the Government had indicated in its report on Convention No. 105 for the period 1969-1971 that the law was being reexamined in order to bring it into line with the Convention.

⁶ See paras. 67 et seq. above.

sanctions relating to acts tending to endanger the ship or the life or health of persons on board. However, as regards sanctions relating more generally to breaches of labour discipline such as desertion, absence without leave or disobedience, sometimes supplemented by provisions under which seamen may be forcibly returned to their ship, the Committee had requested the governments of the countries concerned to review their legislation in the light of the Convention, if possible in consultation with the shipowners and seamen of their countries.¹ Most of the countries involved responded to this suggestion, frequently in the framework of a more general review of their merchant marine legislation. While two countries² had already amended their legislation accordingly in 1963 and 1966, a considerable number of maritime nations have, over the past few years, taken steps to ensure compliance with the Convention.

118. The Committee has thus noted with satisfaction that, provisions permitting the forcible return of seamen to their ship have been repealed³ and that frequently also, penalties of imprisonment (involving an obligation to work) which could be imposed for desertion (in particular, abroad), absence without leave⁴ or disobedience⁵ have been repealed or, in certain cases, restricted to offences that endanger the safety of the ship or the life or health of persons. In one country, seamen who can still be sentenced to imprisonment for certain disciplinary offences have been exempted from penal labour.⁶

119. In other countries, sanctions coming within the scope of the Convention have not yet been eliminated from legislation applicable to seamen, but in most cases, steps are being taken in this direction. Thus, the provisions of the 1894 Merchant Seamen's Act,⁷ which had been

¹ RCE, General Survey of 1962, para. 117, and of 1968, para. 121.

² Countries which have ratified the Conventions: Ghana** and Sierra Leone** - RCE, General Survey of 1968, page 230, footnote 5.

³ Countries which have ratified the Conventions: Australia** (Victoria) - RCE, 1974, p. 171; Cyprus** - RCE, 1978, p. 174; Denmark** - RCE, 1974, p. 172; Nigeria** - RCE, 1978, p. 182; Norway** - RCE, 1976, p. 160; Sweden** - RCE, 1974, p. 181; United Kingdom** - RCE, 1972, p. 199, and territory of St. Kitts-Nevis-Anguilla - RCE, 1978, p. 234.

⁴ Countries which have ratified the Conventions: Australia** (Victoria) - RCE, 1974, p. 171; Federal Republic of Germany** - RCE, 1976, p. 154; Nigeria** - RCE, 1978, p. 182; Spain** - see para. 69 above; United Kingdom** - RCE, 1972, p. 199, and the non-metropolitan territories of the Gilbert Islands - RCE, 1978, p. 234, and St. Kitts-Nevis-Anguilla - RCE, 1978, p. 234.

⁵ Countries which have ratified the Conventions: Australia** (Victoria) - RCE, 1974, p. 171; Cyprus** - RCE, 1978, p. 174; Denmark** - RCE, 1974, p. 172; Netherlands** - RCE, 1974, p. 178; Sweden** - RCE, 1974, p. 181; United Kingdom** - RCE, 1972, p. 199.

⁶ Country which has ratified the Conventions: Cyprus** (in addition to the abolition of fundamental provisions coming within the scope of the Convention) - RCE, 1978, p. 174.

⁷ In particular, sections 221-224 and 225, para. 1(b) and (c), under which seamen may be forcibly returned to their ship and sanctions involving the obligation to work may be imposed for desertion, leave without absence and disobedience.

repealed in the United Kingdom by the Merchant Seamen's Act of 1970, are still in force in several other countries,¹ and similar provisions exist elsewhere in laws which were modelled on this legislation,² but in almost every case their repeal or amendment is either under way or being considered.³ A number of other countries still have provisions under which seamen can be forcibly returned to the ship,⁴ or are liable to sanctions involving an obligation to work for desertion of absence without leave,⁵ disobedience⁶ or both of these categories of

¹ Countries which have ratified the Conventions: For example, Fiji*, Guyana*, Ireland*, Jamaica*, Mauritius*, Trinidad and Tobago* and a certain number of non-metropolitan territories of the United Kingdom*.

² Countries which have ratified Convention No. 105: Australia* - Navigation Act, section 100, para. 8(c), and section 105; Bangladesh* - Merchant Shipping Act of 1923, sections 100-101 (paras. 1 and 5), 102 and 103 (ii, iii and v); Canada* - Navigation Act, section 251-255 and 256, clauses 1(b) and (e), and corresponding provisions in the Act respecting Discipline on Board Government Vessels; Democratic Yemen* - Merchant Shipping Ordinance (Chapter 95), sections 96, 98, 99 and 101(c) and (e); Malaysia* - Merchant Shipping Ordinance of 1952, sections 178, 180-182 and 183(c) and (e), and corresponding provisions in the Merchant Shipping Ordinances of Sabah and Sarawak of 1950; Malta* - Merchant Shipping Act of 1973, sections 171, 172, para. 1, 173, para. 1(b), (c) and (e); New Zealand* - Merchant Shipping Act of 1952, sections 160, 161, 164 and 476; Pakistan* - Merchant Shipping Act of 1923, sections 100, 101 (paras. 1 and 5), 102 and 103 (ii, iii and v); the Government informed the 1978 Conference that it did not intend to repeal these provisions which it considers necessary to maintain discipline on board; Singapore* - Merchant Shipping Act (Chapter 172), sections 126-128, 130 and 131; Tanzania* (Tanganyika) - Merchant Shipping Act of 1967, section 145 paras. 1(b), (c) and (e), 147 and 151.

³ Almost all the countries cited in the two previous footnotes have supplied information to this effect.

⁴ Countries which have ratified Convention No. 105: Argentina* - Commercial Code, section 990 (not applied in practice); Denmark (Faeroe Islands)* - Faeroe Islands Seamen's Act, section 52; Finland* - Seamen's Act of 1955, section 52; Poland* - Act of 1952 respecting service on board merchant ships, section 64 (not applied in practice); Thailand* - Act No. BE 2466 (1923), respecting desertion or absence without leave from merchant shipping vessels, sections 4-6; Turkey* - Commercial Code (Act No. 6762 of 1965), section 1467. Country which has not ratified Convention No. 105: India* - Merchant Shipping Act of 1958, section 193.

⁵ Countries which have ratified Convention No. 105: Argentina* - Commercial Code, section 990 (not applied in practice); Brazil* - Legislative Decree No. 4124 of 24 February 1942, section 1; Panama* - Commercial Code, section 1120; Uruguay* - Commercial Code, section 1165. Country which has not ratified Convention No. 105: Japan* - Seamen's Act, section 128, para. 4.

⁶ Countries which have ratified the Conventions: Denmark (Faeroe Islands)* - Faeroe Islands Seamen's Act, section 74; Egypt* - Act of 1960 concerning safety, order and discipline on board merchant shipping vessels, sections 13 (para. 5) and 14; Finland* - Seamen's Act of 1955, section 78; Iceland* - Seamen's Act of 1963, section 81;

(Footnote continued on next page)

disciplinary offences,¹ but most of the governments concerned have indicated that measures have been taken or are contemplated with a view to amending the legislation, sometimes in consultation with the social partners.²

B. PUNISHMENT FOR PARTICIPATION IN STRIKES

120. The Abolition of Forced Labour Convention contains a general prohibition of the use of any form of forced or compulsory labour "as a punishment for having participated in strikes". The reports of the Conference Committee which considered the draft Convention, however, indicated agreement that "in certain circumstances penalties could be imposed for participation in illegal strikes and that these penalties might include normal prison labour",³ and that in particular such penalties might be imposed where there were "national laws prohibiting strikes in certain sectors or during conciliation proceedings" or "where trade unions voluntarily agreed to renounce the right to strike in certain circumstances".⁴

General prohibition of strikes

121. General prohibitions on strikes, enforced by sanctions involving an obligation to perform labour, appear to be in force in only a limited number of countries. The Committee has noted with interest the restoration of the right to strike in one country where

(Footnote continued from previous page)

Nigeria** - Merchant Shipping Decree (No. 16) of 1976, section 17(b), (c) and (e); Somalia** - Maritime Code, sections 187 and 192; Suriname** - Penal Code, sections 462 and 463.

¹ Countries which have ratified the Conventions: Belgium** - Disciplinary and Penal Code of 1928 for merchant shipping and deep sea fishing, sections 10, 22, 25 (paras. 1 and 2), 26 (para. 1), 27 and 28; Benin** - Merchant Shipping Code, sections 215, 235 and 238; United Republic of Cameroon** - Merchant Shipping Code, sections 242 and 261; France** - Merchant Marine Disciplinary and Penal Code of 1926, sections 39 (para. 4) and 59 (para. 1); Gabon** - Merchant Shipping Code, sections 169 and 188 (not applied in practice); Ghana** - Merchant Shipping Act of 1963, sections 122 and 147, para. 1(b) and (c) (not applied in practice); Greece** - Legislative Decree No. 654 of 1970 instituting a disciplinary and penal code for merchant shipping, sections 4, 6 (para. 1), 7, 9 (para. 1) and 21; Italy** - Navigation Code, sections 1091 (paras. 1 and 2) and 1094 (para. 1); Senegal** - Merchant Shipping Code, sections 223 and 243.

² Argentina**, Belgium**, Benin**, United Republic of Cameroon**, Denmark (Faeroe Islands)**, Egypt**, Finland**, France**, Gabon**, Iceland**, Panama**, Poland**, Somalia**, Suriname**.

³ ILO: Record of Proceedings, International Labour Conference, 40th Session, Geneva, 1957, p. 709, para. 14 (Geneva, 1958).

⁴ *Idea*, 39th Session, Geneva, 1956, p. 723, para. 12.

any person participating in a strike had been liable to sanctions involving an obligation to work.¹ Where similar provisions still apply to strikes as such, they have been adopted under emergency powers. The impossibility of resorting legally to strike action may also be the result of general procedural requirements leading to compulsory arbitration. These two forms of prohibition are examined below.² It would also appear that, under certain provisions relating to breaches of discipline such as the failure to fulfil a contract of employment or production plans, strike action can be punished by sanctions involving compulsory labour.³

Specific restrictions on the right to strike

122. Where collective stoppages of work are not prohibited as such, restrictions on the right to strike may take three forms: they may concern the worker himself and his job (workers in essential services and persons responsible for safety in enterprises),⁴ the objective of the work stoppage (political strikes), or the conditions in which the strike is undertaken (procedural considerations, relevance to existing agreements). When these restrictions carry sanctions involving compulsory labour, their compatibility with the 1957 Convention is to be examined. On the other hand, sanctions for breaches of public order such as violence or property damage committed on the occasion of a strike obviously fall outside the scope of the Convention.

Restrictions in the case of essential services and certain other employment

123. The Committee has considered that it is not incompatible with the Convention to impose penalties (even if involving an obligation to perform labour) for participation in strikes in the civil service or other essential services, provided that such provisions are applicable only to essential services in the strict sense of the term (that is, services whose interruption would endanger the existence or well-being of the whole or part of the population⁵) and that

¹ Country which has ratified the Conventions: Portugal* - RCE, 1975, p. 152.

² See paras. 126 and 130 below.

³ See para. 113 above.

⁴ In a situation of acute national crisis, the services of all workers are sometimes considered to be essential; given the similarity of the motives involved, the exceptional prohibition of all strikes will be examined after the restrictions that are normally imposed in essential services.

⁵ RCE, General Survey, 1968, paras. 95 and 126; see also the similar conclusions reached by the Governing Body Committee on Freedom of Association (54th Report, para. 188(e); 74th Report, paras. 220, 230 and 231) and in the Report of the Fact-Finding and Conciliation Commission on Freedom of Association concerning persons employed in the public sector in Japan (Official Bulletin, Vol. XLIX, No. 1, Jan. 1966, Special Supplement, para. 2139). The Committee on Freedom of

(Footnote continued on next page)

compensatory guarantees in the form of appropriate alternative procedures are provided.¹ Similar restrictions may be imposed, even in other undertakings or services, on persons occupying certain posts essential from the point of view of safety.²

124. The Committee has noted that one government has repealed legislation under which imprisonment involving compulsory labour could be imposed on any public employee (whether a civil servant or a manual or non-manual worker) who participated in a strike, and has adopted legislation on the right to strike in the public service.³ In a number of countries, however, there still exist provisions forbidding strikes upon penalty of imprisonment, not only in essential services in the strict sense of the term but also in industries and services the interruption of which might more generally prejudice the general interest or the national economy. In a number of countries similar

(Footnote continued from previous page)

Association has considered in some cases that banks, petroleum undertakings, port services, aircraft repair, aviation and other transport services, and state services such as the Mint, state printing presses, and monopolies for the sales of wines and spirits, salt and tobacco are not genuinely essential services in which strikes may be declared illegal. See 74th Report, para. 230; 118th Report, paras. 90-92; 138th Report, para. 72; 139th Report, para. 199; 145th Report, para. 43; 165th Report, para. 30.

¹ The Committee on Freedom of Association has often stressed that, where the right to strike is prohibited or restricted in the civil service or in essential services, adequate guarantees should be ensured to safeguard the interests of the workers who are thus deprived of an essential means of defending their occupational interests; it has also expressed the view that such restrictions should be accompanied by adequate, impartial and speedy conciliation and arbitration procedures, in which the parties can take part at every stage and in which the awards are binding in all cases on both parties. See, for example, 30th Report, para. 94; 54th Report, para. 60; 69th Report, para. 63; 74th Report, para. 220; 120th Report, para. 150; 125th Report, para. 38; 127th Report, para. 56; 143rd Report, para. 153; 145th Report, para. 41; 149th Report, paras. 133 and 135; 150th Report, para. 41.

² See, for example, Governing Body Committee on Freedom of Association, 12th Report, para. 81; 82nd Report, paras. 26 and 44-46; 160th Report, para. 197.

³ Country which has ratified the Conventions: Greece**. RCE, 1976, p. 155; see the 1975 Constitution, section 23, subsection 2, and Act No. 643 of 1977 which grants the right to strike to public officials subject to a special conciliation procedure and which prohibits strikes only for the judiciary and public security officers, port authority police and rural police and officials of the central information service.

* Countries which have ratified Convention No. 105: Brazil** - section 201 of the Penal Code, which punishes participation in strikes which interrupt public works or services of general interest; Legislative Decree No. 1632 of 4 August 1978 to prohibit strikes in public services and activities essential to national security (which includes in the definition of essential services transport, loading and unloading operations, basic industries, petroleum, banks, communications and any other industries which may be specified by decree of the President of the Republic) read together with Legislative Decree No.

(Footnote continued on next page)

prohibitions affect not only officials in the state administration but also workers in public services or establishments whatever the nature of their work;¹ some of these countries, however, are considering amending or repealing these provisions.²

125. In cases where seamen are subject to penalties for insubordination these sanctions usually apply to strikes as well. The Committee has recalled that the imposition of sanctions involving compulsory work should be limited to circumstances in which a strike would

(Footnote continued from previous page)

898 of 29 September 1969, section 29, which provides 8 to 20 years of imprisonment for the interruption of essential services administered by the State, or performed under contract or with its authorisation, and section 39 V, which provides 10 to 20 years of imprisonment for incitement to paralyse public services and/or public activities; Colombia** - Labour Code, section 477, subsections (b) and (g) (which applies among other things to transport by land, sea, river and air) and Decree No. 2004 of 1977, under which trade union officials are punishable for incitement to work stoppages; Dominican Republic**, Labour Code, sections 370, 371, 678, subsection 16, and 679, subsection 3 (transport services and all other services which may not be suspended without prejudice to the national economy); El Salvador**, Penal Code, section 291, para. 1 (transport and all public utility services); Netherlands**, Penal Code, section 358bis, ter and quater (punishing strikes in the national railway network) - the Government has given assurances that this text will be repealed; Nicaragua** - Labour Code, section 228, read together with Penal Code, section 523, subsection 3 (strikes in agriculture when there is a risk that the produce will deteriorate); Trinidad and Tobago**, Industrial Relations Act, 1972, section 69, subsections 1 and 2 (which apply, inter alia, to teachers); Trade Disputes and Protection of Property Ordinance, section 8, subsection 1 (railways, trams, ships and other means of transport); Zambia**, Industrial Relations Act, 1971, section 1 and section 117, subsections 3 and 8(b) (production of foodstuffs, mining, transport, roads, railways, ports and docks).

¹ For example, countries which have ratified Convention No. 105: Egypt** - Penal Code, sections 124, 124(a) and (c) and 374 (strikes of officials working in public utilities); Iraq** - Penal Code, sections 197 IV and 216 (imposing imprisonment for a determinate duration or for life on any person causing a stoppage of work in public services or bodies, state-approved associations, state industrial installations or any public establishments of substantial importance to the national economy); Somalia** - Penal Code, sections 240 and 256 (applicable to all persons entrusted with the performance of a public service; the Government indicates that these provisions are not applied). Countries which have not ratified Convention No. 105: Japan** - National Public Service Law, sections 98 and 110, subsection 17, and Local Public Service Law, sections 37 and 61, subsection 4, which impose penalties involving compulsory work for conspiracy with a view to strike action against the national Government in its capacity as employer or against a local public body (see Report of the Fact-Finding and Conciliation Commission on Freedom of Association, paras. 2134 and 2139); USSR** - Penal Code of the RSFSR, section 190³, read in conjunction with section 24 (inter alia, organisation of, or active participation in, collective actions which have caused disturbance of transport operations or of State or social institutions or undertakings).

² Egypt**, Netherlands**, Somalia**.

endanger the life or health of the persons on board ship. As has already been seen, most of the countries concerned are considering amending their legislation on the subject, and many of them have repealed provisions which were not in conformity with the Convention.¹

Exceptional prohibition of strikes

126. In certain cases strikes have been declared unlawful and made punishable with sanctions involving compulsory work under emergency legislation or powers.² The Committee has considered that such a suspension of the right to strike enforced by sanctions involving compulsory work is compatible with the Convention only in so far as it is necessary to cope with cases of force majeure in the strict sense of the term - namely when the existence or well-being of the whole or part of the population is endangered - provided that the duration of the prohibition is limited to the period of immediate necessity.³

127. It should also be pointed out that certain of the legislative provisions examined in the previous chapter,⁴ which permit the call-up of labour in circumstances which do not necessarily constitute an emergency, may be used to call up workers who are on strike. In so far as such legislation provides for penalties involving compulsory work for refusal to obey the call-up order, it may be applied in a manner incompatible with Article 1(d) of the 1957 Convention.

¹ See paras. 117-119 above.

² Countries which have ratified Convention No. 105: Argentina* - Act No. 21261 of 24 March 1976 to suspend the right to strike throughout the national territory, extended by section 14 of Act No. 21400 of 3 September 1976; Chad* - Ordinance No. 30/PR/CSM of 26 November 1975 to suspend all strike movements throughout the national territory until further notice, read together with Act No. 15 of 13 November 1959 to punish acts of insubordination against the public authorities; Thailand* - Decree No. 3 of 6 October 1976, adopted under sections 25 and 36 of the Labour Relations Act, which forbids all strikes, read together with sections 133 and 141 of the Labour Relations Act; Uruguay* - Decree No. 518/973 of 4 July 1973 to declare strikes and work stoppages unlawful in order to prevent anomalies arising in the performance of services in the public and private sectors, and Decree No. 548 of 1973 to extend the scope of the aforementioned Decree to semi-official and decentralised social security bodies.

³ RCE, general survey, 1968, paras. 95 and 125. The Committee on Freedom of Association has also considered that since a general prohibition of strikes is an important restriction of one of the essential means by which the workers and their organisations can promote and defend their occupational interests, such a prohibition would be justified only if it were imposed for a limited period in a situation of acute national crisis (78th Report, paras. 82-85; 160th Report, para. 443; 177th Report, para. 300).

⁴ See paras. 63-66 above.

Prohibition of political strikes

128. The prohibition of purely political strikes lies outside the scope of the Convention. Nevertheless, in so far as restrictions on the right to engage in such strikes are accompanied by penalties involving compulsory work, it has been indicated that these restrictions should not apply either to those matters likely to be resolved through the signing of a collective agreement or to other matters of a broader economic and social nature affecting the occupational interests of workers.¹ In certain cases there is a danger that restrictions on strikes might be applied in such a manner that any strike might be regarded as constituting a threat to national security. The Committee has noted with satisfaction the recognition of the right of freedom of association and the right to strike in a country where strikes of a strictly occupational nature had formerly risked being classified as offences of sedition unless they were initiated under the auspices of the only trade union organisation recognised to be lawful.²

Conditions under which a strike may be called

129. Restrictions on the exercise of the right to strike falling within the scope of the Convention may be the consequence of very strict requirements as regards the procedures to be observed in declaring or conducting a lawful strike, which are enforced by sanctions involving compulsory work. This is the case where the legislation requires a vote by a qualified majority before a strike is declared, requiring for example an absolute majority of all serving workers affected by the claim, and of all the workers employed in the undertaking, whether they are directly or indirectly affected by the dispute,³ or a majority of 60 per cent⁴ or two-thirds of the workers concerned.^{5,6}

¹ See Committee on Freedom of Association, in particular 181st Report, para. 242.

² Country which has ratified the Conventions: Spain* - see RCE, 1978, p. 185, and Report of the Study Group to Examine the Labour and Trade Union Situation in Spain, paras. 934-936.

³ Country which has ratified Convention No. 105: Uruguay* - Decree No. 622 of 10 August 1973, sections 36(b) and 44, read together with section 165 of the Penal Code.

⁴ Countries which have ratified the Conventions: Dominican Republic* - Labour Code, sections 373, 374, subsection 3, 678, subsection 16, and 679, subsection 3; Nicaragua* - Labour Code, sections 225, 309 and 311, read together with section 523, subsection 3, of the Penal Code.

⁵ Countries which have ratified the Conventions: Angola* - Legislative Decree No. 3/75 of 8 January 1975 to regulate the right to strike, section 8, subsection 4, sections 22 and 28; United Kingdom (Gilbert Islands)* - Ordinance No. 33 of 1974 establishing the Industrial Relations Code, sections 25 and 34.

⁶ The Committee on Freedom of Association has considered that the majority thus required for strike action to be declared lawful constitutes an intervention by the public authorities in the activities of trade unions which is of a nature to restrict the rights of such organisations (79th Report, para. 182, and 92nd Report, para. 188).

130. The laws governing strikes in many countries require the observance of certain rules of procedure, such as previous notification, and suspend the right to strike temporarily until all facilities for negotiation and conciliation have been exhausted and while voluntary arbitration procedures are in progress. When temporary restrictions of this kind are imposed the procedure should, however, be adequate, impartial and speedy, and the parties concerned should be able to take part at every stage.¹ Such temporary restrictions are to be distinguished from compulsory arbitration systems which result in binding awards allowing practically all strikes to be prohibited or rapidly stopped.^{2,3} When such systems provide for sanctions involving compulsory work, they should be limited to the sectors and types of employment where, in conformity with the above-mentioned principles,

¹ See Committee on Freedom of Association, 58th Report, para. 111; 99th Report, para. 89; 123rd Report, para. 37; 147th Report, para. 167.

² Countries which have ratified the Conventions: Angola* - Legislative Decree No. 3/75 of 8 January 1975 to regulate the right to strike, sections 11, 22 and 28; Argentina* - Legislative Decree No. 16336/66 respecting compulsory arbitration in labour disputes, re-enacted and amended by Act No. 20638 of 21 January 1974, sections 1, 2 and 6, and Act No. 20840, amended by Act No. 21459, section 5; Bangladesh* - Industrial Relations Ordinance, No. XXIII, 1969, section 32, subsection 2 (strikes which the Government considers prejudicial to national interest); Dominican Republic* - Labour Code, sections 377, 640, 678, subsection 16, and 679, subsection 3; Ecuador* - Decree No. 105 of 7 June 1967, read together with sections 437 and 439 of the Labour Code; Ghana* - Industrial Relations Act, 1965, sections 21 and 22; Kenya* - Trade Disputes Act, 1965, sections 19, 20, 21 and 25; Malaysia* - Industrial Relations Act, 1967 (Revised), sections 26, 44(b) and (d), 46 and 47; Mauritius* - Industrial Relations Act, 1973, sections 82 and 83; Nicaragua* - Labour Code, sections 314, 319 and 320, read together with section 523, subsection 3, of the Penal Code; Sudan* - Industrial Relations Act, 1976, sections 17, 25 and 29(d) and 31; Syrian Arab Republic* - Labour Code, sections 189 to 203 and 209, read together with the Penal Code, section 334; Agricultural Labour Code, sections 160 and 262 (forbidding strikes by agricultural workers); however, the Government has given assurances that persons convicted for acts covered by Convention No. 105 are to be exempted under draft legislation from compulsory labour; Tanzania* (Tanganyika) - Permanent Labour Tribunal Act, 1967, sections 4, 8, 11 and 27; Tunisia* - Labour Code, sections 384-387 (strikes which in the opinion of the Minister may affect national security); United Kingdom (Gilbert Islands)* - Ordinance No. 33 of 1974 establishing the Industrial Relations Code, sections 3, 4, 7, 9, 23 and 25; Zambia* - Industrial Relations Act, 1971, sections 95, 116 and 122. Country which has not ratified Convention No. 105: Sri Lanka* - Trade Disputes Act, Cap. 131, as amended, sections 4, 40 and 43;

³ The Committee on Freedom of Association has considered that the right to strike is affected when collective disputes which have not been settled by the parties must be submitted to arbitration, or when a legislative provision enables the minister at his discretion to submit a labour dispute to compulsory arbitration, thus preventing recourse to strikes.

restrictions may be imposed on the right to strike itself.¹ The Committee has noted with satisfaction the repeal of provisions under which the Minister of Labour might refer any labour dispute brought to his knowledge by an employer to the industrial court for settlement, breach of which settlement was punishable by imprisonment involving compulsory labour.²

131. In certain cases which were envisaged during the preparatory work on the Abolition of Forced Labour Convention, trade unions have voluntarily agreed to renounce the right to strike in exchange for certain advantages in fields such as the negotiation of collective agreements, the representation of workers and settlement of disputes.³ Similarly, legislation which prohibits strikes in breach of freely concluded collective agreements does not fall within the scope of the Convention, even when it provides for penalties involving compulsory work.⁴

132. Finally, it should be recalled that the provisions of the 1957 Convention relating to sanctions for participation in strikes apply solely to forced or compulsory labour in any form. Once the Committee has noted the abolition of sanctions involving compulsory labour for participation in a prohibited strike,⁵ the legislation calls for no further comment under Article 1(d) of the Abolition of Forced Labour Convention.

¹ See paras. 123 et seq. above and Committee on Freedom of Association, 76th Report, para. 285; 99th Report, para. 39; 133rd Report, para. 219; 153rd Report, para. 279.

² Country which has ratified the Conventions: Trinidad and Tobago* - RCE, 1973, p. 164.

³ See, for example, the case examined by the Committee on Freedom of Association in its Second Report (para. 22). In Australia* and New Zealand* registered trade unions are subject to compulsory arbitration procedures in exchange for certain advantages, but it is not compulsory for unions to be registered and those which are not registered may go on strike.

⁴ See also Committee on Freedom of Association, Fourth Report, para. 27; 15th Report, para. 180; 28th Report, para. 217; 147th Report, para. 167.

⁵ For example, country having ratified the Conventions: Pakistan* - RCE, 1978, p. 182.

SECTION III

THE ABOLITION OF FORCED OR COMPULSORY LABOUR
AS A MEANS OF POLITICAL COERCION OR EDUCATION
OR OF DISCRIMINATIONA. Political coercion

133. The Convention prohibits the use of forced or compulsory labour in general terms as a means of political coercion or education or a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. This raises two questions. The first concerns the range of activities which must be protected from punishment involving forced or compulsory labour.¹ Thus, freedom of expression of political or ideological views may be exercised not only orally, but also through different communications media, particularly the press and other publications.² Like the possibility of the free expression of views, the exercise by the citizen of various other generally recognised rights such as the right of association and of assembly through which citizens seek to secure the dissemination and acceptance of their views and the adoption of policies and laws reflecting them may be affected by measures of political coercion. The second question concerns the limitations on rights and freedoms concerned which must be accepted as normal safeguards against their abuse. Article 19, paragraph 3, of the Covenant on Civil and Political Rights provides that the exercise of the rights provided for in paragraph 2 of that Article may be subject to certain restrictions provided by law. The Universal Declaration of Human Rights provides that limitations may be imposed by law on the rights and freedoms enumerated in it "for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general

¹ Many governments refer in their reports, in relation to Article I(a) of the 1957 Convention, to constitutional and legislative guarantees of a variety of individual rights and freedoms, such as freedom of thought and expression, freedom of peaceful assembly, freedom of association, freedom from arbitrary arrest, the right to a fair trial in accordance with due process of law, etc. Legal guarantees of such rights and freedoms can constitute an important safeguard against the imposition of forced or compulsory labour as a punishment for holding or expressing political or ideological views or as a means of political coercion or education. In this context the interdependence of the various related human rights is particularly evident. It remains however necessary to ascertain the precise legal effect of the relevant constitutional or other guarantees, and to examine to what extent they are subject to qualifications, either in the instruments laying down the guarantees themselves or in separate legislation regulating in greater detail the exercise of particular rights. See RCE, general survey of 1968, paras. 101 et seq. and 110-114.

² See RCE, general survey of 1968, para. 90. It may also be recalled that the Universal Declaration of Human Rights refers to freedom of expression "through any media".

welfare in a democratic society".¹ The Committee has considered it appropriate to take account of corresponding criteria in evaluating national law and practice in fields relevant to Article 1(a) of the 1957 Convention. It has thus observed that the Convention prohibits neither punishment by penalties involving compulsory labour of persons who use violence, incite to violence or engage in preparatory acts aimed at violence, nor judicial imposition of certain restrictions on persons convicted of crimes of this kind. But the Committee has considered that sanctions involving compulsory labour fall within the scope of the Convention where they enforce a prohibition of the expression of views or of opposition to the established political, social or economic system, whether such prohibition is imposed by law or by a discretionary administrative decision which is in no way dependent on the commission of any criminal offence nor subject to judicial review.

134. In addition to the proper limits within which particular rights are to be exercised under normal circumstances, freedom of expression and other rights relevant to the Convention may during certain exceptional periods be subjected to more general restrictions. The need for exceptional recourse to such measures is recognised in the Covenant on Civil and Political Rights "in time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed"; in such cases derogations from the provisions of the Covenant may be made "to the extent strictly required by the exigencies of the situation".² The Committee has adopted a similar approach in regard to emergency measures such as the suppression of fundamental rights and freedoms which, if enforced by sanctions involving compulsory labour, may have a bearing on the application of Article 1(a) of the 1957 Convention. As in the case of the exaction of forced labour for purposes of production or service,³ recourse to such exceptional powers should be limited under the Convention to what is necessary to meet circumstances that would endanger the existence or the well-being of the whole or part of the population.⁴

135. The Committee has noted with satisfaction the restoration of all constitutional guarantees in a country where in particular, the rights of assembly and association and the freedoms of expression and the press had been suspended for several years, and sanctions falling within the scope of the Convention could be imposed.⁵ In certain other countries, constitutional guarantees have been suspended and numerous political activities, including participation in any political party, have been prohibited for a number of years, with sanctions involving compulsory labour; the Committee has asked the governments concerned to indicate the measures taken or envisaged to ensure observance of the

¹ Article 29; see also articles 5, 21 and 22 of the Covenant on Civil and Political Rights.

² Article 4.

³ See para. 36 above.

⁴ RCE, general survey of 1968, paras. 92 and 102.

⁵ Country which has ratified the Conventions: Greece* - RCE 1976, pp. 154-155.

Convention.¹ In the case of a State in which over a period of 18 years numerous constitutional guarantees relevant to the Convention have been suspended each year from six to eight months for such purposes as the improvement of the well-being of the population and the defence of the general interests of the Republic, the Committee has considered that the effective observance of the Convention was not safeguarded.²

136. In a number of countries, the Committee has noted the repeal of provisions under which penal sanctions involving compulsory labour could be imposed for various kinds of statements or criticism of a political nature;³ publications or propaganda contrary to the principles of a national movement⁴ or to the established political order⁵ or aimed at diminishing national sentiment;⁶ tendentious information aimed at impairing the prestige of various authorities;⁷ criticism by ministers of religion of acts of public authority;⁸ publishing any article likely to cause misunderstanding with the government and the people of another country;⁹ the denigration of the institution of property¹⁰ and various offences connected with the press and the holding of opinions.¹¹

137. In other cases, freedom of expression remains subject to important restrictions enforced by sanctions involving compulsory labour. In addition to legislation limiting more generally political

¹ Countries which have ratified the Conventions: Argentina** - RCE 1978, p. 171; see also Acts Nos. 21.322, 21.323 and 21.325 of 1976 on the repression of suspended political activities; Uganda** - RCE 1978, pp. 189-190.

² Country which has ratified the Conventions: Haiti** - RCE 1979, observation under Convention No. 105.

³ Country which has ratified Convention No. 105: Turkey* - RCE 1971, p. 166.

⁴ Country which has ratified the Conventions: Spain** - RCE 1978, p. 185.

⁵ Country which has ratified the Conventions: Greece** - RCE 1976, pp. 154-155.

⁶ Country which has ratified the Conventions: Italy** - Constitutional Court decision No. 87 of 1966, declaring Article 272(2) of the Penal Code unconstitutional.

⁷ Country which has ratified the Conventions: Spain** - RCE 1974, pp. 180-181.

⁸ Country which has ratified the Conventions: Mauritius** - RCE 1973, p. 163.

⁹ Country which has ratified the Conventions: Singapore** - RCE 1976, pp. 162-165.

¹⁰ Country which has ratified the Conventions: Austria** - RCE 1976, p. 152.

¹¹ Country which has ratified the Conventions: Sudan** - RCE 1979, observation under Convention No. 105.

activity,¹ there are provisions punishing propaganda against socialist order² or aimed at changing socialist order³ or overthrowing social order,⁴ or punishing any questioning in a publication of the objectives and principles of the revolution,⁵ the spreading of certain specified ideologies, such as communism,⁶ or of views or information liable to prejudice public interest,⁷ propaganda aimed at subverting or weakening state authority,⁸ or falsifying historical truth as laid down by the national academy of history.⁹ In so far as expressing political views or views ideologically opposed to the established political, social or economic system may be punished with sanctions involving compulsory labour under these provisions, it falls within the scope of the 1957 Convention.

138. Views may be expressed through various means; orally, in writing or in print. It must accordingly be pointed out that in a number of countries, various forms of expression or publication are subject to prior authorisation granted by the authorities at their discretion, violations being punishable with sanctions involving compulsory labour.¹⁰ These provisions may apply to all periodical publications¹¹ or to the publication of newspapers.¹² They enable

¹ See para. 135 above and para. 140 below.

² Country which has not ratified Convention No. 105: Czechoslovakia* - Penal Code, section 100.

³ Country which has not ratified Convention No. 105: Romania* - Penal Code, section 166(2).

⁴ Country which has ratified Convention No. 105: El Salvador* - Act to defend and guarantee public order, of 24 Nov. 1977, section 1(7) and 3.

⁵ Country which has ratified the Conventions: Libyan Arab Jamahiriya* - Act No. 76 of 1972, section 29.

⁶ These provisions, which are contained in enactments prohibiting also the constitution and activities of associations aimed at propagating those ideologies, are mentioned in the fourth footnote in para. 140 below.

⁷ Country which has ratified the Conventions: Egypt* - Penal Code, section 102 bis, as amended in 1949; see also section 80(d), as amended in 1957, aimed at nationals abroad.

⁸ Country which has not ratified Convention No. 105: USSR* - RSFSR Penal Code, section 70 read in conjunction with section 24; see also section 190¹.

⁹ Country which has ratified the Conventions: Dominican Republic* - Act No. 4280 of 17 Sept. 1955.

¹⁰ Such systems are to be distinguished from purely formal requirements relating to registration or notification of certain particulars, which do not restrict freedom of expression and accordingly involve no problems for the application of the 1957 Convention.

¹¹ Country which has ratified the Conventions: Burundi* - Press Act, No. 1-136 of 25 June 1976, sections 5(2) and 10-13.

¹² Countries which have ratified the Conventions: Ghana* -
(Footnote continued on next page)

authorities to deprive persons of the right to publish their views by a discretionary administrative decision which is neither dependent on the commission of any criminal offence by the person concerned nor subject to judicial review. In so far as the relevant provisions are enforced by penalties involving an obligation to perform labour, they may accordingly lead to the imposition of compulsory labour as a punishment for expressing political or ideological views. The same possibility arises where the authorities enjoy wide powers to ban any newspaper in the public interest¹ or to prohibit publications if in their opinion such measure is in the public interest² or the publications might harm the edification of the nation.³ Similarly, observance of the Convention is in jeopardy where the government may prohibit, subject to sanctions involving compulsory labour, specified persons from publishing any matter if it considers that such publication might be contrary to the public interest, or from attending or addressing meetings or gatherings or generally from taking part in any political activities.⁴

139. Since opinions and views ideologically opposed to the established system are often expressed at various kinds of meetings, the prohibition of specific categories of meetings may give rise to political coercion involving sanctions contrary to the Convention.⁵

140. In a number of cases, problems in the application of the Convention have also arisen from prohibitions enforced by penalties involving compulsory labour which affect the constitution or functioning of associations either generally or where they advocate

(Footnote continued from previous page)

Newspaper Licensing Act, 1963, sections 1-3; Malaysia* - States of Malaya: Printing Presses Ordinance, 1948 (as amended by Ordinance No. 32 of 1957), sections 7, 7A, 7B and 17; Sabah - Printing Presses Ordinance (Cap. 107), sections 7 and 15; Singapore* - Printing Presses Ordinance (Cap. 226, as amended by Ordinance No. 11 of 1960), sections 7, 7A, 7B and 17.

¹ Country which has ratified the Conventions: Tanzania* - Press Ordinance (Cap. 229), section 21A, inserted by Act No. 23 of 1968.

² Country which has ratified the Conventions: Uganda* - Press and Publications Act, section 21A, inserted by Decree No. 35 of 1972.

³ Countries which have ratified the Conventions: Central African Empire* - Act No. 60/169 of 12 Dec. 1960 on the repression of subversive publications, sections 1-3; Chad* - Act No. 35 of 8 Jan. 1960 to prohibit subversive publications, section 1.

⁴ Countries which have ratified the Conventions: Malaysia* - Internal Security Act, 1960, sections 8, 10, 22, 24, 25, 44 and 44A, Singapore* - Internal Security Act (Cap. 115), sections 8, 10, 20, 22, 23 and 45, and Undesirable Publications Act (Cap. 107), sections 3 and 4.

⁵ e.g. (Country having ratified the Conventions): Syrian Arab Republic* - section 336 of the Penal Code renders illegal meetings of seven or more persons to which the public has access in order to protest against any decision or measure taken by the authorities. However, the Government has pointed out that draft legislation is to exempt persons protected by the Convention from compulsory prison labour. See RCE 1979, observation made under Convention No. 105.

certain political or ideological views. In a country where participation in associations whose objectives were contrary to the fundamental principles of the national movement was punishable with sanctions involving compulsory labour, the Committee has noted with satisfaction that new legislation has given effect to the right of association and ensured observance of the Convention.¹ Elsewhere, divergencies between national legislation and the Convention still exist, for instance where all parties and associations of a political nature other than a specified national movement or party remain prohibited with sanctions falling within the scope of the Convention,² or where legislation involving such penalties prohibits certain categories of groups or associations, such as those aimed at impairing the existing social order³ or advocating communist ideology.⁴ A similar situation may arise where administrative authorities enjoy wide

¹ Country having ratified the Conventions: Spain** - RCE 1978, p. 185.

² Countries which have ratified the Conventions: Algeria** - Constitution, section 94 (institutions are based on a one-party system); Ordinance No. 71-79 of 3 December 1971, on association, as amended on 7 June 1972, sections 2, 3, 7, 9, 11 and 23 (associations wishing to pursue political objectives may be created only by superior party bodies and those who set up or belong to illegal associations are liable to imprisonment involving an obligation to work). Burundi** - Legislative Order No. 001/34 of 23 November 1966, sections 6 and 7 (recognising "Unity and National Progress" as the sole national party; those who set up or belong to any other association of a political character are liable to penalties involving compulsory labour). Central African Empire** - Constitution, article 15, Act No. 63/411 of 17 May 1963, sections 1 and 4, and Imperial Decree No. 76/010 promulgating the "MESAN" statutes (any person of Central African nationality is a member of "MESAN", anyone forming or attempting to form another party, movement, group, association or organisation of a political character is liable to imprisonment with compulsory labour). Sudan** - State Security Act No. 20 of 1973, section 19, (prohibiting all political associations other than the Sudanese Socialist Union and any other association authorised by the State and punishing with imprisonment those who set up or belong to an illegal political association); Tanzania** (Zanzibar) - Afro-Shirazi Party Decree, 1965, sections 2, 4, 5 and 8, see RCE 1978, p. 187. Zambia** - Constitution, section 4, establishing the one party system and Societies Act, sections 8, 9, 24 and 25, see RCE 1978, p. 190.

³ Country which has ratified the Conventions: Egypt** - Act No. 32 of 12 February 1964 on private associations and foundations, sections 2 and 92.

⁴ Countries which have ratified Convention No. 105: Dominican Republic** - Act No. 1443 of 14 June 1947, sections 1 and 2; Guatemala** - Legislative Decree No. 9 of 10 April 1963, sections 2, 4, 5 and 7, and Legislative Decree No. 387 of 25 October 1965 on elections and political parties, sections 20, 21, 30(2) and 122, and Penal Code, section 396; Haiti** - Legislative Decree of 19 November 1936, sections 1, 2, 3 and 6; Nicaragua** - Constitution, section 74 and Penal Code, section 523, paras. 1 and 2; Paraguay** - Act No. 294 of 1955 concerning the defence of democracy, sections 4 and 6, and Act No. 209 of 1970 concerning the defence of public peace and individual freedom, sections 4 and 8 (however, following direct contacts in July 1977, a bill exempting political offenders from compulsory prison labour has been prepared); Sudan** - Unlawful Associations Ordinance, No. 17 of 1924, as amended.

discretionary powers to suspend associations¹ or to prevent their creation² for general reasons such as the national interest or public order, welfare or tranquillity.

B. Discrimination

141. The Abolition of Forced Labour Convention prohibits the use of any form of forced or compulsory labour "as a means of racial, social, national or religious discrimination".³ Cases in which legislation is designed to create or maintain racial, social, national or religious discrimination, enforced with sanctions involving compulsory labour, appear to be rare.⁴ The Committee has noted with interest certain cases in which such provisions have been⁵ or are

¹ Country which has ratified the Conventions: Bangladesh* - Special Powers Act of February 1974, section 19 (the Government may suspend the activities of associations when it fears that they are used for purposes prejudicial to the maintenance of public order); see also the cases cited in the following footnote.

² Countries which have ratified the Conventions: Ghana* - Criminal Code, section 182A under which the President may prohibit certain organisations whenever he is satisfied that their objects or activities are contrary to the public good or that there is danger of the organisations being used for purposes prejudicial to the public good; Kenya* - Societies Act, sections 4(1), 5, 6, 10 and 11(2). The authorities may refuse to register a society when it appears to them that the interests of welfare or good order are likely to suffer prejudice, or that the society is to be a society dangerous to the good government of the Republic; Malaysia* - Societies Act, 1966, sections 5, 7, 13, 41-47; see RCE 1978, p. 179; Singapore* - Societies Ordinance, as amended in 1966, sections 4, 14 to 18 and 24; authorities may refuse to register a society whose registration is considered contrary to the national interest, see RCE 1976, pp. 162-164; Uganda* - Public Order and Security Act, 1967, sections 1, 2, 3 and 5 and Penal Code, sections 54(2), 55, 56 and 56A; see RCE 1976, pp. 169-170.

³ Article 1(e).

⁴ Country which has ratified the Conventions: Malaysia* (Sarawak) - Local Authorities Ordinance (Cap. 117), sections 34(b) and 59, empowering authorities to require any person who does not belong to the same race as the majority of inhabitants of the village to leave such village, failure to comply with such expulsion order being punishable with imprisonment involving an obligation to work.

As regards the Republic of South Africa, see ILO: Fourteenth Special Report of the Director-General on the Application of the Declaration concerning the Policy of Apartheid of the Republic of South Africa (International Labour Conference, 64th Session, Geneva, 1978), and previous reports.

⁵ Countries which have ratified the Conventions: Kenya* - see RCE 1969, p. 119; Sierra Leone* - RCE 1978, p. 184.

being¹ repealed. There are laws which apply only to certain population groups or members of particular religious communities, but these appear generally to be either of a protective nature or intended to take account of the customs of the community concerned.² However, where punishment involving compulsory labour is meted out more severely to certain groups defined in racial, social, national or religious terms, this falls within the scope of the Convention.³

¹ Country which has ratified the Conventions: Fiji* - Regulations of the Fijian Affairs Criminal Offences Code (under which Fijians, i.e. aborigines of the Fiji Islands may be ordered to leave an industrial or densely populated zone, under penalty of sanctions involving an obligation to work). The Government has pointed out that 34 of these regulations have been repealed and that measures are being taken for the revocation of the two remaining ones.

² It may be recalled that the Indigenous and Tribal Populations Convention, 1957 (No. 107) provides that, to the extent consistent with the interests of the national community, the methods of social control practised by the populations concerned should be used as far as possible for dealing with crimes and offences committed by members of these populations (Article 8).

³ Country which has ratified the Conventions: Peru* - Penal Code, section 44, under which, in the case of crimes committed by persons of an indigenous civilisation, referred to as "Salvajes", a sentence of imprisonment or rigorous imprisonment may be replaced by a sentence to an agricultural penal colony for an indeterminate period of up to 20 years, even if the maximum penalty of deprivation of liberty applicable to other persons for the offence in question was of shorter duration.

CHAPTER IV

CONCLUSIONS

142. Fifty years have passed since the first discussion, in 1929, of forced or compulsory work by the International Labour Conference, which, the following year, was to adopt the Forced Labour Convention, 1930 (No. 29). The present survey is the third of its kind since the coming into force twenty years ago of the Abolition of Forced Labour Convention, 1957 (No. 105). During this period the Committee of Experts and other ILO bodies have looked attentively at the various aspects of compulsory labour and of the questions arising in the application of the two Conventions. This has involved a number of complex appraisals, and the Committee has endeavoured to take account of the manifold facets of the questions involved.

143. The Conventions on forced or compulsory labour are the ILO instruments by which the greatest number of countries are bound: the 1930 Convention is in force for 119 countries and 31 territories and the 1957 Convention for 103 States and 31 territories, a considerable increase over the numbers noted in the last general survey in 1968. It is thus clear that the principles underlying these instruments now find almost universal acceptance. In some countries that have not yet ratified one instrument or the other, legislation and practice seem to conform to the international standards. Two Governments bound by one only of the two Conventions are considering ratifying the other when certain questions concerning the application of the instrument already ratified are settled.¹

144. The Conventions on forced or compulsory labour aim at removing compulsion from employment or service relations; the 1957 Convention, furthermore offers protection against the imposition of any form of compulsory labour (including that following from a conviction in a court of law) as a means of labour discipline or punishment for having participated in strikes, as a means of political coercion or education or as a punishment for expressing political views or views ideologically opposed to the established system, or as a means of discrimination. While this survey has offered an opportunity to examine the difficulties that continue to arise in certain cases in the effective implementation of the two Conventions, one should keep in mind the wide-ranging scope of their provisions and of the protection ensured in States where they are observed. In this connection, it is encouraging to note the number of cases of progress mentioned in this survey, which cover measures taken to ensure better observance of the Conventions in countries with widely differing political, economic and social structures throughout the world.

145. Since the 1968 survey, a number of laws providing for forced or compulsory labour for purposes of production or service have

¹ India* and Turkey*.

been repealed, e.g. texts authorising imposition of labour for public works and services of general or local interest, the construction or maintenance of buildings or roads, re-afforestation, irrigation works, transport, cultivation, the recovery of taxes and services for chiefs. Thus, various more or less archaic forms of compulsory labour have disappeared from most national legislations. In some cases, unlawful practices, such as debt bondage or the use of force for recruiting or retaining workers, still raise questions concerning the effective enforcement of the prohibition of forced or compulsory labour.

146. While certain forms of compulsion to work now encounter general disapproval, new provisions adopted on economic and social grounds may lead to the exaction of work, under the menace of a penalty from persons who have not offered themselves voluntarily for this. The constitutions of a number of countries regard work as a duty, sometimes as the counterpart of a right to work. Often, this amounts to a moral principle which has no bearing on the international Conventions. In some countries, however, there follows an obligation to have employment recognised by the authorities, which is enforced by sanctions, thus affecting observance of the Conventions on forced or compulsory labour. Similar compulsion may arise from penal provisions on vagrancy or similar offences which are too widely worded.

147. The forms of compulsory labour still common include in particular various systems based on the concept of national service, whether they entail the use of military conscripts on work of civil development or the institution of a civic service more or less detached from military service, frequently reserved to the young but sometimes imposed on the whole population. Many reasons may be invoked: the numbers raised under the legislation on compulsory military service frequently exceed the military needs of the country, and it may then seem equitable to require those who are not retained for defence to furnish a comparable service. In a number of developing countries, in particular, the army or some para-military organisation is sometimes used to absorb unemployment among the young and carry out important public works at little cost. In the industrialised countries, too, it may appear economical to assign young conscripts to certain social services hampered by a shortage of voluntary manpower.

148. In this respect, the 1930 Convention provides that, leaving aside the general exception respecting cases of emergency, compulsory military service is exempted from the scope of the Convention only for work of a purely military character, and the 1957 Convention prohibits compulsory labour as a means of achieving economic development. The reason for these provisions does not always seem to be well understood; in particular where compulsory national service is taken for granted without regard to its first purpose it may seem preferable to assign the armed forces to productive tasks rather than military exercises. However, under the Conventions on forced labour restrictions of the freedom they protect are accepted only to the extent required by necessities such as fighting calamities or the exigencies of national defence. This principle was confirmed by the International Labour Conference in 1970 in the adoption of the Special Youth Schemes Recommendation (No. 136), when special employment schemes for national development organised as part of compulsory military service or instead of it were rejected. Furthermore, as recently as 1978, the Conference has stressed in its Resolution concerning youth employment that the problem of youth unemployment should be dealt with in the context of an over-all development strategy making for the attainment of social priorities, including the principle that everyone has the right to education and to freely chosen employment. The Committee of Experts

has already had occasion to observe that a whole series of incentives may be called on to meet particular manpower requirements and that there is the need for an over-all employment policy which will seek to secure opportunities for productive, freely chosen employment to all through a variety of measures ranging from investment programmes and fiscal policies to vocational guidance and vocational training schemes.

149. As regards education and vocational training, the Conference in the 1970 Recommendation concerning special youth schemes has accepted compulsory participation of unemployed young people in educational and training schemes. Similarly, the Committee has always considered that vocational training was outside the scope of the Conventions on forced labour. In addition, the Conference has indicated in the same Recommendation that the Conventions on forced or compulsory labour do not oppose the acceptance by young people of an obligation to serve for a definite period under schemes of an interim character to meet current and pressing economic and social needs, as a condition of being enabled to acquire education or technical qualifications of special value to the community for development. Participants should, to the greatest possible extent, be given a free choice among different available forms of activity and different regions and due account should be taken of their qualifications. In considering the obligations placed in various countries on certain graduate students, the Committee seeks to establish the extent to which the national situation meets the conditions envisaged by the Conference. More generally, special youth employment and training schemes should not be regarded as alternatives to other measures of economic policy and regular educational or vocational training programmes. Having regard also to the recognition of the right to education by the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, a balanced economic and social development policy may succeed in meeting qualified manpower requirements by the effect given to the right to education or by special incentives, without resorting to compulsory assignment of employment to graduates.

150. A special effort seems to have been made by certain governments to ensure a better application of the Conventions on forced or compulsory labour in respect to the requisitioning of labour in exceptional situations. The 1930 Convention authorises such requisitioning only so far as it is necessary to deal with circumstances that would endanger the existence or the well-being of the whole or part of the population. Many texts conferring broader powers on authorities have been repealed or are being revised. Similarly, in several countries legislation preventing under any circumstances, certain workers from terminating an employment or service relation of indefinite duration without express permission has been repealed or is being amended so as to enable those concerned to leave their employment by giving reasonable notice.

151. The 1930 Convention concerns mainly labour imposed for economic purposes. Compulsory labour as a punishment or sanction falls outside the scope of this Convention when imposed as a consequence of a conviction in a court of law, provided that the worker is not hired to or placed at the disposal of private individuals or bodies. Though certain countries still impose compulsory labour on unconvicted prisoners or permit administrative authorities to impose penalties involving compulsory labour, the Committee has noted several cases in which the legislation has been amended on these points. With regard to conditions governing the use of convict labour, the Committee has noted not only that several countries have repealed provisions authorising

the placing of prisoners at the disposal of private enterprises but also that in an increasing number of countries prisoners work for private enterprises both inside and outside the prison, but in conditions approximating those of a free worker. To this effect, certain states have amended their legislation so as to require the express agreement of the prisoner and to improve his situation with regard to wages, conditions of work and social security.

152. The 1957 Convention supplements the earlier instrument in requiring the abolition of any form of compulsory labour that would be imposed as a punishment or means of coercion or education on persons who have infringed labour discipline, participated in a strike or expressed certain political or ideological opinions; the Committee has considered that the Convention protects these persons against the imposition of any form of compulsory labour, including compulsory prison labour. Distinctions made by the Convention do not refer to the nature of the labour imposed but to the act being repressed. In a number of countries, prisoners sentenced for certain political offences traditionally enjoy a special status, comparable to that of persons detained pending trial, exempting them from prison labour imposed on common offenders, while allowing them to work at their own request. The Committee has noted that such exemptions have been newly introduced in several other legislations in respect of the persons protected by the 1957 Convention. Elsewhere, governments have abolished imprisonment for certain offences or amended the substantive legislative provisions in order to ensure observance of the Convention.

153. The scope of the 1957 Convention is subject to the limitations inherent in the very rights and freedoms whose exercise is to be protected against any coercion through compulsory labour; these limitations include the rights of other people. Thus, penalties involving compulsory labour imposed on those who endanger the life or health of other people do not come under the Convention, even when they are imposed for acts constituting a breach of labour discipline, for example, in essential services or employment involving the safety of others. Sanctions of general scope involving compulsory labour for simple breaches of labour discipline such as the refusal to work or absence without just cause have been abolished in some countries and are now rare. In the public service, and, especially, in the merchant marine of many countries where such sanctions were more often provided for, considerable progress has been achieved in recent years in abolishing them or restricting their scope to infringements endangering the life or health of persons and the safety of vessels.

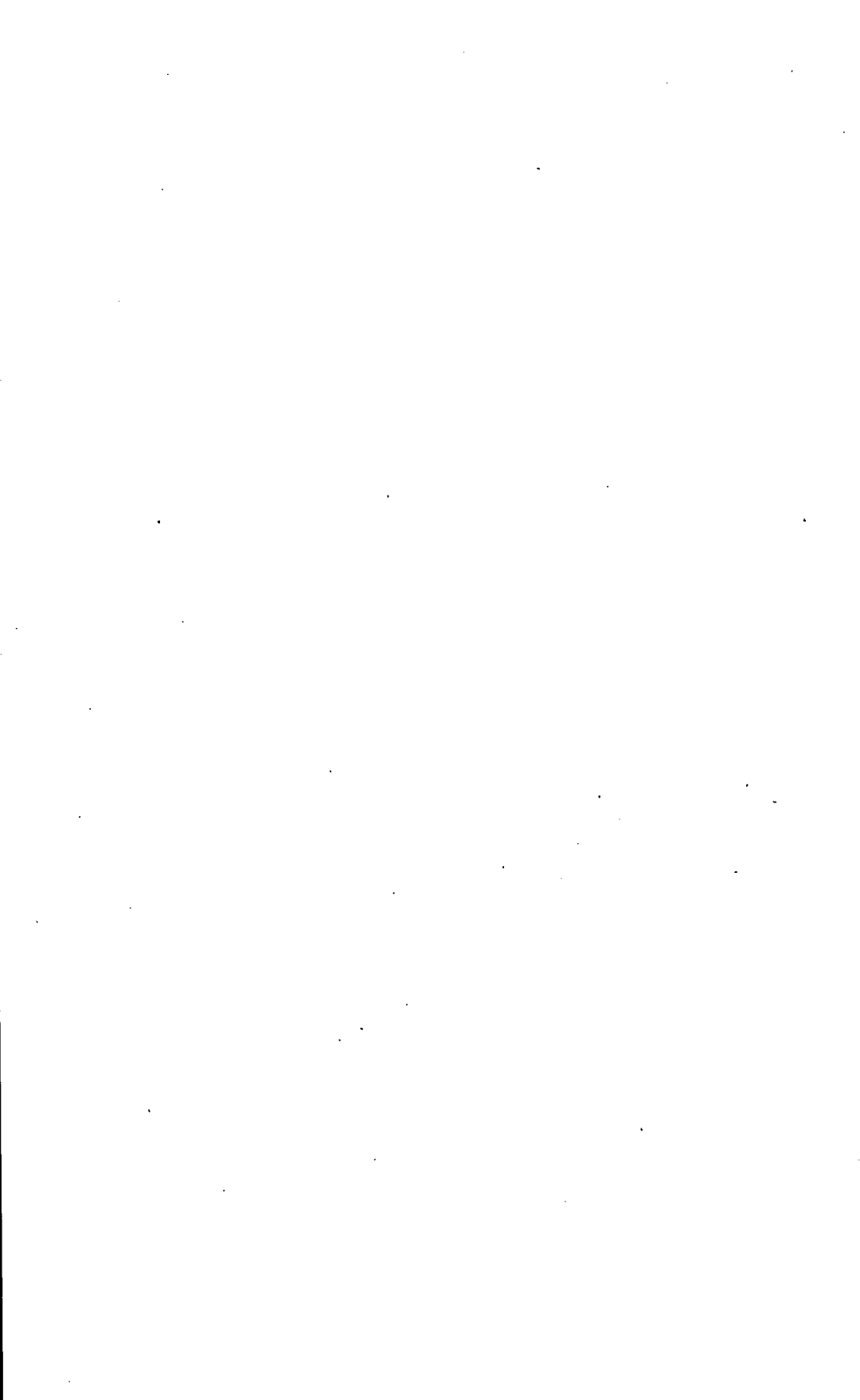
154. The scope of the Convention in respect of punishment involving compulsory labour for participation in a strike is subject to certain normal restrictions on the right to strike, which have been examined in the survey, particularly in respect of essential services and employment involving the safety of others, situations of acute national crisis, procedural conditions such as the filing of notice or the observance of agreements freely entered into. In a number of countries, however, such punishment applies more generally to strikes in the public sector or even throughout the economy, particularly in virtue of emergency powers that have been exercised for years or where procedural rules enable the authorities to prohibit practically any strike by imposing compulsory arbitration. A few countries that had such restrictions have abolished them or restricted them to essential services in the strict sense.

155. The 1957 Convention also prohibits the use of any form of compulsory labour as a means of political coercion or education or as

a punishment for expressing certain views. The survey has reviewed the range of activities thus protected and the limitations that must be accepted as normal guarantees against abuse. In its previous survey, made during the International Human Rights Year, the Committee reached the conclusion that in a number of countries penal provisions enforced by sanctions falling under the Convention prohibited the manifestation of any political or ideological opposition or of particular doctrines, and that, sometimes too, problems in the application of the Convention appeared to arise from wide discretionary powers of preventive control granted to administrative authorities and not subject to any judicial review, yet enforced by penalties involving compulsory labour. Eleven years later, certain cases mentioned in the present survey call for a similar conclusion. However, the countries involved are not necessarily the same: detailed examination brings out a great variety of changes and shows that in a field as delicate as that of freedom of opinion and political opposition, provisions incompatible with the Convention have been abolished in a considerable number of national legal systems. Where this progress has resulted from major developments arising at the national level, the principles of the Convention are shown to correspond to the aspirations of those they are intended to protect; a just and stable order must shield the individual from all coercion through forced or compulsory labour that might prevent him from taking a responsible part in the economic, social and political life of his community.

156. To be able to help governments to give full effect to international standards, ILO bodies need full information concerning problems encountered. In the field of forced or compulsory labour, this sometimes calls for a certain courage, which many governments have indeed shown. Nevertheless, there are inevitable gaps in a survey like this. The Committee itself is determined to examine in ever greater depth the questions which still arise in the implementation of the Conventions. The Committee cannot conclude this review of the progress and problems in the application of these two Conventions, embodying standards so widely embraced by member nations, without recalling once more the vital role that can be played in achieving full compliance, not only by governments but also by employers' and workers' organisations. The ILO's unique, tripartite composition affords both an opportunity and a challenge to all of its participants, employers, workers and government authorities, to do their utmost to secure full compliance by member States with their obligations under these Conventions.

A P P E N D I C E S



APPENDIX I

TEXTS OF THE SUBSTANTIVE ARTICLES OF THE CONVENTIONS CONCERNING THE ABOLITION OF FORCED OR COMPULSORY LABOUR

A. FORCED LABOUR CONVENTION, 1930 (No. 29)

Article 1

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress the use of forced or compulsory labour in all its forms within the shortest possible period.

2. With a view to this complete suppression, recourse to forced or compulsory labour may be had, during the transitional period, for public purposes only and as an exceptional measure, subject to the conditions and guarantees hereinafter provided.

3. At the expiration of a period of five years after the coming into force of this Convention, and when the Governing Body of the International Labour Office prepares the report provided for in Article 31 below, the said Governing Body shall consider the possibility of the suppression of forced or compulsory labour in all its forms without a further transitional period and the desirability of placing this question on the agenda of the Conference.

Article 2

1. For the purposes of this Convention the term "forced or compulsory labour" shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.

2. Nevertheless, for the purposes of this Convention, the term "forced or compulsory labour" shall not include:

- (a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character;
- (b) any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;
- (c) any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;
- (d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population;

- (e) minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.

Article 3

For the purposes of this Convention the term "competent authority" shall mean either an authority of the metropolitan country or the highest central authority in the territory concerned.

Article 4

1. The competent authority shall not impose or permit the imposition of forced or compulsory labour for the benefit of private individuals, companies or associations.

2. Where such forced or compulsory labour for the benefit of private individuals, companies or associations exists at the date on which a Member's ratification of this Convention is registered by the Director-General of the International Labour Office, the Member shall completely suppress such forced or compulsory labour from the date on which this Convention comes into force for that Member.

Article 5

1. No concession granted to private individuals, companies or associations shall involve any form of forced or compulsory labour for the production or the collection of products which such private individuals, companies or associations utilise or in which they trade.

2. Where concessions exist containing provisions involving such forced or compulsory labour, such provisions shall be rescinded as soon as possible, in order to comply with Article 1 of this Convention.

Article 6

Officials of the administration, even when they have the duty of encouraging the populations under their charge to engage in some form of labour, shall not put constraint upon the said populations or upon any individual members thereof to work for private individuals, companies or associations.

Article 7

1. Chiefs who do not exercise administrative functions shall not have recourse to forced or compulsory labour.

2. Chiefs who exercise administrative functions may with the express permission of the competent authority, have recourse to forced or compulsory labour, subject to the provisions of Article 10 of this Convention.

3. Chiefs who are duly recognised and who do not receive adequate remuneration in other forms may have the enjoyment of personal services, subject to due regulation and provided that all necessary measures are taken to prevent abuses.

Article 8

1. The responsibility for every decision to have recourse to forced or compulsory labour shall rest with the highest civil authority in the territory concerned.

2. Nevertheless, that authority may delegate powers to the highest local authorities to exact forced or compulsory labour which does not involve the removal of the workers from their place of habitual residence. That authority may also delegate, for such periods and subject to such conditions as may be laid down in the regulations provided for in Article 23 of this Convention, powers to the highest local authorities to exact forced or compulsory labour which involves the removal of the workers from their place of habitual residence for the purpose of facilitating the movement of officials of the administration, when on duty, and for the transport of government stores.

Article 9

Except as otherwise provided for in Article 10 of this Convention, any authority competent to exact forced or compulsory labour shall, before deciding to have recourse to such labour, satisfy itself:

- (a) that the work to be done or the service to be rendered is of important direct interest for the community called upon to do the work or render the service;
- (b) that the work or service is of present or imminent necessity;
- (c) that it has been impossible to obtain voluntary labour for carrying out the work or rendering the service by the offer of rates of wages and conditions of labour not less favourable than those prevailing in the area concerned for similar work or service; and
- (d) that the work or service will not lay too heavy a burden upon the present population, having regard to the labour available and its capacity to undertake the work.

Article 10

1. Forced or compulsory labour exacted as a tax and forced or compulsory labour to which recourse is had for the execution of public works by chiefs who exercise administrative functions shall be progressively abolished.

2. Meanwhile, where forced or compulsory labour is exacted as a tax, and where recourse is had to forced or compulsory labour for the execution of public works by chiefs who exercise administrative functions, the authority concerned shall first satisfy itself:

- (a) that the work to be done or the service to be rendered is of important direct interest for the community called upon to do the work or render the service;
- (b) that the work or the service is of present or imminent necessity;
- (c) that the work or service will not lay too heavy a burden upon the present population, having regard to the labour available and its capacity to undertake the work;
- (d) that the work or service will not entail the removal of the workers from their place of habitual residence;
- (e) that the execution of the work or the rendering of the service will be directed in accordance with the exigencies of religion, social life and agriculture.

Article 11

1. Only adult able-bodied males who are of an apparent age of not less than 18 and not more than 45 years may be called upon for forced or compulsory labour. Except in respect of the kinds of labour provided for in Article 10 of this Convention, the following limitations and conditions shall apply:

- (a) whenever possible prior determination by a medical officer appointed by the administration that the persons concerned are not suffering from any infectious or contagious disease and that they are physically fit for the work required and for the conditions under which it is to be carried out;
- (b) exemption of school teachers and pupils and of officials of the administration in general;
- (c) the maintenance in each community of the number of adult able-bodied men indispensable for family and social life;
- (d) respect for conjugal and family ties.

2. For the purposes of subparagraph (c) of the preceding paragraph, the regulations provided for in Article 23 of this Convention shall fix the proportion of the resident adult able-bodied males who may be taken at any one time for forced or compulsory labour, provided always that this proportion shall in no case exceed 25 per cent. In fixing this proportion the competent authority shall take

account of the density of the population, of its social and physical development, of the seasons, and of the work which must be done by the persons concerned on their own behalf in their locality, and, generally, shall have regard to the economic and social necessities of the normal life of the community concerned.

Article 12

1. The maximum period for which any person may be taken for forced or compulsory labour of all kinds in any one period of 12 months shall not exceed 60 days, including the time spent in going to and from the place of work.

2. Every person from whom forced or compulsory labour is exacted shall be furnished with a certificate indicating the periods of such labour which he has completed.

Article 13

1. The normal working hours of any person from whom forced or compulsory labour is exacted shall be the same as those prevailing in the case of voluntary labour, and the hours worked in excess of the normal working hours shall be remunerated at the rates prevailing in the case of overtime for voluntary labour.

2. A weekly day of rest shall be granted to all persons from whom forced or compulsory labour of any kind is exacted and this day shall coincide as far as possible with the day fixed by tradition or custom in the territories or regions concerned.

Article 14

1. With the exception of the forced or compulsory labour provided for in Article 10 of this Convention, forced or compulsory labour of all kinds shall be remunerated in cash at rates not less than those prevailing for similar kinds of work either in the district in which the labour is employed or in the district from which the labour is recruited, whichever may be the higher.

2. In the case of labour to which recourse is had by chiefs in the exercise of their administrative functions, payment of wages in accordance with the provisions of the preceding paragraph shall be introduced as soon as possible.

3. The wages shall be paid to each worker individually and not to his tribal chief or to any other authority.

4. For the purpose of payment of wages the days spent in travelling to and from the place of work shall be counted as working days.

5. Nothing in this Article shall prevent ordinary rations being given as a part of wages, such rations to be at least equivalent

in value to the money payment they are taken to represent, but deductions from wages shall not be made either for the payment of taxes or for special food, clothing or accommodation supplied to a worker for the purpose of maintaining him in a fit condition to carry on his work under the special conditions of any employment, or for the supply of tools.

Article 15

1. Any laws or regulations relating to workmen's compensation for accidents or sickness arising out of the employment of the worker and any laws or regulations providing compensation for the dependants of deceased or incapacitated workers which are or shall be in force in the territory concerned shall be equally applicable to persons from whom forced or compulsory labour is exacted and to voluntary workers.

2. In any case it shall be an obligation on any authority employing any worker on forced or compulsory labour to ensure the subsistence of any such worker who, by accident or sickness arising out of his employment, is rendered wholly or partially incapable of providing for himself, and to take measures to ensure the maintenance of any persons actually dependent upon such a worker in the event of his incapacity or decease arising out of his employment.

Article 16

1. Except in cases of special necessity, persons from whom forced or compulsory labour is exacted shall not be transferred to districts where the food and climate differ so considerably from those to which they have been accustomed as to endanger their health.

2. In no case shall the transfer of such workers be permitted unless all measures relating to hygiene and accommodation which are necessary to adapt such workers to the conditions and to safeguard their health can be strictly applied.

3. When such transfer cannot be avoided, measures of gradual habituation to the new conditions of diet and of climate shall be adopted on competent medical advice.

4. In cases where such workers are required to perform regular work to which they are not accustomed, measures shall be taken to ensure their habituation to it, especially as regards progressive training, the hours of work and the provision of rest intervals, and any increase or amelioration of diet which may be necessary.

Article 17

Before permitting recourse to forced or compulsory labour for works of construction or maintenance which entail the workers remaining at the workplaces for considerable periods, the competent authority shall satisfy itself:

(1) that all necessary measures are taken to safeguard the health of the workers and to guarantee the necessary medical care, and, in particular, (a) that the workers are medically examined before commencing the work and at fixed intervals during the period of service, (b) that there is an adequate medical staff, provided with the dispensaries, infirmaries, hospitals and equipment necessary to meet all requirements, and (c) that the sanitary conditions of the workplaces, the supply of drinking water, food, fuel, and cooking utensils, and, where necessary, of housing and clothing, are satisfactory;

(2) that definite arrangements are made to ensure the subsistence of the families of the workers, in particular by facilitating the remittance, by a safe method, of part of the wages to the family, at the request or with the consent of the workers;

(3) that the journeys of the workers to and from the workplaces are made at the expense and under the responsibility of the administration, which shall facilitate such journeys by making the fullest use of all available means of transport;

(4) that, in case of illness or accident causing incapacity to work of a certain duration, the worker is repatriated at the expense of the administration;

(5) that any worker who may wish to remain as a voluntary worker at the end of his period of forced or compulsory labour is permitted to do so without, for a period of two years, losing his right to repatriation free of expense to himself.

Article 18

1. Forced or compulsory labour for the transport of persons or goods, such as the labour of porters or boatmen, shall be abolished within the shortest possible period. Meanwhile the competent authority shall promulgate regulations determining, inter alia, (a) that such labour shall only be employed for the purpose of facilitating the movement of officials of the administration, when on duty, or for the transport of government stores, or, in cases of very urgent necessity, the transport of persons other than officials, (b) that the workers so employed shall be medically certified to be physically fit, where medical examination is possible, and that where such medical examination is not practicable the person employing such workers shall be held responsible for ensuring that they are physically fit and not suffering from any infectious or contagious disease, (c) the maximum load which these workers may carry, (d) the maximum distance from their homes to which they may be taken, (e) the maximum number of days per month or other period for which they may be taken, including the days spent in returning to their homes, and (f) the persons entitled to demand this form of forced or compulsory labour and the extent to which they are entitled to demand it.

2. In fixing the maxima referred to under (c), (d) and (e) in the foregoing paragraph, the competent authority shall have regard to all relevant factors, including the physical development of the population from which the workers are recruited, the nature of the country through which they must travel and the climatic conditions.

3. The competent authority shall further provide that the normal daily journey of such workers shall not exceed a distance corresponding to an average working day of eight hours, it being understood that account shall be taken not only of the weight to be carried and the distance to be covered, but also of the nature of the road, the season and all other relevant factors, and that, where hours of journey in excess of the normal daily journey are exacted, they shall be remunerated at rates higher than the normal rates.

Article 19

1. The competent authority shall only authorise recourse to compulsory cultivation as a method of precaution against famine or a deficiency of food supplies and always under the condition that the food or produce shall remain the property of the individuals or the community producing it.

2. Nothing in this Article shall be construed as abrogating the obligation on members of a community, where production is organised on a communal basis by virtue of law or custom and where the produce or any profit accruing from the sale thereof remain the property of the community, to perform the work demanded by the community by virtue of law or custom.

Article 20

Collective punishment laws under which a community may be punished for crimes committed by any of its members shall not contain provisions for forced or compulsory labour by the community as one of the methods of punishment.

Article 21

Forced or compulsory labour shall not be used for work underground in mines.

Article 22

The annual reports that Members which ratify this Convention agree to make to the International Labour Office, pursuant to the provisions of Article 22 of the Constitution of the International Labour Organisation, on the measures they have taken to give effect to the provisions of this Convention, shall contain as full information as possible, in respect of each territory concerned, regarding the extent to which recourse has been had to forced or compulsory labour in that territory, the purposes for which it has been employed, the sickness and death rates, hours of work, methods of payment of wages and rates of wages, and any other relevant information.

Article 23

1. To give effect to the provisions of this Convention the competent authority shall issue complete and precise regulations governing the use of forced or compulsory labour.

2. These regulations shall contain, inter alia, rules permitting any person from whom forced or compulsory labour is exacted to forward all complaints relative to the conditions of labour to the authorities and ensuring that such complaints will be examined and taken into consideration.

Article 24

Adequate measures shall in all cases be taken to ensure that the regulations governing the employment of forced or compulsory labour are strictly applied, either by extending the duties of any existing labour inspectorate which has been established for the inspection of voluntary labour to cover the inspection of forced or compulsory labour or in some other appropriate manner. Measures shall also be taken to ensure that the regulations are brought to the knowledge of persons from whom such labour is exacted.

Article 25

The illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.

B. ABOLITION OF FORCED LABOUR CONVENTION, 1957 (No. 105)

Article 1

Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress and not to make use of any form of forced or compulsory labour:

- (a) as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system;
- (b) as a means of mobilising and using labour for purposes of economic development;
- (c) as a means of discipline;
- (d) as a punishment for having participated in strikes;

- (e) as a means of racial, social, national or religious discrimination.

Article 2

Each Member of the International Labour Organisation which ratifies this Convention undertakes to take effective measures to secure the immediate and complete abolition of forced or compulsory labour as specified in Article 1 of this Convention.

APPENDIX II

INFORMATION AVAILABLE

COUNTRIES	CONVENTION No. 29			CONVENTION No. 105		
	Date of ratif.	Art. 22 ¹	Art. 19 ²	Date of ratif.	Art. 22 ¹	Art. 19 ²
Afghanistan			X	1963	X	
Albania	1957	O				
Algeria	1962	X		1969	X	
Angola	1976	O		1976	O	
Argentina	1950	X		1960	X	
Australia	1932	X		1960	X	
Austria	1960	X		1958	X	
Bahamas	1976	O		1976	O	
Bahrain			X			X
Bangladesh	1972	X		1972	X	
Barbados	1967	X		1967	X	
Belgium	1944	X		1961	X	
Benin	1960	X		1961	X	
Bolivia			X			X
Brazil	1957	X		1965	X	
Bulgaria	1932	X				X*
Burma	1955	X				X
Burundi	1963	X		1963	X	
Byelorussian SSR	1956	X				X*
Cameroon, Un. Rep. of	1960	X		1962	X	
Canada			X	1959	X	
Central Afr. Empire	1960	X		1964	X	
Chad	1960	O		1961	O	
Chile	1933	X				X
China ³				1959	O	
Colombia	1969	X		1963	X	
Comores ⁴	1978	O		1978	O	
Congo	1960	X				X
Costa Rica	1960	X		1959	X	
Cuba	1953	X		1958	X	
Cyprus	1960	X		1960	X	
Czechoslovakia	1957	X				X
Democratic Yemen	1969	X		1969	X	
Denmark	1932	X		1958	X	

COUNTRIES	CONVENTION No. 29			CONVENTION No. 105		
	Date of ratif.	Art. 22 ¹	Art. 19 ²	Date of ratif.	Art. 22 ¹	Art. 19 ²
Djibouti ⁴	1978	O		1978	O	.
Dominican Republic	1956	X		1958	X	
Ecuador	1954	X		1962	X	
Egypte	1955	X		1958	X	
El Salvador			-	1958	X	
Ethiopia			X			X
Fiji	1974	X		1974	X	
Finland	1936	X		1960	X	
France	1937	X		1969	X	
Gabon	1960	X		1961	X	
German Democratic Rep.			X			X
Germany, Federal Rep. of	1956	X		1959	X	
Ghana	1957	X		1958	X	
Greece	1952	X		1962	X	
Guatemala			X	1959	X	
Guinea	1959	X		1961	X	
Guinea-Bissau	1977	X		1977	O	
Guyana	1966	X		1966	X	
Haiti	1958	X		1958	X	
Honduras	1957	X		1958	X	
Hungary	1956	X				X
Iceland	1958	X		1960	X	
India	1954	X				X
Indonesia	1950	X				X
Iran	1957	X		1959	X	
Iraq	1962	X		1959	X	
Ireland	1931	X		1958	X	
Israel	1955	X		1958	X	
Italy	1934	X		1968	X	
Ivory Coast	1960	X		1961	X	
Jamaica	1962	X		1962	X	
Japan	1932	X				X
Jordan	1966	X		1958	X	
Democratic Kampuchea	1969	O				-
Kenya	1964	X		1964	X	
Kuwait	1968	X		1961	X	
Lao Republic	1964	O				-
Lebanon	1977	O		1977	O	
Lesotho	1966	O				X

COUNTRIES	CONVENTION No. 29			CONVENTION No. 105		
	Date of ratif.	Art. 22 ¹	Art. 19 ²	Date of ratif.	Art. 22 ¹	Art. 19 ²
Liberia	1931	X		1962	X	
Libyan Arab Jamahiriya	1961	X		1961	X	
Luxembourg	1964	X		1964	X	
Madagascar	1960	X				X
Malawi			-			-
Malaysia						
Malaysia Peninsular	1957	X		1958	X	
Sabah	1964	X		1964	X	
Sarawak	1964	X		1964	X	
Mali	1960	X		1962	X	
Malta	1965	X		1965	X	
Mauritania	1961	O				X
Mauritius	1969	X		1969	X	
Mexico	1934	X		1959	X	
Mongolia			-			-
Morocco	1957	X		1966	X	
Mozambique			-	1977	O	
Nepal			-			-
Netherlands	1933	X		1959	X	
New Zealand	1938	X		1968	X	
Nicaragua	1934	X		1967	X	
Niger	1961	X		1962	X	
Nigeria	1960	X		1960	X	
Norway	1932	X		1958	X	
Pakistan	1957	X		1960	X	
Panama	1966	X		1966	X	
Papua New Guinea	1976	X		1976	X	
Paraguay	1967	X		1968	X	
Peru	1960	X		1960	X	
Philippines			X*	1960	X	
Poland	1958	X		1958	X	
Portugal	1956	X		1959	X	
Qatar			-			-
Romania	1957	X				X
Rwanda			X	1962	X	
Saudi Arabia	1978	O		1978	O	
Senegal	1960	X		1961	X	

COUNTRIES	CONVENTION No. 29			CONVENTION No. 105		
	Date of ratif.	Art. 22 ¹	Art. 19 ²	Date of ratif.	Art. 22 ¹	Art. 19 ²
Seychelles	1978	O		1978	O	
Sierra Leone	1961	X		1961	X	
Singapore	1965	X		1965	X	
Somalia	1960	X		1961	X	
Spain	1932	X		1967	X	
Sri Lanka	1950	X				X
Sudan	1957	X		1970	X	
Surinam	1976	X		1976	X	
Swaziland	1978	O				-
Sweden	1931	X		1958	X	
Switzerland	1940	X		1958	X	
Syrian Arab Republic	1960	X		1958	X	
Tanzania						
Tanganyika	1962	X		1962	O	
Zanzibar	1964	X		1964	O	
Thailand	1969	X		1969	X	
Togo	1960	X				-
Trinidad and Tobago	1963	X		1963	X	
Tunisia	1962	X		1959	X	
Turkey			X	1961	X	
Uganda	1963	X		1963	X	
Ukrainian SSR	1956	X				X
USSR	1956	X				X
United Arab Emirates			-			-
United Kingdom	1931	X		1957	X	
Upper Volta	1960	X				X
Uruguay			X	1968	X	
Venezuela	1944	X		1964	X	
Viet Nam	1953	O				-
Yemen	1976	O				-
Yugoslavia	1933	X				-
Zaire	1960	X				-
Zambia	1964	O		1965	O	

¹ Report supply for at least the last two reference periods, in application of article 22 of the ILO Constitution by States which have ratified the Convention.

² Report supply in application of article 19 of the ILO Constitution by States which have not ratified the Convention, or which have ratified it recently and were not yet expected to report under article 22.

³ The entry in this chart relates to a ratification registered after 1 October 1949, the date on which the People's Republic of China was founded, and before 16 November 1971, the date on which the ILO Governing Body decided to recognise the Government of the People's Republic of China as the representative Government of China.

⁴ The Comores and Djibouti became member States of the ILO after the date on which the supply of reports were requested under articles 19 and 22.

X = Report received.

O = Report not received since 1975 or before.

* = Report received too late to be summarised in Report III (Part 2).

- = Report not received under article 19 of the ILO Constitution.

APPENDIX III

CASES OF PROGRESS NOTED IN THE PRESENT STUDY

<u>States</u>	<u>Paragraphs</u>
Australia	112, 118
Austria	95, 136
Benin	45, 50, 75, 81
Bulgaria	45, 69
Burundi	83
Cameroon, United Republic of	90
Canada	76, 99
Central African Empire	50
Costa Rica	46
Cuba	95
Cyprus	109, 115, 118
Czechoslovakia	63
Denmark	118
Egypt	59
Fiji	76, 80, 81, 83
France	109
Germany, Federal Republic of	118
Ghana	117
Greece	115, 124, 135, 136
Honduras	46, 95, 99, 109
Hungary	70
India	76, 83, 87
Iraq	69, 75, 109, 115
Italy	136
Jordan	109
Kenya	63, 112, 141
Lesotho	83
Liberia	46, 63, 99
Madagascar	45, 81, 83
Malaysia	80, 81
Mali	99
Mauritius	115, 136
Netherlands	69, 76, 118
Nigeria	76, 118
Norway	58, 99, 118
Pakistan	83, 132
Paraguay	46
Poland	90, 109
Portugal	109, 121
Romania	82
Sierra Leone	46, 109, 117, 141
Singapore	136
Spain	69, 109, 128, 136, 140
Sudan	58, 75, 112, 136
Sweden	118
Switzerland	95
Syrian Arab Republic	53
Trinidad and Tobago	112, 130
Turkey	32, 109, 136
Uganda	112
Ukrainian SSR	63
USSR	63, 95
United Kingdom	71, 118
Upper Volta	75, 83, 99
Zaire	50, 75, 81

Non-Metropolitan Territories

Gilbert Islands	118
Hong Kong	109
St. Kitts-Nevis-Anguilla	118
St. Vincent	99

Report III
(Part 2)

Third Item on the Agenda:

Information and Reports on the Application
of Conventions and Recommendations

Forced Labour

**Summary of Reports
on Conventions Nos. 29 and 105**

(Article 19 of the Constitution)

ISBN 92-2-101956-X

First published 1979

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.

ILO publications can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. A catalogue or list of new publications will be sent free of charge from the above address.

Printed by the International Labour Office, Geneva, Switzerland

CONTENTS

	Page
Introduction	1
Forced Labour Convention, 1930 (No. 29) and Abolition of Forced Labour Convention, 1957 (No. 105)	2

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 Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105).

The governments of member States were requested to send their reports to the International Labour Office by 1 July 1978. 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 1978.

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 65th (1979) Session, will include a general survey on the reports on the above-mentioned Conventions.

FORCED LABOUR CONVENTION, 1930 (NO. 29) AND ABOLITION
OF FORCED LABOUR CONVENTION, 1957 (NO. 105)

AFGHANISTAN

CONVENTION NO. 29

The Government refers to the information supplied under article 22 of the Constitution on Convention No. 105.

BAHRAIN

CONVENTIONS NOS. 29 AND 105

Constitution.

Labour Law for the private sector, Decree No. 23 of 1976
(LS 1976 - Bah. 1).

Forced labour is, in principle, prohibited under section 13(C) of the Constitution, which guarantees that "no forced labour shall be imposed on anyone except in the circumstances specified by the law for national emergency and with just remuneration, or in implementation of a judicial decision".

The Labour Law for the private sector provides in section 8 that those who are able to work and willing to accept employment are entitled to register their names for suitable employment opportunities and given a certificate to this effect.

The national legislation generally provides for the measures envisaged by Conventions Nos. 29 and 105.

BOLIVIA

CONVENTION NO. 29

Political Constitution of the State.

Penal Code promulgated by Presidential Decree No. 10426 of
23 August 1972.

Section 5 of the Constitution of Bolivia stipulates that no servitude of any kind is recognised and that nobody may be forced to perform personal services without his full consent and without fair remuneration.

FORCED LABOUR

Personal services may be required only in certain cases laid down by law.

Section 156 states that work is a duty and a right and constitutes the foundation of social and economic order.

The Penal Code establishes the following sanctions: hard labour, imprisonment, a work sentence or a fine (section 26). The duration of the work sentence is from ten days to one year, and the judge may in certain cases sentence a person to work without depriving him of his liberty (section 28).

Under the Penal Code a work sentence must be served on public works and work for private individuals is forbidden (section 55). The product of the work will be used for making good and compensating the damages and prejudice caused by the offence, constituting a reserve fund which will be given to the person concerned when he has completed his sentence, and for the support of his family if it is in need of assistance. Once civil liabilities have been met, or if the family is not in need of assistance, the reserve fund will be increased.

CONVENTION NO. 105

See Convention No. 29.

BURMA

CONVENTION NO. 105

There is no legislation allowing forced labour. The prevailing conditions preclude the necessity of using forced labour in practice.

CANADA

CONVENTION NO. 29

Provincial legislation

Ontario - Ontario Fires Extinguishment Act (RSO 1970, Ch. 173)

Ontario Statute Labour Act (RSO 1970, Ch. 445).

Since no forced or compulsory labour is practised in Canada, it has not been necessary to take any action to suppress its use.

There is no compulsory military service.

Prison labour can be exacted only as a consequence of a conviction in a court of law and is carried out under the supervision of prison authorities.

Under legislation in some provinces men may be required to assist in fighting forest fires. Their services are remunerated in some circumstances, but refusal to give such assistance is punishable by fine under law.

In the townships of Ontario that have not yet abolished statute labour or have not levied poll tax, some adult persons may be required to perform two or more days of statute labour on the roads and highways in the township.

Statute labour was abolished in Manitoba by a new Municipal Act (SM 1970, Chapter 100).

CHILE

CONVENTION NO. 105

Legislative Decree No. 1552 of 1976 respecting freedom to work.

Legislative Decree No. 2200 of 1978.

The working conditions which it is the purpose of the Convention to abolish do not exist in Chile. There are therefore no legal texts concerning this question, neither are there any reports on the manner in which the instrument is applied.

On the contrary, Legislative Decree No. 1552 of 1976 guarantees all persons "freedom to work" and "the right to free choice of work and a fair wage ensuring each person and his family a minimum level of well-being compatible with human dignity". These guarantees are supported by the right to appeal for protection to the Court of Appeals, which must take the necessary measures to secure the protection of the person concerned.

Legislative Decree No. 2200 of 1978 stipulates that "work fulfils a social function and is a duty and a right of each citizen; individuals shall be free to hire their services and devote their energies to any lawful work of their choice".

FORCED LABOUR

CONGO

CONVENTION NO. 105

Act No. 46-645 of 11 April 1946 to suppress forced labour in the overseas territories.

Order of 28 May 1946 promulgating in French Equatorial Africa the Act of 11 April 1946.

Labour Code, Act No. 45/75 of 15 March 1975.

Article 1(b) of the Convention. Compulsory labour may be exacted for such purposes.

In the interests of economic recovery, the Government may mobilise all or part of the population to perform specified tasks; the national authorities may request part of the population to perform certain types of agricultural work to alleviate a shortage of certain staple foodstuffs.

Article 2. Persons found guilty of illegally exacting forced or compulsory labour are liable to a fine and/or from one to six months' imprisonment under section 257 of the Labour Code. In the case of a second offence the term of imprisonment is from two to twelve months.

No modifications have been made in national legislation or practice with a view to giving effect to the Convention, the main obstacle to its ratification being clause (b) of Article 1. In an economically underdeveloped country undergoing a crisis, which has opted for a socialist formula for development, the people have to rely first and foremost on their own resources. The national authorities consider that sacrifices which populations are normally ready to make in the interests of economic recovery should not be assimilated to forced or compulsory labour.

No measure is envisaged in the immediate future to give effect to the provisions of the Convention.

CZECHOSLOVAKIA

CONVENTION NO. 105

Penal Code (No. 140/1961) in its codified version (No. 113/1973).

Forced labour may not be imposed in Czechoslovakia for the reasons mentioned in Article 1 of the Convention.

Under section 158 of the Penal Code the illegal exaction of forced labour by a public official is considered as an abuse of authority.

Under section 235 of the Code the illegal exaction of forced labour by a private individual is regarded as blackmail, under section 237 as unlawful coercion, and under section 232 as illegal restraint.

The civic labour instituted by Ordinance No. 40/1953 was abolished by Act No. 20/1975.

Ordinance No. 16/1963 was repealed by Ordinance No. 38/1967 respecting the placement of persons completing their education at universities, conservatories and secondary and specialised secondary schools. The Government does not at present contemplate the ratification of Convention No. 105.

ETHIOPIA

CONVENTIONS NOS. 29 AND 105

Penal Code of 1957.

There is no compulsory labour in law or in practice falling within the definition of the Convention. The compulsory labour referred to in the Penal Code is awarded by a court of law.

GERMAN DEMOCRATIC REPUBLIC

CONVENTION NO. 29

Constitution of the German Democratic Republic, dated 6 April 1968 (GBL. I, No. 8, p. 199), as amended by the Act to amend and complete the Constitution of the German Democratic Republic, dated 7 October 1974 (GBL. I, No. 47, p. 425).

Labour Code of the German Democratic Republic, dated 12 April 1961 (GBL. I, 17 April 1961) (LS 1961 - Ger.D.R. 1), as amended on 23 November 1966 (GBL. I, No. 15, p. 125) (LS 1966 - Ger.D.R. 14).

Act of 20 September 1961 on the defence of the German Democratic Republic (Defence Act) (GBL. I, No. 18, p. 175, Ber. GBL. I, No. 18, p. 180).

Act of 24 January 1962 on general military service (Military Service Act) (GBL. I, No. 1, p. 2).

Act of 17 April 1963 on the protection, use and maintenance of water resources and protection against the danger of high water (Water Act) (GBL. I, No. 5, p. 77).

Penal Code of the German Democratic Republic, dated 12 January 1968 (GBL. I, No. 1, p. 1) as amended on 19 December 1974 (GBL. I, 1975, No. 3, p. 14) and 7 April 1977 (GBL. I, No. 10, p. 100).

FORCED LABOUR

Act of 16 September 1970 on civil defence in the German Democratic Republic (Civil Defence Act) (GBL. I, No. 20, p. 289).

Act of 16 October 1972 on the Council of Ministers of the German Democratic Republic (Council of Ministers Act) (GBL. I, No. 16, p. 253).

Act of 12 July 1973 on local representation of the people and bodies set up for this purpose in the German Democratic Republic (Local Councils Act) (GBL. I, No. 32, p. 313).

Act of 7 April 1977 on the serving of penal sentences with deprivation of liberty (Penal Sentences Act) (GBL. I, No. 11, p. 109).

Act of 7 April 1977 on the reinstatement in social life of citizens who have served penal sentences (Reinstatement Act) (GBL. I, No. 10, p. 98).

The legislation of the Republic does not permit forced or compulsory labour. The right to work is fully guaranteed in law and in practice to all citizens who are capable of working. Each member of the active population may exercise his right to work in accordance with his own wishes. He may choose among the following: a statutory employment relationship; joining a socialist production co-operative; service with the armed forces; the exercise of a craft or trade; or the performance of household tasks such as the upbringing and care of children, without simultaneously engaging in an occupational activity.

The duties of military conscripts during their service are directly and exclusively of a military nature. They include both military training and drill and technical duties such as the construction of defence and other military installations, the repair of damage done during military exercises and intervention in the event of a calamity.

A person may be required to serve a term of imprisonment only on the basis of a sentence by a court of law. Socially useful work is provided for as part of the penal sentence. The manner in which a prisoner is to be employed on socially useful work is specified in his sentence. The law does not provide for coercive measures to be taken in the event of refusal to work. The performance of socially useful work is a precondition for the payment of remuneration to prisoners and the maintenance of their legal dependants during their term of imprisonment. Employment of prisoners is subject to the provisions of labour legislation applying to all gainfully employed persons, particularly as regards occupational safety and health protection, working hours and working conditions and requirements. The law recognises prison labour as an activity carrying entitlement to insurance.

It is primarily the duty of the civil defence forces to combat natural disasters. Directors of state and economic authorities and directors of undertakings must, on the instructions of the person in command of the civil defence forces, make available personnel and material resources to combat the disaster. In the event of calamity or threatened calamity the persons in command of the civil defence forces may be empowered to exact services from citizens who are capable of working and to requisition technical

and material resources. Gainfully employed persons who are called upon to combat disasters retain employment in their undertaking or service and receive during the period of requisition a compensatory payment equal to their average earnings plus social security coverage in accordance with the legal provisions in force.

Urban and communal by-laws often prescribe that property owners, in their capacity as citizens, are responsible for maintaining in a clean condition the accesses to their property as well as public roads, paths and squares contiguous thereto, from the frontage of the property to the middle of the road or square; for clearing snow from bicycle tracks and footpaths; and for ensuring free access to mains, stop valves, telecommunication installations, etc.

Forced labour may not be exacted from any person for the carrying out of public works, for tax purposes, for the transport of persons and goods, for agriculture or mining, as a collective punishment, for personal services, etc.

The exaction of forced labour is a penal offence falling under the head of coercion and offenders, whether they are private individuals or persons invested with official powers, are liable to prosecution under the Penal Code; they might also be prosecuted for false imprisonment or endangering the life and health of citizens.

Under the Second Penal Law Reform Act of 7 April 1977 reformatory labour with deprivation of liberty has been abolished as an independent penal sanction.

There are no difficulties in applying the Convention in the German Democratic Republic, either in law or in practice. Accordingly, no measures are necessary to give effect to its provisions.

CONVENTION NO. 105

Forced or compulsory labour may be exacted neither in any of the cases set forth in Article 1 of the Convention nor in any other circumstances.

There are no difficulties in applying the Convention in the German Democratic Republic, either in law or practice. Accordingly, no measures are necessary to give effect to its provisions.

FORCED LABOUR

GUATEMALA

CONVENTION NO. 29

The information supplied by the Government on the application of the Convention is the same as that contained in its earlier report.¹

HUNGARY

CONVENTION NO. 105

The Government refers to its previous reports on unratified Conventions submitted to the Conference in 1968 and 1969.² The only change has been the replacement of Decree No. 11 of 1967/X.20/MUM, of the Minister of Labour concerning the employment service and the recruitment of manpower by Decree No. 7 of 1976/IV.10/MUM.

INDIA

CONVENTION NO. 105

Constitution.

Bonded Labour System (Abolition) Act No. 19 of 1976.

National Service Act of 1972.

Article 23, paragraph (1), of the Constitution prohibits traffic in human beings, begar and similar forms of forced labour. However, paragraph (2) of the same article permits the State to impose compulsory service for public purposes.

India has already ratified Convention No. 29. With a view to abolishing completely the system of bonded labour, the Bonded Labour System (Abolition) Act was enacted in 1976.

¹ See ILO: Summary of reports on unratified Conventions (article 19 of the Constitution), Report III (Part II), International Labour Conference, 52nd Session, Geneva, 1968, pp. 7-8.

² See ILO: Summary of reports on unratified Conventions (article 19 of the Constitution), Report III (Part II), International Labour Conference, 52nd and 53rd Sessions (Geneva, 1968 and 1969), p. 8 and p. 15, respectively.

The Committee of Experts on the Application of Conventions and Recommendations has pointed out the need to amend (a) the Nagaland (Requisition of Porters) Act, 1965; (b) section 19-A of the Uttar Pradesh Panchayat Raj Act, 1947; and (c) section 11 of the Orissa Compulsory Labour Act, 1948, so as to bring them in line with the requirements of Convention No. 29. The Government of India has already taken up the matter with the concerned State governments. Until amended, the three Acts would not be held to be in consonance with the requirements of Convention No. 105 either.

The National Service Act provides that every qualified person (namely a doctor, an engineer or a technologist) under 30 years of age shall be liable, until he attains this age, to be called up for national service for a period of not more than four years. "National service" under the Act means any service to assist the defence of India and civil defence or the efficient conduct of military operations and includes such social service as the central Government may, if it is of the opinion that it is necessary for public purposes to do so, notify. The Act imposes liability for national service only on persons to whom facilities for advanced study and training in the field of medicine, engineering or technology have been made available at considerable social cost. Candidates taking these disciplines for their study would be aware of the obligation under the Act and do so entirely of their own free will. Liability under the Act does not constitute "forced or compulsory labour" within the purview of the Convention.

India is not yet in a position to ratify Convention No. 105 for two main reasons - (i) the Committee of Experts does not appear to be fully satisfied with the implementation of Convention No. 29: the draw-backs pointed out, in so far as the state laws are concerned, are being taken care of and (ii) the Committee of Experts has not yet given a firm opinion in regard to compatibility of the National Service Act with Convention No. 29.

INDONESIA

CONVENTION NO. 105

Constitution of 1945.

Act on the Basic Provisions respecting Manpower No. 14 of 1969.

Forced labour does not exist in the whole territory after the abolition of Koelie Ordonnantie No. 514 of 1941. Section 27, paragraph 2, of the Constitution guarantees all citizens the right to a decent job and income consistent with human dignity. Under sections 1 to 4 of the Act on the Basic Provisions respecting Manpower, every person able to perform a job or to render services or goods to fulfil the needs of society is entitled, without discrimination, to employment and income consistent with human dignity and also to the freedom to choose and change his occupation in accordance with his inherent ability and skill.

FORCED LABOUR

JAPAN

CONVENTION NO. 105

Constitution of 1946.

Penal Code, Law No. 45 of 1907.

Labour Standards Law, No. 49 of 5 April 1947 (Official Gazette (O.G.), 7 April 1947, No. 303, p. 1) (LS 1947 - Jap. 3).

Mariners' Law, No. 100 of 1 September 1947 (O.G., 1 September 1947, Extra (1), p. 1) (LS 1947 - Jap. 5).

Trade Union Law, No. 174 of 1 June 1949 (O.G., 1 June 1949, Extra No. 68, p. 2) (LS 1949 - Jap. 3).

National Public Service Law, No. 120 of 1947.

Rule 14-7 of the National Personnel Authority (Political Activity) (1949).

Public Corporation and National Enterprise Labour Relations Law, No. 257 of 20 December 1948 (O.G., 20 December 1948, Extra No. 47, p. 17).

Mail Law, No. 165 of 1947.

Public Telecommunication Law, No. 97 of 1953.

Local Public Service Law, No. 261 of 1950.

Local Public Enterprise Labour Relations Law, No. 289 of 1952.

Article 18 of the Constitution prohibits involuntary servitude, except as a punishment for crime. Fundamental freedoms and rights bearing on the Convention are listed in articles 14, 19 to 21 and 28 of the Constitution, and procedures to secure such freedoms and rights are laid down in articles 31, 32, 34 and 36 of the Constitution.

Sections 193 to 196 of the Penal Code punish violations by a public officer of the freedom or rights of the people in the performance of his duties. Under sections 5 and 117 of the Labour Standards Law employers in private undertakings who force workers to work against their will are liable to penal sanctions. The Mariners' Law applies these provisions to seamen.

There exists no compulsion to labour except in the case of punishment as a consequence of a conviction in a court of law.

Japan ratified Convention No. 29 in 1932. The Government considers that effect is also given to the purport of Convention No. 105 in Japan, as explained above. However, due to various circumstances, including the fact that the interpretation of the scope of forced labour prohibited by Convention No. 105 is not clear enough, the Government will continue to examine carefully whether or not there exists any discrepancy between the national legislation and the Convention, as well as other problems.

The provisions in the national legislation which may have some relationship to clauses (a) to (e) of Article 1 of the Convention (although, as stated above, the Government is not at present in a position to ascertain definitely the existence of any discrepancy between the national legislation and the Convention) are cited below.

Article 1, clause (a), of the Convention. The Constitution guarantees freedom of thought and conscience, freedom of assembly and association as well as of speech, secrecy of any means of communication, etc., and generally there can be no laws or regulations such as are directly prohibited under this clause. The only exception is the case of the public employees, who are prohibited from engaging in a certain range of political activities in view of their special status as public employees and in order to keep them politically neutral for preventing any abuse of their status for political activities and for securing the confidence of the people in the fairness of the administration. Under section 102 and section 110, paragraph 1(19), of the National Public Service Law, a national public employee who engages in any political activity as defined by the rules of the National Personnel Authority other than to exercise his right to vote is liable to penal servitude. Under Rule 14-7, paragraph 1, of the National Personnel Authority (Political Activity) these provisions apply to all personnel in regular government service, including persons given temporary or conditional appointments, on leave of absence, in temporary retirement, under suspension from duty, or not on duty temporarily for any cause whatever. However, they do not apply to advisers, consultants, committee members and similar part-time advisory personnel as designated by the National Personnel Authority.

Paragraphs 5 and 6 of the Rule define "political purpose" and "political activity" respectively. The definition of "political activity" covers, inter alia, the use of position or title, the power deriving therefrom, or official or non-official influence for any political purpose; soliciting or receiving, or being in any manner concerned in soliciting or receiving, levies, donations, subscriptions, membership fees or money or other things of value for political purposes; planning the formation of a political party or other political organisation, participating in such formation or assisting such activity, or becoming an officer, political adviser or member with a similar role of such an organisation; publishing, editing, or distributing any newspaper or publication which is an organ of a political party or other political organisation or assisting such activity; making such public expressions of opinion as may have a political purpose at an assembly or other place where contact may be had with a large number of people; issuing, circulating, posting, or distributing such literature, drawings, etc., as may have a political purpose.

The list of "political purposes" includes, inter alia, supporting or opposing any particular candidate in an election for elective public office as defined in Rule 14-5; supporting or opposing any particular political party or other political organisation; obstructing the administration of policies decided by an agency of the national Government or a public agency (including those embodied in the laws, orders, rules or by-laws of a local public entity).

FORCED LABOUR

Clause (c). Forced labour as a means of labour discipline does not generally exist. Certain provisions impose penalties, including penal servitude, on persons engaged in the mail service who wilfully and maliciously fail to handle mail or cause it to be delayed (section 79, paragraph 1, of the Mail Law); or persons engaged in the public telecommunication business who fail to handle public telecommunications without justifiable reasons or handle them improperly (section 110 of the Public Telecommunication Law); on persons employed in electricity and gas undertakings who without justifiable reasons fail to handle business, in so far as they cause impediments to the supply of electricity or gas. These provisions aim at ensuring the smooth operation of services which are essential to the daily life of people in general. By virtue of section 128 of the Mariners' Law, a mariner is punishable with penal servitude if he deserts his vessel in a foreign country. This provision aims at ensuring the safety of navigation in view of the special nature of maritime labour.

Clause (d). The Constitution guarantees in article 28 the right of workers to organise and to bargain and act collectively. Trade unions' justifiable acts (including justifiable strikes) are not subject to any penal sanction (section 1, paragraph 2, of the Trade Union Law).

Public employees are prohibited from going on strike in view of the special nature of their duties and of other considerations. Those who have engaged in a strike are not subjected to a penalty but those who have conspired, instigated or incited the perpetration of a strike are liable to penal servitude under the National Public Service Law (section 110, paragraph 1, clause 17, read together with section 98, paragraph 2) and under the Local Public Service Law (section 61, clause 4, read together with section 37, paragraph 1).

Employees of public corporations, national enterprises and local public enterprises are prohibited from striking in view of the special nature of their status and duties. Those who have engaged in a strike are not subject to a penalty except that those who have taken the leading role in a strike are punishable with penal servitude if such a strike action falls under penal provisions of laws governing the business of certain public corporations, etc. (post, telegraph and telephone services (see under clause (c))). However, those who have simply participated in a strike are not in principle punished with a penalty.

Clauses (b) and (e). There are no legislative provisions relating to these clauses. Forced labour for the purposes mentioned in them does not exist.

LESOTHO

CONVENTION NO. 105

The Government refers to its previous report on unratified Conventions submitted to the Conference in 1968¹ and states that the only change has been the amendment of the Employment Act in 1977 by which section 79(2) of the Act (which authorised compulsory messenger service) was repealed following the direct requests made by the Committee of Experts under Convention No. 29.

Section 23 of the Prison Proclamation of 1957 contains provisions concerning the employment of convicted persons. In practice, the use of convict labour is confined to the maintenance of government properties under the supervision of prison staff. Convict labour is not used by private individuals, companies or associations.

MADAGASCAR

CONVENTION NO. 105

Constitution.

Labour Code (LS 1975 - Mad. 1).

Since none of the instances of forced or compulsory labour mentioned in the Convention has arisen, no measures have been taken in this connection, nor do any seem necessary.

Article 1(b) of the Convention. Section 2 of the Labour Code prohibits forced or compulsory labour, which is defined as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily".

Article 1(e). Under section 12 of the Constitution the State guarantees the equality of all citizens by proscribing any discrimination based on race, origin, religious beliefs, level of education, wealth or sex.

Article 2. No text provides for the possibility of imposing forced or compulsory labour. Persons who exact forced labour unlawfully are liable to a fine, to a term of imprisonment of between six days and three months, or both, in pursuance of section 151 of the Labour Code.

¹ See ILO: Summary of reports on unratified Conventions (article 19 of the Constitution), Report III (Part II), International Labour Conference, 52nd Session (Geneva, 1968), p. 11.

FORCED LABOUR

There are no difficulties arising in national law or practice, since the Government has already ratified Convention No. 29. Nevertheless, Convention No. 105 contains many details which have not been precisely formulated in national legislation, although national practice is in conformity with Article 1 of the Convention.

MAURITANIA

CONVENTION NO. 105

Labour Code: Act No. 63-023 of 23 January 1963, as amended
(LS 1963 - Mau. 1).

Act No. 71-059 of 25 February 1971, for the general organisation of civil defence.

Section 3 of the Labour Code prohibits forced or compulsory labour, i.e. any labour or service demanded of an individual under threat of any penalty and which the said individual has not freely offered to perform.

Forced or compulsory labour may not be exacted in the cases mentioned in clauses (a) to (e) of Article 1 of the Convention.

The illegal exaction of forced or compulsory labour is punishable by the fines prescribed in section 56 of the Labour Code.

Having ratified Convention No. 29 on forced labour, which deals with the same subject, Mauritania does not consider it worth while to initiate a new procedure with a view to ratification of an instrument which it applies by virtue of its acceptance of Convention No. 29.

The amendment is envisaged of Act No. 71-059 of 25 February 1971, for the general organisation of civil defence, to bring it more closely into line with Convention No. 29.

ROMANIA

CONVENTION NO. 105

Constitution.

Labour Code (LS 1972 - Rom. 1).

Act No. 12/1971 respecting the conditions of work and promotion of staff in state socialist units.

Act No. 24/1976 respecting the recruitment and allocation of manpower (LS 1976 - Rom. 1).

Act No. 25/1976 respecting the allocation of able-bodied persons to useful employment (LS 1976 - Rom. 2).

Section 18 of the Constitution guarantees the right to work, section 17 equality of rights of citizens; any act intended to restrict the exercise of the right to equality is punishable by law. Section 5 declares the exploitation of man by man abolished and establishes the socialist principle of distribution according to the quantity and quality of work done.

The Labour Code affirms the right and duty of workers to engage in a type of work that is useful to society; guarantees all citizens the right to work without distinction as to sex, nationality, race or religion; prohibits all manifestations of social parasitism; and affirms the duty of all persons over the age of 16 who are fit for work and who are not attending courses of study to engage in socially useful work until the age of retirement.

The Act respecting the recruitment and allocation of manpower guarantees the supply of manpower required by socialist undertakings in accordance with the forecasts contained in the Unified National Economic and Social Development Plan. Hiring is done at the request of the persons concerned. Those who are not engaged receive assistance from the Directorate of Labour and Social Security with due regard for manpower requirements and the training, aptitudes and preferences of the persons concerned.

Persons who have reached the age of 16 years and are not following any form of education or training are required to register with the Directorate of Labour. In the case of young persons between the ages of 16 and 18 years this obligation must be discharged by their parents or legal representatives. This obligation does not apply to peasants working on individual holdings, handicraft workers having their own workshop, self-employed workers engaged in any activity authorised by law, women who are looking after children and housewives.

Socialist undertakings are required to inform the Directorate of Labour of any changes in their manpower requirements and any vacant posts.

FORCED LABOUR

The Act respecting the allocation of able-bodied persons to useful employment stipulates that the Directorate of Labour shall keep a record of persons who are not following any form of education or training and who are not employed with a view to allocating them to undertakings. Allocation is compulsory. Persons who are allocated to employment are required to report immediately to the socialist undertaking to which they have been assigned; the undertaking is required to engage them. Persons who systematically refuse without a valid reason to be engaged for employment and who lead a parasitic form of life are subject to measures of persuasion during a discussion at the general meeting of the citizens of the town, commune or quarter where they live. In the case of persistent refusal to take up employment or follow a course of training a person is obliged by court order to work for a year on a construction site, in an agricultural or forestry undertaking or in some other economic enterprise. No person thus engaged may change his workplace within the year following his engagement unless a recommendation to that effect is made by the socialist undertaking concerned, with the agreement of the Directorate of Labour, which shall have regard for the skills he has acquired, his behaviour and his attitude towards his work.

The workers' councils and the trade union and youth organisations of socialist undertakings are responsible for the training of the persons engaged and for the organisation of educational activity designed to achieve their rehabilitation and the inculcation of a new attitude towards work and respect for the principles of socialist ethics.

The Act respecting conditions of work and promotion in state socialist units guarantees recruitment and promotion by examination or competition.

In Romania the exercise of the basic right and duty to work is guaranteed by rapid economic development.

The development of economic and social activity has been accompanied, and continues to be accompanied, by the creation of new development programmes. For the period 1976-90, 3.5 million new posts are to be created, giving socially useful work to all citizens who are fit for work, according to their aptitudes, training and aspirations, and offering the necessary means for the satisfaction of their varied and growing material and spiritual needs.

In keeping with its constant concern to perfect the legislation, including labour legislation, and desirous of contributing effectively to the development of international co-operation, the Government is studying the possibility of ratifying a number of ILO Conventions in future years.

RWANDA

CONVENTION NO. 29

Constitution of the Republic, dated 24 November 1962.

Labour Code: Act of 28 February 1967 (LS 1967 - Rwa. 1).

The Constitution abolishes non-penitentiary forced labour and prohibits its reintroduction.

Under section 4 of the Labour Code forced labour is absolutely forbidden.

Persons who are sentenced to a term of imprisonment may be compelled to work within the limits prescribed by the penal legislation; the legislation stipulates no other conditions allowing forced labour to be imposed.

Since Rwanda has ratified Convention No. 105, it is not considered necessary to take special measures in regard to Convention No. 29.

SRI LANKA

CONVENTION NO. 105

The Government refers to its previous report under article 19 of the Constitution submitted to the Conference in 1962.¹

TURKEY

CONVENTION NO. 29

Constitution of the Turkish Republic.

Penal Code, No. 765 of 1 March 1926 (Official Gazette (O.G.)), 13 March 1926, No. 320.

Act No. 647 related to the Execution of Penalties (O.G.), 16 July 1965, No. 12050).

Compulsory Military Service Act, No. 1111 of 21 June 1927 (O.G. Nos. 631-635 dated 12 and 17 July 1927).

¹ See ILO: Summary of reports on unratified Conventions and on Recommendations (Article 19 of the Constitution), Report III (Part II), International Labour Conference, 46th Session (Geneva, 1962), pp. 14-15, Ceylon.

FORCED LABOUR

Act No. 2152 of 22 June 1978 adding a temporary article to Act No. 1111 (O.G., 29 June 1978, No. 16331).

Turkish Commercial Code No. 6762 of 29 June 1956 (O.G., 9 July 1956, No. 9353).

According to article 42 of the Constitution drudgery is prohibited.

The form and conditions of physical and intellectual work in the nature of civic duties in cases where the needs of the country so require are regulated by law.

Compulsory military service is regulated by article 60 of the Constitution and the Compulsory Military Service Act.

The Act adding a temporary article to the Compulsory Military Service Act provides in temporary Article 10 that graduates of schools for teachers who are employed by the Ministry of National Education as primary school teachers may perform their patriotic service as primary school teachers in the villages decided by the said Ministry. During their service their status as civil servants continues and they receive their usual wages from the Ministry of National Education. Those who do not wish to serve as teachers must complete their patriotic service in the armed forces.

Article 11 of the Penal Code claims six types of punishment for felonies, including imprisonment. According to paragraph (c) of Article 13 of the Penal Code, after a certain period of their confinement, well-behaved convicts are transferred to prisons where they have to work. Article 17 of the Act for Execution of Penalties states that "the convicts are obliged to work in the institutions where they are confined". The Ministry of Justice may employ the convicts fulfilling certain conditions to work in teams in activities like agriculture, sea fishing, highway construction, construction, mining and forestry.

Under Article 1467 of the Turkish Commercial Code, captains of vessels may use force, where necessary, on seamen for the purpose of maintaining discipline and safety on board ship. Also in cases of emergency they have the right to bring back the seamen who have escaped from the vessel without performing their duties.

According to Article 188 of the Penal Code, anybody using force to make someone do something against his will is liable to imprisonment of up to a year or a fine of 30 to 50 Turkish Liras. Under certain circumstances the imprisonment will be longer, from two years to five years.

As may be understood from the above information there are no major contradictions between the national legislation and the Convention. In spite of some minor problems Turkey has already ratified Convention No. 105. Ratification of the Convention may be considered in the future when Convention No. 105 is fully applied.

UKRAINIAN SSR

CONVENTION NO. 105

Constitution of the Ukrainian SSR of 1978.

Labour Code of the Ukrainian SSR of 1972.

Penal Code of the Ukrainian SSR.

Order of 1974 to approve the Regulations concerning the passport system in the USSR.

Order No. 220 of 18 March 1968 to approve the Regulations concerning the assignment of young skilled workers graduating from higher and specialised secondary educational establishments in the USSR.

The Constitution of the Ukrainian SSR adopted in 1978 defines in article 38 the right to work as the right to guaranteed employment and pay in accordance with the quantity and quality of work, and not below the state-established minimum, including the right to choose a trade or profession, type of job and work in accordance with one's inclinations, abilities, training and education, with due account of the needs of society.

Under the Regulations concerning the passport system in the USSR, all Soviet citizens aged 16 and over must hold a USSR citizen's passport. Citizens living in rural areas are issued with a passport under an Order of 1974. Thus, collective farm members may, if they wish, change their place of abode and type of work.

In accordance with section 2 of the Labour Code workers exercise their right to employment by signing a contract of employment. No other method is provided for in the Code.

The duty to work, laid down in article 58 of the Constitution, is combined with freedom to conclude and cancel a contract of employment.

Freedom to conclude a contract of employment means that the worker has full opportunity to choose his place and type of work in accordance with his inclinations, abilities, interests, training and education. Once a contract of employment has been concluded it may not be altered unilaterally by the management; under section 32 of the Labour Code permanent transfer of a worker to other work is permitted only with his consent.

Under section 38 of the Labour Code a worker has the right to terminate a contract of employment without explanation by giving the management two weeks' notice. On the expiry of this period he can leave his post and the management must return his employment book to him and settle in full its accounts with him. The right to resign is combined with the possibility of transferring to another generally more suitable job (to match higher or specialised secondary educational qualifications, nearer home, better paid, and so on).

FORCED LABOUR

Refusal to give a resigning worker his employment book is a gross violation of the labour legislation and as such constitutes a criminal offence (section 133 of the Penal Code).

The Labour Code of 1972 contains no provision for calling up citizens for compulsory labour.

Under paragraph 26 of the Regulations concerning the assignment of young skilled workers graduating from higher and specialised secondary educational establishments in the USSR, specialists with higher and specialised secondary education are obliged, after their graduation, to take up a post assigned them by the Assignment and Appointments Committee of the Ministry (Department) for not less than three years (for certain categories of young specialists the Government of the USSR may fix other durations of assignment to work).

These regulations cannot be construed as providing for compulsory labour. Each entrant to a full-time course at a higher educational establishment or technical school knows that after graduation he will be assigned in accordance with a plan to a post in which he is obliged to work for three years. Every graduate is assigned to a post which matches his qualifications and which takes into account his family circumstances, state of health and also his personal wishes. His signed consent to the decision of the Assignment Committee is entered in the records relating to such assignments. This system is aimed not only at providing the national economy with skilled manpower but also at guaranteeing that each person obtains work in the occupation for which he has trained. In accordance with article 45 of the Constitution of the USSR and article 43 of the Constitution of the Ukrainian SSR, all forms of education are free - educational expenses are borne by the State. This entitles the state bodies to lay down certain conditions for graduates of higher educational establishments and technical schools in respect of their place of work during their first three years of working life. This may be regarded as an implied contract between the citizens entering a higher or specialised secondary educational establishment and the State. The State undertakes to provide free training for the citizens in their chosen occupation while the citizens undertake to work for three years (or any other specified period) in that occupation in the place to which they are assigned after graduation.

As regards Article 1(c) of the Convention, section 147 of the Labour Code lays down that as one of the penalties for a breach of labour discipline a worker may be transferred to a lower-paid post in the same trade or occupation for a period not exceeding three months, or demoted to a lower grade for a similar period.

These provisions do not run counter to the Convention since a worker transferred subsequent to a disciplinary punishment to a lower-paid post has the right to resign from this post at his own wish (section 38 of the Labour Code). Consequently, work in a lower-paid post is not obligatory for the worker transferred.

The Labour Code and other laws and regulations now in force do not contain provisions which permit the use of forced (compulsory) labour.

Any attempt to make illegal use of forced labour is exposed and stopped by the trade unions and the legal labour inspectorates under their jurisdiction, the procurator's office, the Courts, the Soviets of People's Deputies and other bodies listed in section 259 of the Labour Code.

Extracontractual calling up of citizens for compulsory labour service is provided for in law only for averting and combating natural calamities. Only able-bodied men (aged 18 to 45) and women (aged 18 to 40) are called up for such labour service. In addition, there is a list of persons who are exempt from compulsory labour service. Only the Government of the Republic, the executive committees of the regional Soviets of People's Deputies and the executive committees of the district and municipal Soviets of People's Deputies have the right to call up citizens for compulsory labour service to avert and combat natural calamities.

At one time Ukrainian legislation provided for the calling up of a certain category of persons for compulsory labour service. Under the Ukase of the Presidium of the Supreme Soviet of the Ukrainian SSR of 12 June 1961, able-bodied adults leading a parasitic type of life were liable, according to the decision of the district or municipal people's court, to be banished to specially designated localities for a period of between two and five years, coupled with the confiscation of any property acquired other than through their work and with their compulsory allocation to employment, for the purposes of re-education, at the places of residence assigned to them.

Following the adoption of an Ukase of 1975 to amend section 214 of the Penal Code, the above-mentioned 1961 Ukase was repealed. Section 214 of the Penal Code, as amended, provides that persons systematically engaging in vagrancy or begging as well as those leading any other parasitic type of life over a prolonged period of time shall be liable to be sentenced to corrective labour or deprivation of liberty for a certain period. The phrase "leading any other parasitic way of life" means the evading of socially useful work by adult citizens and deriving a means of livelihood from illegal acts which constitute the elements of a crime or administrative misdemeanour, and which serve in the end as a source for obtaining income other than from work. Such illegal acts include, for example, petty speculation and certain forms of the exploitation of plots of land, motor vehicles and housing accommodation belonging to the personal property of citizens.

The penal legislation does not contain any special provisions regarding the liability of the management of undertakings, establishments, institutions, organisations, collective farms, etc., for making illegal use of forced labour. However, the Penal Code contains a number of more general articles aimed at protecting the rights of citizens. These articles may also serve as the basis for instituting criminal proceedings for illegal use of forced labour. For example, section 133 of the Penal Code provides for penalties for any gross violation of labour legislation committed by officials of state or public undertakings, establishments, institutions or organisations.

FORCED LABOUR

The Ukrainian citizens' freedom in respect of labour is also protected by the criminal law provisions contained in Chapter VII (Malfeasance) of the Penal Code. Section 165 of this Chapter provides for penal sanctions against officials for abuse of authority or official position and section 166 for exceeding their authority or official powers.

USSR

CONVENTION NO. 105

Constitution of the USSR and Constitutions of the Union and Autonomous Republics.

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

Labour Code of the RSFSR (LS 1971 - USSR 1) and Labour Codes of the other Union Republics.

Penal Code of the RSFSR and Penal Codes of the other Union Republics.

The Constitution of the USSR, adopted in 1977, substantially amplifies the guarantees of the rights and freedoms of the individual.

Article 40 of the Constitution defines the citizens' rights to work as the right "to guaranteed employment and pay in accordance with the quantity and quality of their work, and not below the state-established minimum, including the right to choose their trade or profession, type of job and work in accordance with their inclinations, abilities, training and education, with due account of the needs of society". The Constitution specifies the economic and social guarantees whereby citizens are ensured the right to work; through the steady growth of productive forces, free vocational training, vocational guidance and job placement.

The right to work is closely linked with the over-all duty to work, as laid down in article 60 of the Constitution. Soviet legislation and practice lay stress on the moral aspect of this duty - the Fundamental Principles governing the labour legislation of the USSR and the Union Republics emphasise in the preamble that "work is the duty and moral obligation of every able-bodied citizen". Article 60 of the Constitution also states that "evasion of socially useful work is incompatible with the principles of socialist society".

Workers exercise their right to work by signing a contract of employment based on their free choice of the place and nature of the work (section 8 of the Fundamental Principles governing labour legislation) and collective farmers by voluntarily joining a collective farm (section 3 of the Model Collective Farm Rules). Article 17 of the Constitution permits private labour activity based exclusively on the personal work of individual citizens and members of their families.

Under Sections 12 and 13 of the Fundamental Principles it is unlawful for the management to demand that a worker perform work which is not stipulated in the contract of employment, and a worker may be transferred to another post only with his consent.

A worker has the right to terminate the contract of employment for any reason and at any time provided he gives the management two weeks' notice, while the management may terminate the contract of employment on its own initiative only for a strictly limited number of reasons, listed in the law, and only with the prior consent of the factory, works or local trade union committee (sections 16, 17 and 18, Fundamental Principles). The management of an undertaking may not keep the worker in his job once he has announced his desire to terminate the contract of employment and is bound to return his work book to him and settle in full its accounts with him (section 31, Labour Code of the RSFSR and the corresponding sections of the Labour Codes of the other Union Republics). Management representatives who are guilty of infringing the labour legislation are liable to disciplinary, administrative or penal sanctions (section 138 of the Penal Code of the RSFSR and similar sections in the Penal Codes of the other Union Republics).

This freedom to conclude and terminate the contract of employment is a sufficient legal guarantee against any form of forced labour.

Neither may citizens of the USSR be subjected to forms of forced labour described in Article (a) of the Convention. They have the right to criticise and submit proposals concerning the activity of any state and public bodies, acting either on their own or in the public interest, or in the interests of the State or other persons. Article 49 of the Constitution obliges officials within established time-limits to examine citizens' proposals and criticisms, to reply to them and to take appropriate action; persecution for criticism is prohibited.

In the Soviet Union there are no economic grounds for using forced labour "as a method of mobilising and using labour for purposes of economic development", since labour is used in a planned and rational manner.

The duty to observe labour discipline is a constitutional duty of citizens of the USSR (article 60 of the Constitution). However, forced labour may not be used as a means of labour discipline. Labour discipline is ensured, as shown in section 52 of the Fundamental Principles by education and encouragement of conscientious work; if necessary, disciplinary measures and the moral pressure of public opinion can be brought to bear on persons who do not work conscientiously. Thus, section 56 of the Fundamental Principles provides as penalties for breach of labour discipline transfer to a lower-paid post or demotion to a lower grade in the same trade or profession for a period not exceeding three months. A worker transferred following disciplinary sanction has the right to resign at any time at his own wish or in agreement with the management (sections 15 and 16 of the Fundamental Principles) and hence work in a lower-paid post is not compulsory for him.

FORCED LABOUR

Soviet legislation contains no provisions which would permit the use of forced labour "as a punishment for having participated in strikes" (Article 1(d) of the Convention).

As regards Article 1(e) of the Convention, it should be noted that article 34 of the Constitution guarantees citizens equality without distinction of origin, social or property status, race or nationality, sex, education, language, attitude to religion, type and nature of occupation, domicile, or other considerations.

Persons are held answerable for "direct or indirect limitation of rights or the giving of direct or indirect privileges to citizens on the basis of race or nationality" (section 74 of the Penal Code of the RSFSR and the corresponding sections of the Penal Codes of the Union Republics).

Soviet legislation and practice fully guarantee citizens of the USSR freedom from all the forms of forced labour covered by the Convention.

UPPER VOLTA

CONVENTION NO. 105

Labour Code, Act of 7 July 1962 as amended by Act No. 9/73/AN of 7 June 1973.

Section 2 of the amended Labour Code prohibits forced or compulsory labour. Thus, under the legislation in force, the cases mentioned in clauses (a) to (e) of Article 1 of the Convention are considered as instances of forced labour under the national legislation.

Persons contravening section 2 of the Labour Code are subject to the penalties prescribed by section 234(a)(i) of the Code.

The Act of 7 June 1973 to modify the Labour Code has taken account of the provisions of the Convention relating to forced labour.

There are no difficulties in applying the Convention in national law or practice, nor are there other difficulties which would prevent or delay its ratification. The provisions of the Convention are covered by national law and practice.

URUGUAY

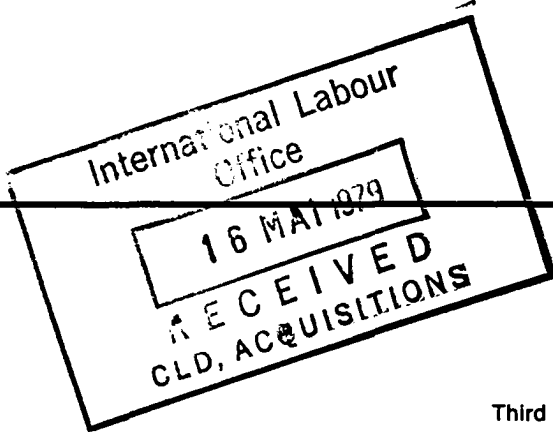
CONVENTION NO. 29

Constitution of the Republic.

There are no standards expressly prohibiting forced labour in Uruguay. This prohibition is derived a contrario from various constitutional and legal standards.

Thus, the 1934 Constitution includes provisions relating to the right to work and its protection, which are repeated in subsequent constitutional texts.

- (a) Section 54 of the Constitution stipulates that liberty of conscience as regards moral and civic questions, fair remuneration, limitation of the daily hours of work, a weekly rest day and the protection of health and morals shall be guaranteed by law to every person engaged in any employment or service as a wage-earning or salaried employee, and provides that the employment of women and persons under the age of 18 years shall be subject to special regulations and restrictions. Jurisprudence lays stress on the constitutional provision relating to respect for the moral independence of the worker, the opinion being that the fact that a wage earner is subordinate to an employer does not entitle the latter to substitute his will entirely for that of the former, or to oblige him to perform acts whose lawfulness he doubts or which cause him misgivings because they are immoral. The worker retains within the labour relationship his autonomy and control over his morality and civic independence. According to jurisprudence the purpose of this provision is to forestall a situation in which the economic dependence and the legal or technical subordination created by the labour relationship may run counter to the freedom of self-determination which is essential to democratic government.
- (b) Section 7 guarantees freedom of work and its protection, stipulating that all inhabitants are entitled to protection in their work and that nobody may be deprived of this right except in conformity with legislation passed in the interests of the community. Section 53 stipulates that labour shall be under the special protection of the law.
- (c) Section 55 states that the law shall provide for the impartial and equitable distribution of employment, and section 56 provides that every undertaking of a nature which necessitates the residence of employees in its establishment shall be bound to provide the said employees with suitable board and lodging in accordance with the requirements of the law.



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)



International Labour Office Geneva

59661/4

ISBN 92-2-101957-8

First published 1979

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.

ILO publications can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. A catalogue or list of new publications will be sent free of charge from the above address.

Printed by the International Labour Office, Geneva, Switzerland

CONTENTS

	Page
Introduction	1
Summary of information relating to the submission to the competent authorities of the Conventions and Recommendations adopted by the International Labour Conference at its 63rd Session (Geneva, 1977) and additional information relating to the texts adopted at its 31st to 62nd Sessions (1948 to 1976)	3

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 63rd Session held in Geneva from 1 to 22 June 1977.

The period of one year provided for the submission to the competent authorities of the instruments in question expired on 22 June 1978, and the period of 18 months on 22 December 1978.

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 62nd Sessions (1948 to 1976). 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 64th 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 15 to 28 March 1979, the information received from the governments, as stated in its report.

List of instruments adopted by the Conference at its 54th to 63rd Sessions¹

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).

¹ A list of the instruments adopted from the 31st to the 53rd Sessions of the Conference will be found in the corresponding Report III (Part 3) presented to presiding sessions of the Conference.

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).

57th Session (1972)¹

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).
Migrant Workers (Supplementary Provisions) Convention (No. 143).
Rural Workers' Organisations Recommendation (No. 149).
Human Resources Development Recommendation (No. 150).
Migrant Workers Recommendation (No. 151).

¹ At this session, the Conference did not adopt any Conventions or Recommendations.

61st Session (1976)

Tripartite Consultation (International Labour Standards) Convention (No. 144).
Tripartite Consultation (Activities of the International Labour Organisation) Recommendation (No. 152).

62nd Session (1976)

Continuity of Employment (Seafarers) Convention (No. 145).
Seafarers' Annual Leave with Pay Convention (No. 146).
Merchant Shipping (Minimum Standards) Convention (No. 147).
Protection of Young Seafarers Recommendation (No. 153).
Continuity of Employment (Seafarers) Recommendation (No. 154).
Merchant Shipping (Improvement of Standards) Recommendation (No. 155).

63rd Session (1977)

Working Environment (Air Pollution, Noise and Vibration) Convention (No. 148).
Nursing Personnel Convention (No. 149).
Working Environment (Air Pollution, Noise and Vibration) Recommendation (No. 156).
Nursing Personnel Recommendation (No. 157).

Summary of information relating to the submission
to the competent authorities of the Conventions
and Recommendations adopted by the International
Labour Conference at its 63rd Session (Geneva, 1977)
and supplementary information on the texts adopted
at its 31st to 62nd Sessions (1948 to 1976)

Argentina. The instruments adopted at the 63rd Session of the Conference have been submitted to the President of the Republic.

Australia. The instruments adopted at the 61st, 62nd and 63rd Sessions of the Conference have been submitted to Parliament.

Barbados. The instruments adopted at the 63rd Session of the Conference were submitted to the two Houses of Parliament on 23 and 24 May 1978.

Belgium. The instruments adopted at the 62nd Session of the Conference were submitted to Parliament on 1 August 1978. The ratification of Conventions Nos. 145 and 147 and acceptance of Recommendation No. 155 are being considered.

Benin. The instruments adopted at the 61st, 62nd and 63rd Sessions of the Conference were submitted to the National Revolutionary Council on 15 November 1978.

Bulgaria. The instruments adopted at the 62nd and 63rd Sessions of the Conference were submitted to the Council of State on 17 March and 5 September 1978, respectively.

Burundi. The remaining instruments adopted at the 58th and 59th Sessions of the Conference and all those adopted at the 60th and 61st Sessions, as well as Recommendations Nos. 153 and 154, adopted at the 62nd Session, were submitted to the President of the Republic on 6 and 14 June 1978. The ratification of Conventions Nos. 138 and 140 has been proposed.

Byelorussian SSR. The instruments adopted at the 63rd Session of the Conference have been submitted to the Presidium of the Supreme Soviet of the Byelorussian SSR.

United Republic of Cameroon. The instruments adopted at the 63rd Session of the Conference were submitted to the competent authorities on 2 June 1978.

Central African Empire. The instruments adopted at the 62nd Session of the Conference were submitted to the Council of Ministers on 17 March 1977.

Congo. Recommendations Nos. 136 to 142, the instruments adopted at the 58th Session of the Conference and the remaining instruments adopted at the 60th Session have been submitted to the competent authorities.

Cuba. Convention No. 145 and Recommendation No. 154, adopted at the 62nd Session of the Conference, have been submitted to the Council of Ministers. The Convention has been ratified.

Cyprus. The instruments adopted at the 62nd Session of the Conference were submitted to the House of Representatives on 28 June 1978.

Czechoslovakia. The instruments adopted at the 60th, 61st and 62nd Sessions of the Conference were submitted to the Federal Assembly on 3 August and 17 October 1978. Convention No. 142 has been ratified.

Denmark. The instruments adopted at the 63rd Session of the Conference were submitted to Parliament on 31 May 1978.

Ecuador. The instruments adopted at the 61st, 62nd and 63rd Sessions of the Conference have been submitted to the competent authorities. Conventions Nos. 148 and 149 have been ratified.

Egypt. The instruments adopted at the 63rd Session of the Conference have been submitted to the National Assembly.

El Salvador. The instruments adopted at the 60th and 61st Sessions of the Conference have been submitted to the Legislative Assembly.

Finland. The instruments adopted at the 61st, 62nd and 63rd Sessions of the Conference have been submitted to Parliament. Conventions Nos. 144, 145 and 147 have been ratified. The ratification of Conventions Nos. 148 and 149 has been proposed.

Gabon. The instruments adopted at the 62nd and 63rd Sessions of the Conference were submitted to the National Assembly on 30 January 1978.

German Democratic Republic. The instruments adopted at the 63rd Session of the Conference have been submitted to the People's Chamber.

Federal Republic of Germany. The instruments adopted at the 61st Session of the Conference, and Convention No. 147 and Recommendation No. 155, adopted at the 62nd Session, have been submitted to the Bundesrat. The ratification of Convention No. 147 has been proposed.

Greece. Conventions Nos. 118, 142 and 144 and Recommendations Nos. 115, 150 and 152 were submitted to the Chamber of Deputies on 25 November 1978. The ratification of Convention No. 144 has been proposed.

Guatemala. The instruments adopted at the 53rd to 63rd Sessions of the Conference were submitted to Congress on 7 November 1978.

Guinea. Conventions Nos. 142 and 143, adopted at the 60th Session of the Conference, have been ratified.

Haiti. The instruments adopted from the 54th to the 62nd Session of the Conference, and Conventions Nos. 148 and 149 and Recommendation No. 157, adopted at the 63rd Session, were submitted to the Legislative Chamber on 30 August 1978. The ratification of Conventions Nos. 136 and 142 has been proposed.

Honduras. The instruments adopted at the 62nd and 63rd Sessions of the Conference were submitted to the Head of State on 21 November 1977.

Hungary. The instruments adopted at the 63rd Session of the Conference were submitted to the Council of the Presidency of the Republic on 27 June 1978.

India. The instruments adopted at the 62nd and 63rd Sessions of the Conference were submitted to Parliament on 28 April and 22 December 1978, respectively.

Indonesia. The instruments adopted at the 61st and 62nd Sessions of the Conference were submitted to Parliament on 30 and 22 May 1978, respectively.

Ireland. The instruments adopted at the 58th and 59th Sessions of the Conference have been submitted to both Houses of Parliament. Convention No. 138 has been ratified. The ratification of Conventions Nos. 139 and 140 has been proposed.

Italy. Convention No. 148 and Recommendation No. 156, adopted at the 63rd Session of the Conference, have been submitted to the competent authorities. The ratification of the Convention and acceptance of the Recommendation have been proposed.

Ivory Coast. The instruments adopted at the 63rd Session of the Conference were submitted to the National Assembly on 29 November 1978.

Japan. The instruments adopted at the 62nd and 63rd Sessions of the Conference were submitted to the Diet on 24 May 1977 and 12 May 1978, respectively.

Kenya. The instruments adopted at the 55th, 61st, 62nd and 63rd Sessions of the Conference, and Convention No. 139 and Recommendation No. 147, adopted at the 59th Session, have been submitted to the National Assembly. The ratification of Conventions Nos. 134, 144, 146 and 149 and acceptance of Recommendations Nos. 142, 152, 137, 138, 139, 140 and 141 have been proposed.

Kuwait. The instruments adopted at the 63rd Session of the Conference have been submitted to the Council of Ministers.

Liberia. Convention No. 133, adopted at the 55th Session of the Conference, has been ratified.

Mexico. The instruments adopted at the 61st Session of the Conference have been submitted to the competent authorities. Convention No. 144 has been ratified.

Netherlands. The instruments adopted at the 61st and 62nd Sessions of the Conference, and Convention No. 148 and Recommendation No. 156, adopted at the 63rd Session, have been submitted to the Council of State. Conventions Nos. 144, 145 and 147 have been ratified.

Niger. Convention No. 138, adopted at the 58th Session of the Conference, has been ratified.

Nigeria. The instruments adopted at the 63rd Session of the Conference were submitted to the Federal Executive Council on 7 September 1977.

Norway. The instruments adopted at the 62nd and 63rd Sessions of the Conference were submitted to Parliament on 28 April 1978. Conventions Nos. 145, 147 and 148 have been ratified.

Pakistan. The instruments adopted at the 60th and 61st Sessions of the Conference were submitted to the Federal Cabinet on 11 November 1977.

Panama. The instruments adopted at the 63rd Session of the Conference were submitted to the National Assembly on 14 November 1977.

Papua New Guinea. The instruments adopted at the 62nd and 63rd Sessions of the Conference were submitted to Parliament on 7 August 1978.

Philippines. The instruments adopted at the 61st Session of the Conference have been submitted to the President of the Republic. Those adopted at the 62nd and 63rd Sessions have been submitted to the Prime Minister. Ratification of Conventions Nos. 141 and 149 have been proposed.

Poland. The instruments adopted at the 61st and 62nd Sessions of the Conference have been submitted to the competent authorities. The Government has communicated information concerning the decisions taken on Conventions Nos. 141 and 143 and Recommendations Nos. 145, 146, 149, 151, 152, 154 and 155. Conventions Nos. 137 and 138 have been ratified.

Portugal. Convention No. 143, adopted at the 60th Session of the Conference, has been ratified.

Romania. The instruments adopted at the 63rd Session of the Conference were submitted to the Grand National Assembly on 6 July 1978.

Rwanda. The instruments adopted at the 63rd Session of the Conference were submitted to the President of the Republic on 23 February 1978.

Saudi Arabia. The instruments adopted at the 63rd Session of the Conference have been submitted to the Council of Ministers.

Senegal. The instruments adopted at the 61st and 63rd Sessions of the Conference were submitted to the National Assembly on 14 November 1978.

Singapore. The instruments adopted at the 61st Session of the Conference were submitted to Parliament on 13 July 1978.

Somalia. The instruments adopted at the 62nd and 63rd Sessions of the Conference were submitted to the Political Bureau and to the Council of Ministers on 24 March 1977 and 20 November 1978, respectively.

Spain. Conventions Nos. 145, 146 and 147, adopted at the 62nd Session of the Conference, have been ratified.

Sri Lanka. The instruments adopted at the 59th and 60th Sessions of the Conference were submitted to the National Assembly on 4 April and 6 June 1978, respectively.

Sweden. Convention No. 147 and Recommendation No. 155, adopted at the 62nd Session of the Conference, together with the instruments adopted at the 63rd Session, were submitted to Parliament on 6 April and 16 March 1978, respectively. Conventions Nos. 147, 148 and 149 have been ratified.

Trinidad and Tobago. The instruments adopted at the 62nd Session of the Conference have been submitted to Parliament.

Tunisia. The instruments adopted at the 61st and 63rd Sessions of the Conference have been submitted to the National Assembly.

Uganda. The instruments adopted at the 62nd and 63rd Sessions of the Conference have been submitted to the Cabinet.

Ukrainian SSR. The instruments adopted at the 63rd Session of the Conference have been submitted to the Presidium of the Supreme Soviet of the Ukrainian SSR.

USSR. The instruments adopted at the 63rd Session of the Conference have been submitted to the Presidium of the Supreme Soviet of the USSR.

United Arab Emirates. The instruments adopted at the 58th to 63rd Sessions of the Conference were submitted to the Council of Ministers on 24 October 1978.

United Kingdom. The instruments adopted at the 62nd and 63rd Sessions of the Conference were submitted to Parliament in April and December 1978, respectively. Convention No. 148 has been ratified. Ratification of Conventions Nos. 145 and 147 is envisaged.

Upper Volta. The instruments adopted at the 61st and 63rd Sessions of the Conference were submitted to the Council of Ministers in March and September 1978, respectively. Ratification of Convention No. 144 is envisaged.

Uruguay. Conventions Nos. 145, 146 and 147 and Recommendations Nos. 154 and 155, adopted at the 62nd Session of the Conference, and Convention No. 149, adopted at the 63rd Session, were submitted to the Council of State on 1 November 1978 and 24 January 1979, respectively. Ratification of Convention No. 149 has been proposed.

Venezuela. The instruments adopted at the 62nd and 63rd Sessions of the Conference have been submitted to Congress.

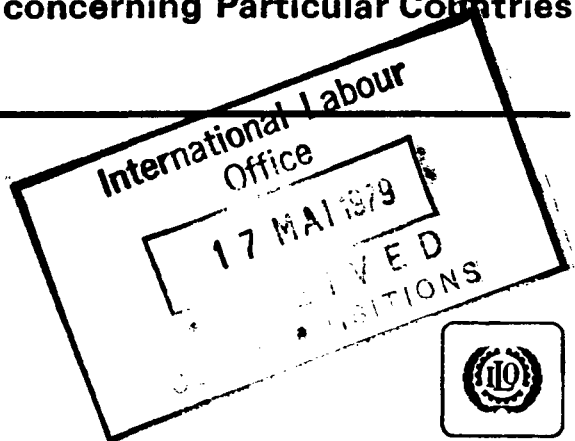
Zambia. The instruments adopted at the 62nd Session of the Conference have been submitted to the National Assembly.

International Labour Conference
65th Session 1979

Report III
(Part 4A)

Report of the Committee of Experts on the Application of Conventions and Recommendations

**General Report
and Observations concerning Particular Countries**



International Labour Office Geneva

09661/4

Corrigendum

International Labour Conference
65th Session 1979

Report III (Part 4 A)

In Part Two, Section I B, Individual Observations, Convention No. 90, Philippines, third paragraph, the second sentence should read: " The Committee notes . . . young persons under 16 between 6 o'clock in the evening and 6 o'clock in the morning . . .".

International Labour Conference
65th Session 1979

Report III
(Part 4A)

Third Item on the Agenda:
Information and Reports on the Application
of Conventions and Recommendations

Report of the Committee of Experts
on the Application
of Conventions and Recommendations
(Articles 19, 22 and 35 of the Constitution)

Volume A:
General Report
and Observations concerning Particular Countries

International Labour Office Geneva

ISBN 92-2-101958-6

First published 1979

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.

ILO publications can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. A catalogue or list of new publications will be sent free of charge from the above address.

Printed by " La Tribune de Genève ", Geneva, Switzerland

CONTENTS

	<u>Page</u>
Index to comments made by the Committee, by country	VII

PART ONE

GENERAL REPORT

I. <u>Introduction</u>	3
II. <u>General</u>	
Membership of the Organisation	7
New Conventions and Recommendations	7
Obligations binding member States	7
In-depth review of international labour standards	8
Functions in regard to other international and regional instruments	
International Covenant on Economic, Social and Cultural Rights	8
European Code of Social Security	9
Collaboration with other international organisations	10
Regional seminars on national and international labour standards	10
Constitutional procedures of complaint and representation	11
Difficulties in the application of the Conventions con- cerning freedom of association (Conventions Nos. 87 and 98)	11
Action for the elimination of discrimination in employment and occupation	12
III. <u>Procedure of direct contacts</u> (1969-79)	13
Origin of the direct contacts procedure	13

	<u>Page</u>
Principles of direct contacts	13
Matters dealt with during direct contacts	15
Initiative for the establishment of direct contacts and full consent of the governments concerned	16
Advance specification of the points to be dealt with	16
Suspension of examination of cases by supervisory bodies	16
Form of the direct contacts	17
Participants in direct contacts	17
Role of employers' and workers' organisations	18
Direct contacts effected	18
Direct contacts in countries of the Andean Group	19
Other types of assistance to governments	24
Results obtained through direct contacts	24
Evaluation of direct contacts	26
Conclusions	26
IV. <u>The rôle of employers' and workers' organisations</u>	27
Observations by employers' and workers' organisations	28
V. <u>Reports on ratified Conventions</u> (articles 22 and 35 of the Constitution)	
Supply of reports	30
Reports requested and received	30
Compliance with reporting obligations	31
Supply of first reports	31
Replies to comments of the supervisory bodies	32
Late reports	32
Examination of reports	33
Observations and direct requests	33
Practical application	34

	<u>Page</u>
Cases of progress	34
VI. <u>Submission of Conventions and Recommendations to the competent authorities</u> (article 19 of the Constitution)	36
62nd and 63rd Sessions	37
31st to 61st Sessions	37
Comments by the Committee and replies from governments ..	37
Revision of the Memorandum adopted by the Governing Body	38
Special problems	38
VII. <u>Reports on unratified Conventions</u> (article 19 of the Constitution)	38

PART TWO

OBSERVATIONS CONCERNING PARTICULAR COUNTRIES

I. <u>Observations concerning annual reports on ratified Conventions</u> (article 22 of the Constitution)	43
A. General observations	43
B. Individual observations	52
Appendix I. Receipt of detailed reports on ratified Conventions (States Members) as at 28 March 1979	211
Appendix II. Statistical table of reports on ratified Conventions as at 28 March 1979	221
II. <u>Observations on the application of Conventions in non-metropolitan territories</u> (article 22 and article 35, paragraphs 6 and 8, of the Constitution)	222
A. General observations	222
B. Individual observations	223
Appendix. Receipt of detailed reports on ratified Conventions (non-metropolitan territories) as at 28 March 1979	236
III. <u>Observations concerning the submission to the competent authorities of the Conventions and Recommendations adopted by the International Labour Conference</u> (article 19 of the Constitution)	239
Appendix I. Information supplied by governments with regard to the obligation to submit Conventions and Recommendations to the competent authorities	251
Appendix II. Over-all position of member States at 28 March 1979	258

PART THREE

GENERAL SURVEY ON THE REPORTS CONCERNING
THE FORCED LABOUR CONVENTION, 1930 (No. 29),
AND THE ABOLITION OF FORCED LABOUR
CONVENTION, 1957 (No. 105)

This Part of the Report is published in a separate volume as Report III
(Part 4B).

INDEX TO COMMENTS MADE BY THE COMMITTEE, BY COUNTRY

Country	Observations made by the Committee (published in the present Report) ¹	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report) ²
Afghanistan	General Report, para. 105. I A and B, Nos. 13, 95, 111. III.	
Albania	I A.	
Algeria	I B, Nos. 42, 44, 77, 87.	Art. 22, Nos. 77, 87. Subm.
Angola	General Report, para. 105. I A.	Subm.
Argentina	I B, Nos. 32, 68, 87, 98, 107, 111.	General Report, para. 91. Art. 22, general. Art. 22, No. 107.
Australia		Art. 22, Nos. 81, 87, 122, 131. Art. 35, No. 122.
Austria	I B, No. 95.	Art. 22, No. 111. Subm.
Bahamas	General Report, para. 105, 107. I A.	Art. 22, No. 98. Subm.
Bahrain		Subm.
Bangladesh	I B, No. 11.	Art. 22, general. Art. 22, Nos. 22, 87, 96, 98, 106, 111. Subm.
Barbados		Art. 22, general. Art. 22, Nos. 102, 108, 111, 115, 118, 128. Subm.
Belgium	I B, Nos. 29, 87.	Art. 22, Nos. 96, 97, 122. Subm.
Benin	I B, Nos. 6, 29.	Art. 22, general. Art. 22, Nos. 13, 29, 105, 111.

¹ The roman numerals and letters refer to sections of Part Two of this report and the arabic numerals to the numbers of the Conventions.

² 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.

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)
Bolivia	I B, Nos. 17, 26, 87, 103, 107.	General Report, para. 91. Art. 22, general. Art. 22, Nos. 1, 14, 17, 20, 30, 77, 78, 87, 89, 98, 103, 106, 107. Subm.
Brazil	I B, Nos. 52, 98, 101, 107. III.	Art. 22, Nos. 94, 103, 107, 111, 117, 122.
Bulgaria	I B, Nos. 87, 111. III.	Art. 22, No. 111.
Burma		Art. 22, No. 11. Subm.
Burundi	I A and B, Nos. 29, 94.	Art. 22, Nos. 14, 29, 81, 90. Subm.
Byelorussian SSR . . .	I B, Nos. 11, 52, 87. III.	Art. 22, Nos. 122, 124.
Cameroon, United Republic of		Subm.
Canada		Art. 22, Nos. 87, 122. Subm.
Central African Empire.	I A. III.	Art. 22, Nos. 94, 95, 117.
Chad	General Report, paras. 105, 109, 132. I A and B, Nos. 13, 29, 81, 87, 98, 105, 111. III.	Art. 22, Nos. 52, 81, 105, 111.
Chile	I B, Nos. 1, 3, 18, 24, 25, 32, 111, 127.	Art. 22, Nos. 1, 13, 17, 26, 32, 122. Subm.
Colombia	I B, Nos. 3, 12, 17, 18, 22, 29, 62. III.	Art. 22, general. Art. 22, Nos. 3, 9, 20, 29, 81, 88, 95, 106, 107, 129.
Congo	I B, No. 119.	Art. 22, No. 87. Subm.
Costa Rica	General Report, para. 107. I A and B, Nos. 11, 87, 95, 98, 107, 117, 122. III.	Art. 22, Nos. 26, 99, 107.
Cuba	I B, Nos. 52, 67, 87, 101.	Art. 22, general. Art. 22, Nos. 87, 98, 106, 122, 136, 138. Subm.
Cyprus	I B, Nos. 106, 128.	Art. 22, Nos. 87, 95, 114, 121, 122. Subm.

INDEX

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)
Czechoslovakia	I B, Nos. 11, 42, 87, 111.	Art. 22, Nos. 29, 87, 122, 130. Subm.
Democratic Yemen . . .	I B, No. 95.	Subm.
Denmark		Art. 22, Nos. 62, 81, 106, 122, 129. Art. 35, Nos. 8, 105, 122. Subm.
Dominican Republic . .	I A and B, Nos. 87, 88.	Art. 22, Nos. 77, 95, 98. Subm.
Ecuador	I B, Nos. 24, 87, 98, 103, 115.	Art. 22, Nos. 77, 78, 87, 101, 102, 103, 122.
Egypt	I B, Nos. 1, 87, 88, 94, 95, 106, 111.	Art. 22, Nos. 87, 98, 107, 131.
El Salvador	General Report, para. 105. I A. III.	
Ethiopia	I B, No. 87. III.	Art. 22, Nos. 98, 111.
Fiji		Art. 22, Nos. 84, 98. Subm.
Finland	I B, No. 98.	Art. 22, Nos. 8, 111, 122, 128, 130, 134, 135, 136, 138.
France	I B, Nos. 22, 35, 42, 78, 81, 97, 118. II A and B, Nos. 3, 22, 42, 81.	Art. 22, Nos. 78, 81, 102, 118, 120, 122, 127, 129, 136. Art. 35, general. Art. 35, Nos. 9, 11, 17, 19, 24, 32, 35, 36, 37, 38, 42, 44, 45, 52, 53, 56, 63, 69, 71, 77, 78, 81, 87, 88, 94, 96, 98, 105, 115, 120, 122, 123, 124, 125, 136. Subm.
Gabon	I B, Nos. 29, 52, 101. III.	Art. 22, general. Art. 22, Nos. 11, 19, 26, 87, 95, 98 99, 111, 124, 135.
German Democratic Republic		Art. 22, Nos. 11, 87, 98, 111, 122. Subm.
Germany, Federal Republic of	I B, Nos. 22, 111, 135.	Art. 22, Nos. 122, 130, 136, 138, 139. Subm.
Ghana	General Report, paras. 105, 109. I A and B, Nos. 87, 98. III.	Art. 22, Nos. 22, 30, 94, 111, 115, 117.
Greece	I B, Nos. 55, 87, 95, 102.	Art. 22, No. 87. Subm.

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)
Guatemala	I A and B, Nos. 87, 94, 97, 98, 119. III.	Art. 22, general. Art. 22, Nos. 62, 119.
Guinea	General Report, paras. 105, 109. I A and B, Nos. 5, 13, 16, 17, 18, 29, 45, 62, 81, 90, 94, 105, 111, 112, 113, 114, 117, 118, 119, 120, 121, 122.	Art. 22, Nos. 10, 33, 99, 105, 115, 122. Subm.
Guinea-Bissau	General Report, para. 105. I A.	Art. 22, Nos. 18, 88, 89, Subm.
Guyana	General Report, para. 132. I B, No. 64. III.	Art. 22, Nos. 95, 111, 115.
Haiti	I A and B, Nos. 24, 25, 42, 81, 105. III.	General Report, para. 91. Art. 22, general. Art. 22, Nos. 24, 25, 81.
Honduras	I B, Nos. 32, 62, 87.	Art. 22, Nos. 78, 87, 111.
Hungary	I B, No. 87. III.	Art. 22, Nos. 3, 19, 87, 103, 111, 122, 142.
Iceland	General Report, paras. 105, 109. I A.	Art. 22, Nos. 105, 111. Subm.
India	I B, Nos. 5, 11, 111, 115.	Art. 22, No. 115.
Indonesia	I B, Nos. 29, 98. III.	Art. 22, Nos. 106, 120.
Iran		Art. 22, No. 95. Subm.
Iraq	I A and B, Nos. 8, 22. III.	Art. 22, Nos. 17, 22, 23, 29, 78, 81, 111, 115, 122, 131, 132, 136.
Ireland	I B, Nos. 23, 81, 87, 88, 122.	Art. 22, Nos. 81, 132. Subm.
Israel	I B, No. 111.	Art. 22, No. 78. Subm.
Italy	I B, Nos. 32, 52, 111.	Art. 22, Nos. 95, 97, 115, 122. Subm.
Ivory Coast		Art. 22, general. Art. 22, Nos. 3, 52, 111, 136. Subm.
Jamaica	General Report, paras. 107, 109. I A and B, Nos. 8, 87.	Art. 22, Nos. 98, 111, 117. Subm.
Japan	I B, Nos. 87, 98.	
Jordan	General Report, paras. 105, 109. I A and B, Nos. 119, 120. III.	Art. 22, Nos. 105, 111, 122, 124.

INDEX

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)
Kampuchea, Democratic	General Report, para. 105. I A. III.	
Kenya		Art. 22, general. Art. 22, Nos. 11, 98.
Kuwait	I B, Nos. 1, 30, 87, 106, 119.	Art. 22, general. Art. 22, Nos. 52, 111, 136.
Lao Republic	General Report, paras. 105, 132, 135. I A. III.	
Lebanon	General Report, paras. 105, 109, 132. I A. III.	Art. 22, Nos. 14, 52.
Lesotho	I A and B, No. 29.	Art. 22, Nos. 11, 64, 87, 98.
Liberia	General Report, paras. 105, 109. I A and B, Nos. 29, 55, 58, 87, 98, 111, 112, 113, 114. III.	
Libyan Arab Jamahiriya	General Report, paras. 105, 107, 109. I A and B, Nos. 3, 95, 98.	Art. 22, Nos. 52, 53, 95, 111, 118, 122. Subm.
Luxembourg		Subm.
Madagascar	I B, Nos. 81, 111. III.	Art. 22, No. 81. Subm.
Malawi	General Report, paras. 105, 109. I A. III.	Art. 22, Nos. 81, 99, 129.
Malaysia	I B, Nos. 95, 98. III.	Art. 22, Nos. 14, 95, 119, 123. Subm.
Mali		Art. 22, No. 111. Subm.
Malta	General Report, para. 132. I B, Nos. 87, 88, 98, 111. III.	Art. 22, Nos. 87, 98.
Mauritania	General Report, paras. 105, 132. I A and B, Nos. 19, 22, 53, 62, 81, 87, 94, 114. III.	Art. 22, Nos. 22, 81, 84, 102, 111, 122.
Mauritius	I B, Nos. 8, 17, 94. III.	Art. 22, Nos. 64, 65, 95, 98.

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)
Mexico	I B, Nos. 13, 22, 32, 49, 62, 87, 107, 134.	Art. 22, Nos. 23, 55, 62, 87, 107, 111, 124, 134. Subm.
Mongolia	I B, No. 87. III.	Art. 22, Nos. 111, 122.
Morocco	I B, No. 52.	Art. 22, Nos. 11, 30, 94, 106, 111, 119, 136. Subm.
Mozambique		Subm.
Nepal	General Report, para. 135. III.	General Report, para. 91. Art. 22, general. Art. 22, Nos. 111, 131.
Netherlands	II A.	Art. 22, Nos. 111, 122, 137, 138, 140. Art. 35, Nos. 94, 106, 122.
New Zealand	II A.	Art. 22, Nos. 9, 64, 97, 122.
Nicaragua	I A and B, Nos. 87, 98.	Subm.
Niger	I B, No. 119. III.	Art. 22, No. 111.
Nigeria	I B, No. 87.	Art. 22, Nos. 87, 98, 123, 134. Subm.
Norway	I B, Nos. 111, 130.	Art. 22, Nos. 87, 98.
Pakistan	I B, Nos. 11, 22, 87, 96, 98. III.	Art. 22, Nos. 87, 96, 111. , Subm.
Panama	I A and B, Nos. 8, 22, 53, 68, 87, 92, 94, 98.	Art. 22, general. Art. 22, Nos. 22, 55, 56, 87, 98, 107, 114, 117, 122.
Papua New Guinea	General Report, paras. 105, 109. I A.	Art. 22, Nos. 8, 11, 98.
Paraguay	I A and B, Nos. 29, 81, 87, 98, 105, 107, 120.	Art. 22, Nos. 77, 81, 107, 117, 120, 122.
Peru	General Report, para. 109. I A and B, Nos. 1, 24, 25, 32, 44, 52, 55, 56, 62, 87, 98, 101. III.	Art. 22, general. Art. 22, Nos. 11, 20, 67, 77, 78, 87, 111, 114, 122.
Philippines	I B, Nos. 17, 23, 77, 87, 89, 90, 94.	Art. 22, Nos. 77, 94, 95, 111, 122, Subm.
Poland	I B, Nos. 11, 87.	Art. 22, Nos. 42, 87, 95, 103, 111, 122. Subm.

INDEX

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)
Portugal	I B, Nos. 81, 98, 111.	Art. 22, No. 81. Subm.
Qatar	General Report, para. 105. I A.	Subm.
Romania	I B, Nos. 11, 87.	Art. 22, general. Art. 22, Nos. 87, 108, 111, 122, 134, 135, 137. Subm.
Rwanda	I B, Nos. 11, 94, 123.	General Report, para. 91. Art. 22, general.
Saudi Arabia		Subm.
Senegal		Art. 22, Nos. 87, 135.
Seychelles	General Report, para. 105. I A and B, No. 8.	Subm.
Sierra Leone	I B, Nos. 8, 119.	Art. 22, Nos. 95, 111. Subm.
Singapore	I B, Nos. 5, 8, 32, 98.	Art. 22, No. 32. Subm.
Somalia	General Report, para. 109. I A and B, No. 94.	Art. 22, Nos. 84, 95, 111. Subm.
South Africa	I A.	
Spain	I B, Nos. 2, 44, 68, 88, 119, 135, 136.	Art. 22, Nos. 42, 44, 55, 56, 77, 78, 108, 111, 122, 132, 134. Subm.
Sri Lanka	I B, No. 81. III.	Art. 22, Nos. 8, 11, 29, 81, 98, 131 135.
Sudan	I B, Nos. 29, 105.	Art. 22, Nos. 29, 81, 95, 98, 105, 111, 117, 122. Subm.
Suriname	I B, No. 118.	Art. 22, Nos. 88, 94, 95, 106, 122. Subm.
Swaziland	General Report, para. 105. I A.	Subm.
Sweden	I B, Nos. 87, 98.	Art. 22, Nos. 122, 137.
Switzerland	I B, Nos. 87, 120.	Art. 22, Nos. 44, 111, 115, 139.
Syrian Arab Republic	I B, Nos. 87, 95, 105, 106.	Art. 22, Nos. 81, 94, 117, 135. Subm.

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)
Tanzania	General Report, paras. 105, 109, 132. I A and B, Nos. 50, 81, 88, 98. III.	Art. 22, Nos. 65, 81.
Thailand		Art. 22, No. 122. Subm.
Togo	I A.	Art. 22, No. 87. Subm.
Trinidad and Tobago	General Report, para. 105. I A and B, Nos. 29, 87, 125.	Art. 22, Nos. 87, 98, 111, 125. Subm.
Tunisia	I B, No. 55.	General Report, para. 91. Art. 22, general. Art. 22, Nos. 8, 22, 23, 77, 87, 117, 122, 124. Subm.
Turkey	I B, Nos. 94, 95, 96, 119.	Art. 22, general. Art. 22, Nos. 94, 96, 102, 111, 118.
Uganda	I B, No. 124.	Art. 22, Nos. 94, 95, 98, 122, 124.
Ukrainian SSR	I B, Nos. 11, 52, 87. III.	Art. 22, Nos. 122, 124.
USSR	I B, Nos. 11, 52, 87. III.	Art. 22, Nos. 87, 111, 122, 124.
United Arab Emirates	General Report, para. 135. III.	
United Kingdom	I B, No. 8. II A and B, Nos. 8, 14, 24, 25, 56, 58, 59, 82, 95, 105.	Art. 22, Nos. 122, 140. Art. 35, Nos. 15, 17, 19, 24, 25, 42, 56, 59, 82, 87, 94, 95, 98, 122, 135, 140.
Upper Volta	I B, Nos. 13, 18.	Art. 22, Nos. 3, 6, 17, 19, 81, 87, 95, 97, 129, 132, 135. Subm.
Uruguay	I B, Nos. 2, 24, 25, 87, 94, 98, 128, 132. III.	Art. 22, Nos. 22, 96, 97, 114, 128, 130.
Venezuela	I B, No. 22.	Art. 22, Nos. 22, 111, 120. Subm.
Viet Nam	General Report, para. 105. I A. III.	
Yemen	General Report, paras. 105, 107. I A. III.	Art. 22, No. 111.

INDEX

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)
Yugoslavia	General Report, paras. 107, 109. I A and B, Nos. 23, 81. III.	Art. 22, general. Art. 22, Nos. 45, 81, 89, 97, 111, 122, 126.
Zaire	General Report, paras. 105, 109. I A and B, Nos. 18, 29, 81, 88, 119, 121. III.	Art. 22, Nos. 29, 81, 84, 94, 95, 98, 117.
Zambia	I B, Nos. 105, 136.	Art. 22, general. Art. 22, Nos. 29, 97, 105, 136, 138. 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 49th Session in Geneva from 15 to 28 March 1979. The Committee has the honour to present its report to the Governing Body.

2. Three new members have been appointed to the Committee since it last met, Mr. Roberto Ago (Italy), Mrs. Hanna Bokor-Szegö (Hungary) and Mr. Boon Chiang Tan (Singapore), whom the Committee was pleased to welcome at its present session.

3. The composition of the Committee is now as follows:

The Right Honourable Sir Adetokunbo ADEMOLA, GCON, KBE, CFR, PC (Nigeria),

former Chief Justice of Nigeria; honorary Bencher 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; Chairman, The Commonwealth Foundation;

Mr. Roberto AGO (Italy),

Judge of the International Court of Justice; former Professor of International Law, Faculty of Law, University of Rome; former member and President of the United Nations International Law Commission; President of the Vienna Conference for the Codification of the Law on Treaties (1968-69); former Chairman of the ILO Governing Body; member of the Institute of International Law; President of the Curatorium of the Academy of International Law at The Hague; member of the Permanent Court of Arbitration;

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. Prafullachandra Natvarlal BHAGWATI (India),

Judge of the Supreme Court of India; former Chief Justice of the High Court of Gujarat; former Chairman, Legal Aid Committee and

Judicial Reforms Committee, Government of Gujarat; former Chairman, Committee on Juridicare, Government of India; Chairman, Research Committee of the Indian Law Institute; member of the Executive Committee of the Indian Branch of the International Law Association;

Mrs. Hanna BOKOR-SZEGÖ (Hungary),

Head of the International Law Department, Institute for Legal and Administrative Sciences, Hungarian Academy of Sciences; Professor of International Law, University of Economics, Budapest; former member and Chairman of the United Nations Commission on the Status of Women; Secretary of the Hungarian Branch of the International Law Association; former member of the delegation of Hungary at the International Labour Conference;

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),

Professor Emeritus 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 Right Honourable Sir William DOUGLAS, PC (Barbados),

Chief Justice of Barbados; Member, Inter-American Juridical Committee; Member, Commonwealth Caribbean Council of Legal Education; former Judge of the High Court of Jamaica;

Mr. Arnold GUBINSKI (Poland),

Doctor of Laws; Professor of Law at the University of Warsaw;

Mr. Frank W. McCULLOCH (United States),

Scholar in residence, former Professor of Law at the University of Virginia; former Chairman of the National Labor Relations Board (1961-70); arbitrator; member, Public Review Board, United Auto Workers; member, Board of Directors, Migrant Legal Action Programme;

Mr. E. RAZAFINDRALAMBO (Madagascar),

First President of the Supreme Court of Madagascar; President of the High Court of Justice; 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;

GENERAL REPORT

Mr. Jose Maria RUDA (Argentina),

Judge of the International Court of Justice; member of the Institute of International Law; Professor of Public International Law at the University of Buenos Aires; former representative to the United Nations; former Under-Secretary of Foreign Affairs; former member of the United Nations International Law Commission;

Mr. Paul RUEGGER (Switzerland),

former Ambassador; former Minister in Rome and London; former President of the International Committee of the Red Cross (1948-1955); honorary Member 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. Boon Chiang TAN (Singapore),

LLB (London), Barrister-at-Law, advocate and solicitor, Singapore; President of the Industrial Arbitration Court of Singapore since 1965; member of the Court and Council, University of Singapore;

Mr. Senjin TSURUOKA (Japan),

member of the United Nations International Law Commission; formerly Ambassador to the Holy See (1958-59); Sweden (1962-66) and Switzerland (1966-67); formerly 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 VERDIER (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 VILPAN (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;

Sir John WOOD (United Kingdom), CBE, 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.

4. Mr. Boutros-Ghali was unable to attend the Committee's session this year.

5. The Committee elected Sir Adetokunbo ADEMOLA as Chairman and Mr. RAZAFINDRALAMBO as Reporter of the Committee.

6. 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."

7. 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 99 to 123 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 124 to 132 below), and Part Two (III); and (c) review of reports supplied by governments under article 19 of the Constitution on the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105) (see paragraphs 133 to 136 below and Part Three, which is published in a separate volume as Report III (Part 4B).

8. In carrying out its functions, the Committee remained faithful to its fundamental principles of independence, objectivity and impartiality, as described in greater detail in previous reports. Its task is to point 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.

9. The United Nations was represented at the session. In addressing the Committee, Mr. H. Mazaud, Assistant Director of the Division of Human Rights, speaking also on behalf of Mr. van Boven, Director of the Division of Human Rights, stressed the significance of co-operation and co-ordination of activities between the United Nations and the specialised agencies, especially in relation to standard setting and the supervision of the application of international instruments.

II. GENERAL

Membership of the Organisation

10. Since the Committee's last meeting, Comoros, Djibouti and Namibia have become Members of the Organisation, bringing the total membership to 138. Comoros and Djibouti respectively confirmed the obligations under 29 and 62 Conventions previously accepted on their behalf.

New Conventions and Recommendations

11. The Committee noted that at its 64th Session (June 1978) the International Labour Conference adopted the Labour Administration Convention (No. 150) and Recommendation (No. 158) and the Labour Relations (Public Service) Convention (No. 151) and Recommendation (No. 159).

Obligations binding member States

12. In the course of 1978, 205 ratifications by 33 member States were registered. Of these, 81 were new ratifications and 124 represented the confirmation by Comoros (29), Djibouti (62), Seychelles (18) and Swaziland (15) of obligations previously undertaken in their name. The total number of ratifications in 1978 was higher than in any year since 1963, and once again most of these ratifications were by developing countries. The Committee welcomed this evidence of the continuing value attached by the member States of the ILO to its standard-setting work.

13. The new ratifications will permit the entry into force of the Continuity of Employment (Seafarers) Convention, 1976 (No. 145) (on 3 May 1979), the Seafarers' Annual Leave with Pay Convention, 1976 (No. 146) (on 13 June 1979), the Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148) (on 11 July 1979), and the Nursing Personnel Convention, 1977 (No. 149) (on 11 July 1979). At 31 December 1978 the total number of ratifications was 4,641.

14. In 1978, 27 new declarations were registered concerning the application, by Denmark and the United Kingdom, of Conventions to non-metropolitan territories. Seven of the Conventions concerned were declared applicable without modifications and seven with modifications; in 13 cases the governments stated that they reserved their decision or that the Convention was not applicable. The total number of declarations at 31 December 1978 included 1,103 declarations of application without modifications and 94 with modifications. The British territories of Dominica, St. Lucia, the Solomon Islands and Tuvalu having acquired independence since the Committee's last session, the number of non-metropolitan territories is now 31.

15. Four denunciations unaccompanied by the ratification of a revised Convention were registered during 1978, by Canada in respect of the Underground Work (Women) Convention, 1935 (No. 45), by Somalia in respect of the Contracts of Employment (Indigenous Workers) Convention, 1939 (No. 64), and by Uruguay in respect of the Night Work (Bakeries) Convention, 1925 (No. 20), and the Underground Work (Women) Convention, 1935 (No. 45). The total number of denunciations unaccompanied by the ratification of a revised Convention was 29 at 31 December 1978.

In-depth review of international labour standards

16. The Committee learned with interest of the decisions taken by the Governing Body at its 209th Session (February-March 1979) when it concluded the in-depth review of international labour standards which had been initiated in 1974. It noted in particular that the Governing Body had undertaken a systematic review of the existing body of standards and of proposals for new standards, on the basis of which it had classified the existing standards into three categories, namely existing instruments, the ratification and application of which should be promoted on a priority basis; existing instruments, revision of which would be appropriate; and other existing instruments; and that it had identified in a fourth category a series of subjects concerning which the formulation of new subjects should be considered. This major review of international labour standards has laid the foundations of a system for their continuing adaptation to changing needs and provided a basis for ILO standard-setting in the coming decades.

17. The Committee noted that in deciding on this classification the Governing Body approved one further simplification of the procedure for the supply of reports on ratified Conventions, as approved by the Governing Body in November 1976 within the framework of the in-depth review of international labour standards and set out in the Committee's general report for 1977 (paragraph 38), namely that where a State has ratified both a more recent Convention and an earlier Convention on the same subject which was not automatically denounced it should be asked to report only on the more recent Convention. The Office has been asked to identify the cases in which this procedure should be followed, it being understood that this simplification of the reporting obligation will apply only where the more recent Convention provides a higher level of protection than the earlier Convention so that a single report will indicate whether both Conventions are being applied.

18. For the rest, the decisions taken by the Governing Body at this final phase of the in-depth review of standards concern essentially standards publications, activities relating to the promotion of the application of standards and the future standard-setting programme. They thus provide a broad framework for the continuing supervisory work of the Committee, which remains responsible for examining the measures taken by States to give effect to all the Conventions they have ratified, irrespective of the category in which those Conventions have been classified, on the basis of the reports supplied in accordance with the system of detailed reporting approved by the Governing Body in 1976 in the context of the in-depth review.

Functions in regard to other international and regional instruments

International Covenant on Economic, Social and Cultural Rights

19. In accordance with the procedure established by the Economic and Social Council of the United Nations for supervising the implementation of the International Covenant on Economic, Social and Cultural Rights, the International Labour Organisation is requested to report to the Economic and Social Council, in accordance with article 18 of the Covenant, on the progress made in achieving the observance of the provisions of the Covenant falling within the scope of its activities when these provisions are the subject of reports from States Parties to the Covenant. The Governing Body has entrusted the Committee with the preparation of the ILO's report on this matter.

20. The first reports from States Parties to the Covenant were requested for 1 September 1977, to cover the measures adopted and progress made in achieving the observance of the rights recognised in articles 6-9 of the Covenant, namely the right to work, the right to just and favourable conditions of work, the right to form and join trade unions and the right to social security. At its last session the Committee was able to examine reports from nine States Parties to the Covenant, copies of which had been communicated to the International Labour Office by the Secretariat of the United Nations. At its present session, the Committee examined 14 further reports (Australia, Byelorussian SSR, Chile, Colombia, Cyprus, Czechoslovakia, Denmark, Finland, Federal Republic of Germany, Norway, Poland, Romania, Ukrainian SSR, USSR) from States Parties and the report of the United Kingdom in relation to the application of the Covenant in its non-metropolitan territories. In drawing up its report on the observance of articles 6-9 of the Covenant by these States, the Committee, in accordance with the mandate of the Governing Body, took account of other available information on the implementation of these provisions of the Covenant. The Committee had to defer until its next session the examination of two further reports (Bulgaria, Syrian Arab Republic) received and transmitted by the United Nations too late to permit their examination at this session.

21. The preliminary examination of the reports on the Covenant was again entrusted to a working party, appointed by the Committee, of four of its members, whose conclusions were presented to the Committee for consideration and approval. A separate report on the observance of articles 6-9 of the Covenant by the 14 reporting countries is being transmitted to the Economic and Social Council of the United Nations.

22. The representative of the United Nations informed the Committee that the report which it had prepared at its last session on the application of the Covenant by nine States Parties had been submitted to the Economic and Social Council at its session in April-May 1978, but that on that occasion the Council had had to defer substantive work on the Covenant until its forthcoming session in April 1979, when it would have before it the reports prepared by the Committee at its last and present sessions.

European Code of Social Security

23. Under the procedure for the supervision of the European Code of Social Security, copies of reports on the Code and the Protocol thereto from seven ratifying States, communicated to the ILO by the Secretary-General of the Council of Europe, were examined by the Committee in accordance with the established supervisory procedure. In examining these reports, the Committee was able to note with satisfaction measures taken by a number of the States concerned in the light of the Committee's comments so as to ensure the full application of these instruments. The Committee's conclusions on these reports are being communicated to the Secretary-General of the Council of Europe for transmission to that organisation's Steering Committee for Social Security. The Committee also had to examine this year a request from the Steering Committee for clarifications as to the manner in which it assesses the application of one of the provisions of the Code and Protocol. In accordance with the usual practice, the ILO was represented at the meeting of that Committee when it examined the application of the Code and Protocol on the basis of the conclusions reached by the Committee of Experts at its last session; these conclusions were endorsed by the Steering Committee.

Collaboration with other international organisations

24. 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.

25. In the field of discrimination, the arrangements for co-operation with the United Nations Committee on the Elimination of Racial Discrimination, which is responsible for supervising the application of the Convention on the Elimination of All Forms of Racial Discrimination, adopted in 1965 under United Nations auspices, continued to function as in the past. Thus, the report of the Committee of Experts for 1978, and in particular its comments on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) were brought to the attention of the United Nations Committee, and the ILO was represented at the meetings of that Committee in 1978. Similarly, the documents relating to the work of the United Nations Committee were communicated to the Committee of Experts which took note of them with interest.

26. In addressing the Committee, the representative of the United Nations expressed the hope that arrangements would be worked out in the near future so that the activities of the two Committees on matters of mutual concern could be co-ordinated in order to enhance the more effective application of the relevant instruments in the field of racial or other forms of discrimination.

27. 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 the 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 seminars on national and international labour standards

28. The Committee welcomed the fact that the programme of seminars designed to familiarise the officials of national ministries of labour with the obligations of member States and ILO procedures relating to Conventions and Recommendations was continued with a seminar held in Lima from 6 to 16 November 1978 for officials from Latin American countries, which brought together 21 officials directly responsible for relations with the ILO from 17 countries of the region.

29. The Committee also noted with interest that a further seminar was organised by the ILO in Athens from 26 September to 4 October 1978 at the request of the Greek Government and with its financial contribution. This seminar, which was the first to be organised at the national level, was attended by 26 senior officials from the Ministry of Labour and other ministries and public bodies.

Constitutional procedures of complaint
and representation

30. The Committee noted at its last session that certain representations had been made under article 24 of the Constitution relating to the observance of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and were being considered by a committee of the Governing Body set up in accordance with the Standing Orders governing the examination of representations. It accordingly suspended its examination of the application of the Convention by the countries concerned. Following the decision of the Governing Body at its 208th Session (November 1978) to publish the representation concerning the observance of the Convention by Czechoslovakia and the Government's reply, thus terminating the representation procedure, the Committee at its present session resumed its examination of the application of the Convention by this country. The examination of the representation concerning the Federal Republic of Germany not yet being terminated, the Committee again suspended its consideration of this case.

31. The Committee was informed that two complaints had been made by France in May 1978 relating to the non-observance by Panama of the Officers' Competency Certificates Convention, 1936 (No. 53), the Repatriation of Seamen Convention, 1926 (No. 23) and the Food and Catering (Ships' Crews) Convention, 1946 (No. 68), and decided to suspend its examination of the application of these Conventions by Panama pending the outcome of the complaints procedure. It noted that the Governing Body had decided at its 209th Session (February-March 1979) to refer these complaints to a commission of inquiry to be appointed at its 210th Session (May-June 1979).

32. The Committee was informed that the Governing Body Committee on Freedom of Association had continued to examine certain complaints under article 26 of the Constitution concerning infringements of the freedom of association Conventions; that the examination of one of these complaints (case of Bolivia) had been terminated in June 1978, and that in the case of another complaint (Argentina) a representative of the Director-General had carried out a direct contacts mission in August 1978.

Difficulties in the application of the Conventions
concerning freedom of association (Conventions
Nos. 87 and 98)

33. In its General Report of 1977 (paragraphs 63-64), the Committee had referred to the difficulties encountered in the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) as regards the right of workers to establish organisations of their own choosing taking into account, in particular, the provisions in force in certain countries which prevent workers from freely choosing the unions which they wish to form.

34. This year, the Committee wishes to refer, in general, to the various problems which exist as regards the application of Article 3 of the Convention. Under this Article, workers' and employers' organisations have the right to draw up their constitutions and administrative rules, to elect their representatives in full freedom, to organise their administration and activities, and to formulate their programmes; the public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.

35. Among the numerous questions raised in this connection, the Committee wishes to mention, for example, the prohibition of re-election of officers, the requirement that all the officers of a trade union must have worked in the occupation for a certain period of time, the dismissal of trade union officers by administrative action; the powers to control at any time the internal administration of trade unions or even their placement under the control of the administrative authorities; the prohibition made in general terms of all political activity by trade unions (instead of leaving the examination of possible abuses to the judicial authorities); important restrictions imposed on the right to strike, or restrictions on, or even the suspension of, free negotiation of collective agreements. This latter difficulty in particular can also affect the application of Article 4 of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) on the promotion of collective bargaining.

36. These different questions have also repeatedly been the subject of complaints examined by the Governing Body Committee on Freedom of Association.

37. The Committee considers it useful to draw these questions to the attention of other ILO organs, and of the governments concerned, with a view to ensuring that the conditions of free functioning are fully guaranteed to trade union organisations not only by legislative provisions, but also by the existence of effective judicial procedures which ensure their application.

Action for the elimination of discrimination in
employment and occupation

38. The Committee was informed of the decisions taken by the Governing Body at its 208th (November 1978) and 209th (February-March 1979) Sessions to strengthen the procedures for supervision of the constitutional obligation on non-discrimination, as requested by the resolution concerning the promotion, protection and strengthening of freedom of association, trade union and other human rights, adopted by the Conference at its 63rd Session (June 1977).

39. In the first place, the Governing Body has decided to authorise the Director-General to take measures to promote, especially by means of direct contacts, the ratification and application of the ILO standards on non-discrimination in employment and to report to it regularly on the subject through the Committee on Discrimination. The Committee noted this decision with interest, in view of the fact that it had on several occasions drawn attention to the special interest of direct contacts for the non-discrimination standards, which often give rise to questions of fact and of appreciation in the light of national circumstances.

40. Secondly, the Governing Body decided that the governments of countries which have not ratified the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) will be invited to submit reports in terms of article 19 of the Constitution at regular intervals, which have been fixed at every four years, as from 1979. In making this decision, the Governing Body noted that the reports requested would be supplementary to those normally requested under article 19 of the Constitution on other instruments, and that governments would be called on to reply to simple and limited questions dealing essentially with difficulties over ratification, measures envisaged to overcome them and future ratification prospects. The Committee noted that it would therefore be called on to include in its report for 1980 and every four years thereafter a section summarising

and commenting on the information supplied and developments affecting ratification prospects. It noted with interest that this special use of the article 19 procedure would make possible the regular examination of the situation in the countries which have not ratified the Convention and might contribute to promoting ratifications.

41. Finally, when the above-mentioned decisions were made it was also recalled that in 1972-73 the Governing Body had adopted a procedure under which "special surveys" can be requested, by governments or organisations of employers and workers concerned, on questions relating to discrimination in employment in any member State, whether or not it has ratified the relevant standards, and that this procedure remained available.

III. PROCEDURE OF DIRECT CONTACTS (1969-79)

42. The direct contacts procedure began simultaneously in Argentina and Mauritania on 29 September 1969.

43. At its last meeting in 1978 the Committee of Experts proposed to review the experience gained and the results achieved through the procedure in 1979, when it would be ten years since the first direct contact had taken place.

Origin of the direct contacts procedure

44. In 1967 the Committee of Experts, in its constant concern to improve efficiency by appropriate methods of work, and aware that the absence of more direct contacts with the governments concerned or of direct study of the situations under consideration might give rise to prolonged controversies, considered whether certain more varied procedures might not make possible a fuller examination of certain questions and a more fruitful dialogue with governments. These considerations led to a suggestion that was examined shortly afterwards by the Conference Committee, which expressed the wish that the Committee of Experts might present more concrete and detailed proposals on the matter.

Principles of direct contacts

45. In 1968 the Committee examined in further detail the principles to be followed in direct contacts with governments and, considering that this procedure would enable the dialogue which had originally taken place on the basis of a government's reports, of the Committee's comments, and of the government's replies, to be pursued and amplified orally, set forth the principles to be kept in mind in establishing the procedure. At the same time, the Committee stressed that any positive results which might be achieved in this manner would support and encourage the Committee in its own efforts.

46. In June 1968 the Conference Committee pronounced itself in favour of the direct contacts system and considered that the proposals for its establishment made by the Committee of Experts provided a satisfactory basis for the initiation without further delay of such contacts on an experimental basis for two or three years.

47. Four years later, in 1972, the Committee of Experts noted that, despite the financial difficulties which the Organisation had

encountered and was continuing to encounter, which had led to the postponement for over a year of all action in connection with direct contacts, the system, which had begun to operate in 1969 on an experimental basis, "should now be viewed as an established procedure for helping governments to overcome any difficulties they may meet in the application of ratified Conventions". It was also thought that it would be useful to restate the principles governing direct contacts.

48. In 1973 the Committee, as a result of a detailed survey of the direct contacts which had taken place in the light of the guiding principles laid down in 1968, considered that these principles were still valid and that all that was required in restating them was to supplement them with two new principles, one concerning the broadening of the scope of the direct contacts and the other relating to the need for associating employers' and workers' organisations with them in each case. On this occasion the Committee of Experts stressed that, in view of the purpose of the direct contacts, it did not seem appropriate to subject their establishment to rules which were excessively rigid and formal. Moreover, experience appeared to show that the success of such contacts had been due in large part to the absence of strict formalism in the procedure. With this proviso, the Committee set forth the principles which should be followed in establishing and developing such contacts, as follows:

- (i) 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;
- (ii) 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;
- (iii) the contacts should in all cases take place with the full consent of the government concerned;
- (iv) the points to be dealt with should be clearly specified in advance;
- (v) 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;
- (vi) 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;
- (vii) the contacts should bring together persons thoroughly acquainted with all aspects of the case, including representatives of the governments with sufficient responsibility and experience to speak with authority about the position in their country and about their own governments' attitudes and intentions in the matter;

- (viii) it will be for the Director-General to designate the representative on behalf of the International Labour Organisation, who will either be 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;
- (ix) 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;
- (x) the representative of the Director-General should, in the course of his assignment, make contacts with the organisations of employers and workers so as to keep them informed of the topics discussed and elicit their points of view.

In formulating these principles the Committee considered it appropriate to re-emphasise that 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 conformed to Conventions that had already been ratified.

49. Each of the principles observed in the direct contacts will now be examined separately below in the light of the experience acquired during recent years.

Matters dealt with during direct contacts

50. When the first direct contacts took place in 1969 attention was focused essentially on the cases in which important discrepancies had been noted in the application of ratified Conventions. Nevertheless, it soon appeared in practice that direct contacts could be equally beneficial in co-operating with governments in the solution of the wide range of problems posed by international labour standards, namely compliance with the various constitutional obligations (articles 19 and 22 of the Constitution) and even any obstacles to the ratification of one or more given Conventions.

51. Furthermore, both in the Conference Committee and in regional conferences repeated suggestions had been made to the effect that the matters dealt with in direct contacts should not be limited to difficulties encountered in the application of ratified Conventions, but should also cover difficulties relating to other relevant matters. Accordingly, the scope of direct contacts was considerably broadened when the principles were restated in 1973, and the matters mentioned have been frequently discussed during direct contacts.

Initiative for the establishment of direct contacts and full consent of the governments concerned

52. The Committee of Experts and the Conference Committee, as well as the Governing Body, may suggest the desirability of having recourse to direct contacts, and this has been done on a number of occasions, particularly in the Conference Committee, where it is becoming increasingly frequent for members, in particular Workers' members, to suggest to a government the usefulness of resorting to direct contacts in order to find a satisfactory solution to some of the problems discussed. In the majority of cases, however, it is the governments themselves which have taken the initiative of their own accord. Whatever the source of the initiative, it is always the government concerned which must request the establishment of the procedure, in which case it is sufficient for it to send the Director-General of the ILO a simple written communication to this effect. An affirmative reply from the Director-General to the government's request, also in the form of a written communication, completes the formalities necessary for the establishment of the procedure. All direct contacts have been possible because the governments concerned have requested them and have given their full consent to the procedure.

53. In recent years innovations have been made in two fields: the first is the field of trade union rights, in which the Committee on Freedom of Association has had recourse, with the full consent of the governments, to the direct contacts procedure as a means of obtaining more directly the information necessary for a better-informed study of some of the cases which it was examining. Direct contacts of this type have taken place in cases concerning the following countries and, with regard to some of them, on more than one occasion: Bolivia, Chile, Dominican Republic, Jordan, United Kingdom (Antigua) and Uruguay. Similar missions have been carried out in Argentina and Tunisia. These procedures have contributed to a better knowledge of situations and the useful examination of solutions to problems. The second innovation, direct contacts at regional level, is the result of an initiative taken by the Andean Group in connection with the application and possible ratification of 25 major Conventions.

Advance specification of the points to be dealt with

54. In all cases of direct contacts the matters to be discussed should be specified in advance. Nevertheless, it is becoming increasingly frequent for other questions to be dealt with during direct contacts at the request of governments. Lately, some governments have formulated their requests for direct contacts in very general terms and have thus expressed their wish to discuss not only one or more problems involved in the application of specific Conventions but also problems arising out of the application of all the Conventions which they have ratified.

Suspension of examination of cases by supervisory bodies

55. The principle that examination of cases must be suspended during a reasonable period has given rise to concern among some delegates at the Conference Committee, in particular Workers' delegates, that some governments might use direct contacts as a means of delaying examination of non-application of ratified Conventions. Accordingly, it was clearly understood from the outset that the

"reasonable period" of suspension should not normally exceed one year, and, in fact, apart from a few cases in the beginning, in which it was necessary to postpone certain direct contacts for reasons beyond the government's control, the period of suspension has never exceeded one year. Moreover, the Committee of Experts has at times taken note during its sessions of the results of direct contacts relating to Conventions which it normally would not have been called upon to examine until the following year, and this aspect has assumed still greater importance with the recent spacing out of the examination of a large number of Conventions by the Committee.

56. In most cases direct contacts missions have been carried out shortly after they were requested, and the Committee of Experts has been informed of their preliminary findings immediately after they have taken place, so that in practice neither the supervisory functions of the Committee of Experts nor those of the Conference Committee have been suspended at any of their meetings.

Form of the direct contacts

57. Since the purpose of direct contacts between governments and the ILO is to hold broad and fruitful exchanges of views, such exchanges have always taken the form of detailed verbal discussions between the representatives of both parties. In two cases (Central African Empire and the Philippines) the verbal exchange was preceded by the preparation of a memorandum on the measures necessary to give effect to the Conventions which were to be dealt with, which was sent to the governments in advance and subsequently served as a basis for the direct contacts. In one case (Portugal) in which the particular purpose of the contacts was to clarify the de facto situation regarding the application of a Convention, the representative of the Director-General, in addition to having talks with representatives of the Government, visited various regions to obtain direct information on the questions which had been the subject of comments by the Committee of Experts and the Conference Committee. In another case (Yugoslavia), which concerned the application of a Convention in a federal State, the direct contacts included discussions not only at the federal level, but also with authorities and undertakings in the constituent republics.

Participants in direct contacts

58. According to one of the principles governing direct contacts, these must 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.

59. In practice, Ministers of Labour or senior officials of their ministries have taken part in the direct contacts, as well as senior officials of other ministries and institutions competent in the matters dealt with (social security institutes, child welfare councils, maritime organisations, planning and co-ordination bodies, etc.). The Director-General of the ILO has normally appointed qualified officials of the Office to represent him, but on one occasion, given the nature of the questions to be examined, an independent person was appointed who was accompanied by an ILO official. Reference may also be made to the cases lying within the competence of the Committee on Freedom of Association, in one of which a member of the Fact-Finding and Conciliation Commission on Freedom of Association was appointed; in another three cases independent persons were sent.

60. So far, such missions have not been entrusted to any member of the Committee of Experts, and when the matter was recently examined by the Governing Body¹ certain reservations were expressed in this respect.

Role of employers' and workers' organisations

61. Although direct contacts were essentially designed as a means of permitting a broad exchange of views between the ILO on the one hand and governments responsible for taking the necessary measures for the application of Conventions on the other, the Conference Committee in general, and its Workers' and Employers' members in particular, considered from the outset that representative organisations of employers and workers should be associated with them in an appropriate manner. In practice, and likewise since the beginnings of the procedure, representatives of the Director-General have made contacts in all cases with the most representative organisations of employers and workers, so as to keep them fully informed of the topics discussed and elicit their points of view. Accordingly, when the principles governing direct contacts were restated in 1973, a principle to this effect was included. In certain cases tripartite meetings have been held during direct contacts to enable all the sectors concerned to express their points of view. It should also be pointed out that the occupational organisations, especially the workers' organisations, who are thus informed of the work done during direct contacts and the aims pursued, have subsequently in many cases been able to influence the rapid adoption of the required legislative or other measures.

Direct contacts effected

62. Between September 1969 and December 1978 governments have resorted to the direct contacts procedure 34 times (not counting the cases connected with the Committee on Freedom of Association or the Andean Group). These contacts took place in 28 countries: 15 in Latin America (in 5 countries on 2 occasions and in 1 on 3 occasions), 7 in Africa, 4 in Asia and 2 in Europe.

63. During the direct contacts problems relating to 222 cases of non-application of 68 different Conventions were discussed. In 4 cases they dealt with the application of a single Convention, in 9 cases with the application of at least 10 Conventions, and in 1 case with the application of over 20. The Conventions which were the subject of direct contacts may be grouped as follows: 44 cases of human rights Conventions (14 on freedom of association, 25 on forced labour and 5 on discrimination); 5 cases of Conventions on employment; 31 cases of Conventions on conditions of work; 22 cases of Conventions on safety and health; 1 case of a Convention on social policy; 21 cases of cases of Conventions on social security; 17 cases of Conventions on women's work; 38 cases of Conventions on the work of young persons; 33 cases of Conventions on seamen and fishermen; 2 cases of Conventions on indigenous workers; 1 case of a Convention on migrant workers; and 8 cases of a Convention on labour inspection.

64. Of the 222 cases examined 180 related to Latin America, 29 to Africa, 11 to Asia and 2 to Europe.

65. In most of the cases in which direct contacts took place studies were also made, whenever necessary, of the problems involved in

¹ GB.205/14/27.

the submission of instruments to the competent authorities, the difficulties encountered in the regular dispatch of the reports requested by the Office under articles 19 and 22 of the Constitution, and even the prospects of ratifying new Conventions.

66. One of the most salient features of direct contacts undertaken was their brevity. The average duration of each of the 34 direct contacts missions was approximately 1 week, making a total of just over 9 months for all direct contacts missions carried out since 1969, including 6 1/2 months in Latin America. These figures do not include the time required for the preparation of missions or devoted to follow-up in some cases. The fact that the missions could be carried out in such a short time is undoubtedly due solely to the spirit of good will and the sincere desire to co-operate shown by all governments which have resorted to the direct contacts procedure.

67. Whenever possible, various direct contacts missions in the same region were grouped together so that they could be carried out in succession, and maximum advantage was taken of the presence of representatives of the Director-General attending meetings in the region. This kept the costs of direct contacts, which have always been borne by the ILO, to a minimum.

68. Tables A and B contain a list of the countries which have requested direct contacts to assist them in the fulfilment of their constitutional obligations or the application of ratified Conventions, the year in which these took place, the subjects dealt with and the cases in which the Committee of Experts has observed progress.

Direct contacts in countries of the Andean Group

69. In December 1975 the Executive Co-ordinating Secretary of the "Simón Rodríguez" Convention, in the name of the countries of the Andean Group (Bolivia, Colombia, Ecuador, Peru and Venezuela and also including Chile at that time) asked the Director-General of the ILO for a direct contacts mission to assess the possibilities of applying and ratifying 25 major Conventions,¹ pointing out that the application and possible ratification of these Conventions might constitute an effective common denominator in the harmonisation of labour policies and legislation. In accepting this initiative, the Director-General described it as "unique in the annals of the ILO and probably in the history of international relations". The direct contacts, which were preceded by a series of preparatory studies by the Office and the Governments concerned, took place in 1976 in the capitals of the countries of the Group (one week in each country), where the representatives of the Director-General had various interviews with ministers of labour and with senior officials of ministries of labour, other competent ministries and social security institutions. The representatives of the Director-General also met trade union and employers' leaders, discussing the purpose of the direct contacts with them in full. Once this phase of the direct contacts had been concluded, a report was sent to each of the countries concerned giving details of the discussions which had taken place; this was followed by a report summarising the results, which was also submitted to the Conference of Ministers of Labour of the Andean Group, which at its Sixth Session, held in May 1978, agreed that the Co-ordinating

¹ See table A.

TABLE "A"

DIRECT CONTACTS ON THE FULFILMENT OF CONSTITUTIONAL
OBLIGATIONS AND APPLICATION OF RATIFIED CONVENTIONS: 1969-79

Country	Year	Problems discussed		Progress observed	
		Conventions	Other	Conventions	Other
Argentina	1969	13, 33, 68, 73, 79, 90		13, 33, 73, 79, 90	
Mauritania	1969	3, 18, 33, 52, 81, 87, 94		3, 18, 33, 52, 81, 94	
Venezuela	1969	1, 11, 26		1, 11 (twice), 26	
Portugal	1970	105		Conclusions of the Committee of Experts on the situation (1971)	
Yugoslavia	1971	22		22	
Uruguay	1971	15, 42, 58, 59, 60, 67, 77, 78		15, 42, 58, 59, 60, 67, 77, 78	
Dominican Republic	1971	1, 52, 79, 90		1, 52, 79, 90	
Colombia	1972	3, 8, 13, 18, 22, 23, 24		3, 8, 13, 18, 23	
Costa Rica	1972	29, 89, 90, 96, 112		29, 89, 90, 96, 112	
Guatemala	1972	45, 58, 77, 78, 79, 81, 90, 106, 111, 112		45, 58, 77, 78, 79, 81 (twice), 89, 90, 111, 112	
Liberia	1972	Application of ratified Conven- tions, particu- larly Convention No. 29			
Peru	1972	1, 4, 8, 27, 41, 68, 69, 77, 78, 79, 87, 90, 97		8, 27, 69, 77, 78	
Argentina	1973	23, 32, 42, 50, 68, 81, 100		23, 42, 50, 81, 100 (twice)	
Bolivia	1973	5, 14, 42, 87	Submission: 42 Article 22 reports		Submission: Article 22 reports

GENERAL REPORT

Country	Year	Problems discussed		Progress observed	
		Conventions	Other	Conventions	Other
Paraguay	1973	52, 59, 60, 77, 78, 79, 81, 89, 90, 95		52, 59 (twice), 60 (twice), 77, 78 (twice), 79, 81, 89, 90, 95	
Benin	1973	Application of ratified Conven- tions, especial- ly Conventions Nos. 18 and 29	Submission: Article 19 and Article 22 reports	29 (twice)	Submission: Article 19 and Article 22 reports
Ecuador	1974	29, 105, 112, 113, 119, 123, 124, 127	Submission	112, 113, 119, 123, 124, 127	Submission
Afghani- stan	1974	13, 41, 45, 95		41, 45	
Panama	1975	81	Submission	81	Submission
Nicaragua	1975	1, 2, 3, 4, 6, 8, 9, 12, 13, 17, 18, 22, 24, 25, 28, 29, 30, 87, 98, 100, 105, 111	Submission	1, 3, 6, 9, 12, 18, 22, 28	Submission
Singapore	1975	98, 105			
Guatemala	1975	30, 87, 95, 96, 98, 113, 114	Submission		Submission
Honduras	1975	29, 32, 42, 62, 78, 87, 95, 105, 108, 111		29, 32, 42, 62, 78, 95, 105, 108	
Haiti	1976	1, 24, 25, 29, 30, 42, 81, 90, 98, 100, 105, 106	Submission	1, 24, 25, 30, 42, 81, 90, 98, 106	Submission
Dominican Republic	1976	26, 29, 81, 87, 89, 98, 100, 105, 111, 119	Submission		Submission
Burundi	1976	1, 29, 50, 59, 81, 105	Submission	29	Submission
Tanzania	1976	29, 105	Submission		

Country	Year	Problems discussed		Progress observed	
		Conventions	Other	Conventions	Other
Bolivia, Chile, Colombia, Ecuador, Peru, Venezuela	1976	25 Conventions ¹			
Paraguay	1977	1, 29, 30, 100, 105, 111, 115, 117		29, 117	
Costa Rica	1977	92, 94, 95, 113, 114, 120, 127			
Panama	1977	13, 27, 30, 42, 52, 77, 78, 105, 112, 113, 119, 123, 127			
Malaysia	1977	105			
Philippines	1977	17, 77, 89, 90		17	
Peru	1978	9, 22, 23, 68, 69, 134			
Central African Empire	1978	18, 29, 33, 41, 62, 67, 81, 87, 88, 105, 119			
Total		222 cases of non-compliance in 28 countries, covering 68 Conventions		115 cases of progress in 23 countries, covering 56 Conventions	

¹ This table does not include the results obtained by direct contacts with the countries of the Andean Group as regards the application and possible ratification of 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.

TABLE "B"

DIRECT CONTACTS ON THE APPLICATION OF
RATIFIED CONVENTIONS: 1969-79

Conventions dealt with, classified according
to subject-matter

	No. of cases dealt with	Progress observed (No. of cases)
<u>Human rights</u>	44	12
<u>Freedom of association</u> ¹	(14)	3
<u>Forced labour</u>	(25)	8
<u>Discrimination</u>	(5)	1
<u>Employment</u>	5	1
<u>Conditions of work</u>	31	14
<u>Safety and health</u>	22	8
<u>Social policy</u>	1	1
<u>Social security</u>	21	15
<u>Women's work</u>	17	8
<u>Work of young persons</u>	38	31
<u>Seamen and fishermen</u>	33	17
<u>Indigenous workers</u>	2	1
<u>Migrant workers</u>	1	-
<u>Labour inspection</u>	8	7

¹ See also paragraph 53.

Secretariat should request the ILO to supply it with an updated report on the progress made in the ratification and application of the Conventions referred to. For this purpose representatives of the Director-General went to Lima in November 1978 for comprehensive discussions with officials specially appointed by the governments for the purpose of examining the situation in each country in detail, and with the Executive Secretary of the "Simón Rodríguez" Convention, for the subsequent preparation of the report which had been requested, which is to indicate the progress already made and the steps which still need to be taken in order to achieve maximum progress and harmonisation of the labour and social security legislation.

Other types of assistance to governments

70. In recent years, and in connection with less complex problems, officials of the International Labour Standards Department of the ILO have taken advantage of their presence in the region for other reasons to give informal and unofficial advice and assistance to various governments. Very short missions of this kind (lasting one or two days) have been undertaken in Barbados, the United Republic of Cameroon, Costa Rica, Dominican Republic, El Salvador, Ethiopia, Fiji, Gabon, Guatemala, Jamaica, Kenya, Mauritius, Nicaragua, Paraguay, Seychelles, Somalia, Sudan, Zaire and Zambia.

Results obtained through direct contacts

71. Very shortly after the direct contacts procedure was instituted the Committee of Experts began to receive the first positive results, and has duly noted them in its reports in subsequent years during the past ten years.

72. Although the measures taken by governments as a result of direct contacts are varied in nature, the adoption of legislative provisions to secure conformity of the national legislation with ratified Conventions is of prime importance. Thus, for instance, no less than ten countries amended their labour codes after direct contacts missions, and in many more cases other statutes, decrees and labour and social security regulations have been adopted or amended. In other cases administrative regulations (instructions, circulars and ordinances) have been issued, also for the purpose of bringing practice into line with the provisions of Conventions and of certain supplementary Recommendations. It is worthy of note that such measures have at times been taken after the government with which the direct contacts took place had changed.

73. Out of the 222 cases of non-application examined, the Committee has noted with satisfaction on 115 occasions since 1970 the progress attained in the application of 56 different Conventions. These 115 cases of progress constitute over 16 per cent of all progress recorded by the Committee over the same period. According to classification by region 101 cases relate to Latin America, 9 to Africa, 3 to Asia and 2 to Europe. It is natural that the countries of Latin America, which have resorted to this procedure more often than countries in other continents, should be those in which most cases of progress in the application of ratified Conventions have been observed, but in order to have a better understanding of the true impact of direct contacts it should also be remarked that, out of a total of 467 cases of progress recorded in all member States in the previous six years, more than one-third (158) relate to Latin American countries, and more than one-half of these (84) are the result of direct contacts. These figures are in contrast with those of the six years preceding the institution of the direct contacts procedure, during which, out of a total of 345 cases of progress recorded in all member States, 65, i.e. less than one-fifth, were recorded in Latin American countries.

74. Including the Conventions which were examined during direct contacts, the 115 cases of progress can be broken down as follows: 12 on human rights (3 on freedom of association, 8 on forced labour and 1 on discrimination); 14 on conditions of work; 8 on safety and health; 1 on social policy; 15 on social security; 8 on women's work; 31 on the work of young persons; 17 on seamen and fishermen; 1 on indigenous workers; and 7 on labour inspection.

75. In the majority of cases in which positive measures were taken as a result of the direct contacts, the comments of the Committee

GENERAL REPORT

of Experts and the Conference Committee which led the governments to resort to this procedure had been repeatedly expressed over the previous 10 years at least; in a large number of cases the comments had been made for over 20 years; and in some for over 30 years.

76. In a large number of cases the Committee has noted with interest the draft legislation that has been prepared as a result of the direct contacts, and trusts that their adoption will soon lengthen the list of cases in which contacts have led to satisfactory results. This sometimes justifies the carrying out of short follow-up missions (one to two days) which may be useful for speeding up the current procedures.

77. As mentioned before, direct contacts have also been increasingly used to deal with problems concerning submission to the competent authorities, and in nine cases out of ten this has resulted in the elimination of the backlog in the fulfilment of this constitutional obligation, and in the subsequent regular submission to the competent authorities of the new instruments adopted by the Conference.

78. Another field in which direct contacts appear to have been useful is the sending of reports (under articles 19 and 22 of the Constitution). In fact, during most of the direct contacts which were carried out compliance with obligations under these two articles of the Constitution was discussed, and a glance at the tables relating to compliance with these obligations reveals that the percentage of reports sent by countries in which direct contacts have taken place, particularly those of Latin America, is markedly superior to the percentage as a whole.

79. The Committee notes that another of the positive effects of direct contacts has been to encourage the ratification of new Conventions in certain cases; thus, for instance, the Committee noted in 1975 the ratification by Barbados and Jamaica of Convention No. 111, on which the governments of those countries had held discussions with an official of the Office during a mission to the region. In the same year the Committee also took note of the Government's decision to institute proceedings for the ratification of Conventions Nos. 77, 78, 81 and 88 as a result of direct contacts in Ecuador. The following year the Committee noted the ratification of these four Conventions by Ecuador, as well as the ratification by Nicaragua of Conventions Nos. 45, 77, 78, 95, 127 and 131; steps towards the ratification of these were initiated as a result of direct contacts in that country in 1975.

80. As regards the direct contacts held at the end of 1976 with the countries of the Andean group with a view to the application and possible ratification of 25 major Conventions, the first results achieved may be summarised as follows: 20 new ratifications, namely the ratification by Bolivia of Conventions Nos. 88, 95, 102, 111, 117, 118, 121, 122, 128, 129, 130 and 131; the ratification by Colombia of Conventions Nos. 87, 98 and 129, and the ratification by Ecuador of Conventions Nos. 97, 114, 121, 128 and 130. In addition, the governments of Bolivia and Ecuador have already started to take steps to ratify Convention No. 138. The Ministry of Labour in Venezuela has embarked on the process of ratification of Conventions Nos. 95, 100, 102, 103, 118, 121, 122, 128, 129 and 130, and is giving favourable consideration to the possibility of ratifying Convention No. 114; the Government of Peru has begun to examine the possibility of ratifying Conventions Nos. 95, 103, 117, 118, 121, 128, 130, 131, 135 and 138. In order to have a proper appreciation of these results, it should be borne in mind that before the direct contacts missions took place the five countries which now form the Andean Group had recorded 48

ratifications out of a possible total of 125. As regards the Conventions which had been ratified and the application of which was also examined, the Committee has recorded with satisfaction progress in the case of the application of Convention No. 3 by Bolivia, of Convention No. 103 by Ecuador and of Convention No. 100 by Peru.

81. Direct contacts missions should perhaps also receive some credit for the strengthening of relations between governments and the ILO which is the normal result of closer acquaintanceship and long days of work towards a common end. This also applies to relations between the ILO and employers' and workers' organisations.

Evaluation of direct contacts

82. Over the last ten years sometimes governments, and sometimes workers and employers, have jointly or severally expressed their views on the direct contacts procedure. Thus, for example, the Minister of Labour of Ecuador said at the Tenth Conference of American States Members of the ILO that "recent experience in his country had shown that the system of direct contacts was perhaps the best means of enabling governments to deal with certain difficulties that prevented full compliance with obligations under the Constitution of the ILO and international labour Conventions". The Minister of Labour of Costa Rica told the Director-General in 1977 that "work such as that done by the direct contacts missions compels us to maintain our confidence in the significance of the ILO throughout the world, particularly in developing countries".

83. More recently (February 1978), in the Governing Body, the Government members of France, Hungary, Italy and the United Kingdom praised the development of the direct contacts procedure and gave it their full support. The Workers' members also stated their unreserved support for a procedure which in their opinion had given excellent results in the past. The Employers' members not only stated their full support for the direct contacts procedure, but also suggested that, in view of its importance, the necessary financial resources should be made available in all cases in which such contacts might help to improve the application of standards. Consequently, the Governing Body "invited the Director-General, the supervisory bodies and the governments concerned to have recourse to the procedure of direct contacts whenever it might contribute to a better understanding of situations and the useful examination of solutions to problems".

84. Subsequently, at the Conference Committee in June 1978, the Government members of Bulgaria, the United Republic of Cameroon, Canada, Cuba, Sweden and others praised the procedure, the Workers' members pronounced themselves to be fully convinced of its usefulness and the Employers' members said that direct contacts, both formal and informal, had benefited the application of ratified Conventions and had had an incalculable influence on the degree of their application. Accordingly, the Conference Committee once again expressed its satisfaction at the progress achieved in the application of standards thanks to the direct contacts procedure and expressed the hope that such contacts, as well as unofficial contacts, would be still further developed in the future.

Conclusions

85. The direct contacts procedure, which began experimentally in 1969 for the purpose of achieving a broader exchange of views with governments leading to better application of ratified Conventions,

achieved right from the outset results which were so positive that the Committee of Experts, which had launched the idea, and the Conference Committee very soon came to the view that it had already become an irreplaceable means of assisting countries, particularly developing countries, not only in applying the Conventions which they had ratified, but also in all other matters relating to international labour standards.

86. The positive results achieved by direct contacts also encouraged the Committee on Freedom of Association to adopt this procedure in connection with some of the complaints submitted for its consideration.

87. At the regional level, the results influenced the Andean Group's decision to ask for direct contacts as a means of improving the harmonisation of the labour and social security legislation of its member States.

88. Although the procedure may be used by any country, as has, in fact, been the case in the countries of Europe, Asia, Africa and America, the countries of Latin America have so far been those which have resorted most often to direct contacts. Consequently, this is also the region where the highest proportion of cases of harmonisation of law and practice with ratified Conventions has been achieved in recent years and where the obligations regarding standards have been most strictly complied with.

89. It is very encouraging for the future of direct contacts that the comments made on this procedure during the past ten years have been unanimously and unreservedly favourable, and that governments, employers and workers, both in the Governing Body and in the Conference, have considered that the procedure should be developed still further and that everything possible should be done to enable countries to resort to direct contacts whenever they consider it necessary.

IV. THE ROLE OF EMPLOYERS' AND WORKERS' ORGANISATIONS

90. At each session, the Committee draws the attention of governments to the role which employers' and workers' organisations are called upon to play in the application of Conventions and Recommendations, and to the fact that numerous Conventions require the consultation of employers' and workers' organisations, or their collaboration on a variety of matters.

91. The Committee has noted with satisfaction again this year that all governments have indicated in the reports supplied under article 22 of the Constitution the representative organisations of employers and workers to which, in accordance with article 23, paragraph 2, of the Constitution, they have communicated copies of the reports supplied to the ILO.¹ Almost all governments have also indicated the organisations to which they have communicated copies of the information supplied to the ILO on the submission to the competent

¹ A direct request has, however, been addressed to Rwanda because the information supplied was incomplete.

authorities of the instruments adopted by the Conference and of the reports sent under article 19 of the Constitution.¹

92. In accordance with the established practice, the ILO sent to the representative organisations of employers and workers a letter concerning the various opportunities open to them to contribute to the implementation of Conventions and Recommendations and relevant documentary material, including a list of the reports due by their respective governments together with copies of the Committee's comments to which the government was required to reply in its reports.

93. The Committee learned with interest that workers' delegates and advisers from 62 countries took part in the study course on international labour standards held immediately before the 64th Session of the International Labour Conference (June 1978). A study course of this kind is also planned for workers' delegates attending the Eleventh Conference of American States Members of the ILO which is to be held during 1979.

Observations by employers' and workers' organisations

94. Seventy-seven observations were examined by the Committee this year, of which 19 were communicated by employers' organisations and 58 by workers' organisations. This is the highest total of observations ever received, and is evidence of the growing interest being taken by employers' and workers' organisations in the standard-setting work of the Organisation, and of the impact of the efforts made by the supervisory bodies and the Office to provide the organisations concerned with fuller information on the role which they can play in this work.

95. Most of the observations received relate to the application of ratified Conventions,² whereas others are concerned with the

¹ Direct requests have been addressed by the Committee to the following States which have not indicated whether they have communicated the information: Argentina, Bolivia, Haiti, Nepal, Tunisia.

² Austria: Austrian Congress of Labour Chambers on Conventions Nos. 95, 100, 111; Belgium: National Confederation of Executives on Conventions Nos. 87, 98; Brazil: National Confederation of Industry and National Confederation of Industrial Workers on Convention No. 111; National Confederation of Commerce on Conventions Nos. 95, 106, 111; National Confederation of Commercial Workers on Conventions Nos. 14, 98, 106, 111; Costa Rica: General Workers' Confederation (CGT) on Conventions Nos. 11, 87, 95, 98, 107, 117, 122; Finland: Finnish Employers' Confederation, Finnish Commercial Employers' Confederation, Central Organisation of Finnish Trade Unions on Conventions Nos. 111, 135; France: General Confederation of Labour, National CPDT Labour and Employment Trade Union, General CGT Social Affairs Trade Union on Convention No. 81; Federal Republic of Germany: German Confederation of Trade Unions (DGB) on Conventions Nos. 87, 98, 135; India: National Labour Organisation (NLO) on Convention No. 11; Ireland: Irish Congress of Trade Unions on Conventions Nos. 87, 88, 122; Italy: General Confederation of Agriculture on Convention No. 100; Japan: General Council of Trade Unions (SOHYO) on Conventions Nos. 87, 98; Malta: Confederation of Malta Trade Unions (CMTU) on Conventions Nos. 87, 98; Mauritius: Mauritius Labour Congress on Convention No. 98; Norway: Confederation of Trade Unions in Norway on Convention No. 100; Norwegian Seamen's Union and Norwegian Shipping Federation on Convention No. 111; Portugal: Confederation of Portuguese Industry on

(Footnote continued on next page)

submission of Conventions and Recommendations to the competent national authorities.¹ Almost half of these observations were transmitted directly to the ILO which, in accordance with the established practice of the Committee, communicated them to the governments concerned for their comments. In the other cases the governments transmitted the observations with their reports, adding, in certain cases, their comments on these observations, or they consulted the employers' and workers' organisations when preparing their reports and took account of the observations made when drawing up the final text. In certain cases in which the observations were received too close to the Committee's session to permit a thorough examination of the issues raised, or to give the governments concerned an opportunity to send in their comments before the Committee met, it has deferred its examination of the observations until its next session.

96. The Committee has noted that in most cases the occupational organisations have sought to obtain and present concrete facts relating to the practical application of ratified Conventions. The majority of the observations concerned the application of Conventions on the protection of the right to organise and the right to collective bargaining, equal remuneration and equality in employment and occupation; the other cases mainly dealt with problems relating to wages and employment policy and services.

97. The Committee noted with interest the appeal made by the Executive Board of the International Confederation of Free Trade Unions (ICFTU) at its 70th Session in May 1978, for the ratification and application of a number of Conventions, including those on freedom of association, forced labour, discrimination, equal remuneration and employment policy. The Board, which examined the contribution of international labour standards to the institution of a new economic and social order, stressed that trade unions must be fully involved in the supervision of the implementation of international labour standards, in particular through the observance by governments of their obligations under article 23, paragraph 2, of the ILO Constitution, including the

(Footnote continued from previous page)

Conventions Nos. 98, 100; Spain: National Federation of Independent Trade Unions of SEAF/PPO Officials on Conventions Nos. 2, 88, 142; Federation of State Bank, Stock Exchange, Credit and Savings Undertakings (UGT) on Convention No. 135; Sweden: National Collective Bargaining Office (SAV), Swedish Association of Local Authorities, Federation of Swedish County Councils, Swedish Employers' Confederation (SAF), Swedish Confederation of Trade Unions (LO), Swedish Confederation of Professional Associations, National Swedish Federation of Government Officers (SACO/SR), Central Organisation of Swedish Workers (SAC), Swedish Association of Locomotive Engineers and Firemen, Swedish Dockers' Union on Convention No. 87; Central Organisation of Salaried Employees on Convention No. 100; Swedish Dockers' Union on Convention No. 137; Switzerland: Swiss Federation of Trade Unions on Conventions Nos. 14, 44, 87, 100, 111; Trinidad and Tobago: Employers' Consultative Association on Conventions Nos. 29, 87, 105; Upper Volta: National Confederation of Voltan Workers on Convention No. 95. Observations have also been received from workers' delegates on the joint committee of tobacco undertakings in Montevideo and the International Union of Food and Allied Workers' Associations on the application of Convention No. 132 in Uruguay.

¹ The Irish Congress of Trade Unions has asked the Government to examine the possibility of ratifying Convention No. 150 and the All-Pakistan Federation of Trade Unions has proposed the ratification of Conventions Nos. 141, 142, 143 and 144.

communication of copies of information supplied by governments in reply to the observations and direct requests of the Committee of Experts. The Board also invited trade unions to exercise more frequently their right to submit observations on all matters covered by the reporting obligations of governments under the ILO Constitution.

98. The Committee finally noted that 12 countries had ratified the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), that 21 others had indicated their intention of ratifying it and that 16 more were studying its possible ratification. The Committee will be called upon at its next session to examine the first reports on the application of this Convention.

V. REPORTS ON RATIFIED CONVENTIONS

(Articles 22 and 35 of the Constitution)

Supply of reports

99. 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.¹

100. In accordance with the procedure for detailed reporting approved by the Governing Body in November 1976, detailed reports from all ratifying States were due to be examined this year in respect of 35 Conventions,² which covered the period ending 30 June 1978. In addition, detailed reports were also requested from certain governments on other Conventions, in accordance with the criteria for more frequent reporting approved by the Governing Body and set out in paragraph 38 of the Committee's 1977 report.

Reports requested and received

101. A total of 1,701 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, 1,289 of these reports had been received by the Office. This figure corresponds to 75.7 per cent of the reports requested, as compared with 76.4 per cent last year. The Committee regrets that the proportion of reports received is again lower than the rates of over 80 per cent which had normally been reached in preceding years, particularly since governments are requested to supply fewer reports under the current reporting system. 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

¹ ILO: Summary of Reports on Ratified Conventions, Report III (Part 1), International Labour Conference, 65th Session, Geneva, 1979.

² The Conventions concerned are Nos. 8, 11, 14, 21, 22, 23, 24, 25, 44, 52, 55, 56, 71, 77, 78, 82, 84, 87, 94, 95, 97, 98, 100, 101, 106, 107, 111, 114, 115, 117, 122, 124, 130, 132, 140. The Committee was not able to examine the reports on the application of Convention No. 100 this year and proposes to carry over the examination of these reports to its next session.

GENERAL REPORT

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.

102. In addition, 587 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, 389 reports, or 66.2 per cent had been received by the end of the Committee's session. 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.

103. Apart from the above-mentioned reports, 21 governments also supplied general reports on the Conventions for which detailed reports were not due for the period under review (Bangladesh, Belgium, Chile, Congo, Cyprus, Fiji, Federal Republic of Germany, India, Ireland, Ivory Coast, Kenya, Kuwait, Malaysia, Mongolia, Netherlands, New Zealand, Poland, Singapore, Spain, Switzerland, Togo).

104. In those cases in which the reports were not accompanied by copies of the relevant legislation, statistical data or other documentation necessary for their full examination, and this material was not otherwise accessible, the Office, as requested by the Committee, wrote to the governments concerned requesting them to supply the necessary texts in order to enable the Committee to fulfil its task.

Compliance with reporting obligations

105. Of the 131 governments from which reports were due on the application of ratified Conventions in States Members, the great majority have supplied all or most of the reports requested. However, 26 governments have not complied with their obligation to supply reports on ratified Conventions. Thus, none of the reports due this year has been received from the following countries: Afghanistan, Bahamas, El Salvador, Ghana, Guinea-Bissau, Iceland, Democratic Kampuchea, Lebanon, Liberia, Libyan Arab Jamahiriya, Mauritania, Papua New Guinea, Qatar, Seychelles, Swaziland, Trinidad and Tobago, Viet Nam, Yemen, Zaire. No reports have been received for the last two years from Angola, Guinea, Jordan,¹ Malawi, Tanzania, for the last four years from Chad, and for the last five years from the Lao Republic.

106. The Committee urges the governments of these countries, as well as those which have sent only some of the reports due, to make every effort to supply the reports requested on ratified Conventions. The supervisory process can only function properly if States comply with their reporting obligations.

Supply of first reports

107. A total of 61 first reports on the application of ratified Conventions were received by the time the meeting opened. However, a number of countries have failed to supply the reports in question, some of which are more than a year overdue. Thus, certain first reports on ratified Conventions have not been received from the following States

¹ The Government of Jordan has however requested the establishment of direct contacts to assist it in complying with its reporting obligations: see General Observations, Jordan.

since 1974: Costa Rica (Conventions Nos. 102, 130); since 1977: Bahamas (Conventions Nos. 12, 17); Jamaica (Convention No. 122); Libyan Arab Jamahiriya (Conventions Nos. 102, 103, 121, 128, 130); Yemen (Convention No. 14); Yugoslavia (Conventions Nos. 32, 129, 132, 136). Particular importance attaches to the first reports, on the basis of which the Committee makes its initial assessment of the observance of ratified Conventions. The Committee therefore requests governments to make a special effort to supply these reports.

Replies to comments of the supervisory bodies

108. Governments are requested to reply in their reports to the observations and direct requests of the Committee, and the majority of governments provided the replies requested. In accordance with the established practice, the International Labour Office wrote to all governments which failed to do so requesting them to supply the necessary information. Of the 20 governments contacted in this way, 7 have sent the information requested.

109. There remain a considerable number of cases in which replies to the Committee's comments were not available, in most cases because no report has been received on the Convention in question, and, in a few cases, because the report did not contain a reply. A total of 16 governments - as against 23 last year - have thus failed to reply to most or all the observations and direct requests relating to Conventions on which reports were requested this year, with a total of 127 cases¹ as against 138 last year and 107 the year before. 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.

110. The failure of governments to supply the reports requested or to reply to the Committee's comments delays the work of both the Committee of Experts and the Conference Committee. While the number of countries involved is fewer this year, the Committee regrets that for the third year in succession the number of cases remains high. 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

111. 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

¹ Chad (Conventions Nos. 13, 29, 52, 81, 87, 98, 100, 105, 111); Ghana (Conventions Nos. 22, 30, 87, 94, 98, 100, 111, 115, 117); Guinea (Conventions Nos. 5, 10, 13, 16, 17, 18, 29, 33, 45, 62, 81, 90, 94, 99, 105, 111, 112, 113, 114, 115, 117, 118, 119, 120, 121, 122); Iceland (Conventions Nos. 100, 111); Jamaica (Conventions Nos. 98, 100, 111, 117); Jordan (Conventions Nos. 100, 105, 111, 119, 120, 122, 124); Lebanon (Conventions Nos. 14, 52); Liberia (Conventions Nos. 55, 58, 87, 98, 111, 112, 113, 114); Libyan Arab Jamahiriya (Conventions Nos. 3, 52, 95, 98, 100, 111, 118, 122); Malawi (Conventions Nos. 81, 86, 99, 129); Papua New Guinea (Conventions Nos. 3, 11, 98); Peru (Conventions Nos. 1, 20, 29, 32, 44, 52, 67, 77, 78, 87, 98, 101, 111); Somalia (Conventions Nos. 84, 94, 95, 111); Tanzania (Conventions Nos. 50, 65, 81, 88, 98); Yugoslavia (Conventions Nos. 23, 29, 97, 126); Zaire (Conventions Nos. 29, 84, 94, 95, 98, 100, 117, 119).

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 1978.

Examination of reports

112. In examining the reports received on Conventions which have been ratified and those which have been declared applicable to non-metropolitan territories, the Committee followed its usual practice of assigning to each of its members the initial responsibility for a group of Conventions; reports received in sufficient time were sent to the members concerned in advance of the session, and each member then submitted to the whole Committee his preliminary findings on the instruments concerned, for discussion and approval.

113. One member of the Committee, Mr. Tunkin, stated that it was advisable that important and complex Conventions should be assigned not to a single member of the Committee but to a group of members. If a group consisting of three or four members were formed, they might all study the matter thoroughly and present to the Committee more balanced conclusions.

114. In this regard, the Committee recalls that it is already its practice to appoint small working parties to deal with questions of principle or of special complexity. This is the case, in particular, as regards the general surveys carried out each year in respect of instruments selected for that purpose by the Governing Body, or as regards certain subjects selected by the Committee. The Committee also refers to paragraph 38(i) of its General Report of 1977, in which the Committee, reviewing its fundamental principles, mandate and methods of work, stated that, whilst it assigns to each of its members the initial responsibility for a group of Conventions or for a given subject, 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.

Observations and direct requests

115. 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.

116. 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 a detailed report earlier than would otherwise be the case. Within the 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. In some instances, the Committee has also requested the government to supply full particulars to the Conference at its next session in June 1979.

117. 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

118. 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 appreciable although uneven source of information on practical application available to the Committee. The Committee has also taken into account other authoritative sources of information. These consist of the annual reports of labour inspection services, statistical yearbooks published by States or by the ILO, observations of employers' and workers' organisations, compilations of judicial or administrative decisions, reports on direct contacts, reports of technical co-operation projects and missions, and other official publications such as manuals, studies and economic and social development plans.

119. This year, nearly 41 per cent of the reports supplied on Conventions for which information on practical application is specifically requested contained such data. This proportion is lower than the percentage reached last year, which was 52 per cent. The Committee recalls the importance which it has always attached to the communication of information of this kind, in the absence of which it is unable to form a clear idea of the extent to which ratified Conventions are effectively applied. It therefore hopes that governments will make every effort to include the information requested in their reports. Direct requests on this matter have been addressed to certain countries which have not replied to the questions in the report forms on practical application. A number of countries on the other hand, have supplied information of this kind in more than half their reports: Australia, Austria, Belgium, Canada, Czechoslovakia, Finland, France, Federal Republic of Germany, Haiti, Ireland, Italy, Japan, Luxembourg, Malaysia, Mali, Mexico, Morocco, Netherlands, New Zealand, Norway, Senegal, Singapore, Sweden, Switzerland, Trinidad and Tobago, United Kingdom, Uruguay.

120. 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. Nineteen reports contained information of this kind, and threw additional light on the problems which have arisen in these cases in giving practical effect to the terms of the Conventions concerned.

Cases of progress

121. 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 56 instances in which measures of this kind have been taken, involving 36 States and 4 non-metropolitan territories. The full list is as follows:

<u>Country</u>	<u>Conventions Nos.</u>
Benin	6, 29
Bolivia	17, 103
Brazil	52
Bulgaria	111
Burundi	29
Chile	3, 32
Cyprus	128
Czechoslovakia	42
Democratic Yemen	95
Egypt	111
France	78
Gabon	52
Greece	55
Honduras	32, 62
India	115
Ireland	88
Italy	111
Japan	87
Lesotho	29
Madagascar	81, 111
Malaysia	95
Malta	111
Mauritania	22, 23, 114
Mexico	62, 134
Norway	111, 130
Paraguay	29
Philippines	17, 23
Portugal	81, 111
Singapore	32
Spain	136
Sri Lanka	81
Sudan	29, 105
Turkey	96
Uganda	124
Zaire	18, 121
Zambia	136

Non-metropolitan territories

<u>France</u>	
French Polynesia	3
<u>United Kingdom</u>	
Guernsey	24, 25, 56
Hong Kong	14, 59
St. Helena	58

122. These cases bring the total recorded instances of progress, since the Committee began listing them in its reports 16 years ago, to over 1,200. 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. The Committee has also expressed its interest in various cases in which governments have taken a number of steps leading to the partial implementation of Conventions on which it had previously made comments.

123. These various cases 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: Australia (Convention No. 81); Finland (Convention No. 138); France (Convention No. 140); Federal Republic of Germany (Conventions Nos. 113 and 138); Norway (Convention No. 134); Sweden (Convention No. 140); Upper Volta (Convention No. 132).

VI. SUBMISSION OF CONVENTIONS AND RECOMMENDATIONS TO THE COMPETENT AUTHORITIES

(Article 19 of the Constitution)

124. In accordance with its terms of reference, the Committee this year examined the following information¹ supplied by the governments of member States, pursuant to article 19 of the Constitution of the International Labour Organisation:

- (a) information on the steps taken to submit to the competent authorities within the time limits of 12 or 18 months, as provided in the Constitution, the following instruments, adopted at the 62nd (Maritime) Session of the Conference (October 1976): 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); as well as the instruments adopted at the 63rd Session (1977): the Working Environment (Air- Pollution, Noise and Vibration) Convention (No. 148) and Recommendation (No. 156), 1977; the Nursing Personnel Convention (No. 149) and Recommendation (No. 157), 1977;
- (b) additional information on the steps taken to submit the Conventions and Recommendations adopted by the Conference from its 31st (1948) to its 61st (June 1976) Sessions to the competent authorities (i.e. Conventions Nos. 87 to 144 and Recommendations Nos. 83 to 152);
- (c) replies to observations and direct requests made by the Committee in 1978.

¹ ILO: Summary of Information on the Submission to the Competent Authorities of Conventions and Recommendations Adopted by the International Labour Conference, Report III (Part 3), International Labour Conference, 65th Session, Geneva, 1979.

62nd and 63rd Sessions

125. The Committee has noted with interest that the governments of the following 39 member States have indicated that they have submitted to the authorities considered as competent by them the instruments adopted by the Conference at its 62nd and 63rd Sessions: Argentina, Australia, Barbados, Benin, Bulgaria, Byelorussian SSR, United Republic of Cameroon, Egypt, Ecuador, Finland, France, German Democratic Republic, Guatemala, Haiti, Honduras, India, Japan, Kenya, Kuwait, Libyan Arab Jamahiriya, Madagascar, Nepal, Nigeria, Norway, Panama, Papua New Guinea, Philippines, Romania, Rwanda, Saudi Arabia, Senegal, Sweden, Turkey, Uganda, Ukrainian SSR, USSR, United Kingdom, United Arab Emirates, Venezuela. In addition 20 member States have indicated that they have submitted to the authorities considered as competent the instruments adopted at the 62nd Session of the Conference: Algeria, Austria, Belgium, Bolivia, Central African Empire, Chile, Cyprus, Czechoslovakia, Indonesia, Luxembourg, Mali, Morocco, New Zealand, Netherlands, Nicaragua, Somalia, Spain, Switzerland, Trinidad and Tobago, Zambia; seven other member States have indicated that they have submitted some of these instruments: Burundi, Cuba, Gabon, Federal Republic of Germany, Poland, Sierra Leone, Uruguay. Finally, six member States have indicated that they have submitted the instruments adopted at the 63rd Session of the Conference: Denmark, Gabon, Hungary, Ivory Coast, Tunisia, Upper Volta; two member States have submitted some of these instruments: Italy, Uruguay.

31st to 61st Sessions

126. The Committee has noted with interest that appreciable progress has been made by several countries in submitting instruments adopted by the Conference since its 31st Session to the competent authorities, particularly in the following cases: Benin (instruments adopted from the 50th Session), Gabon (various instruments adopted from the 51st to 61st Sessions), Guatemala (instruments adopted from the 53rd to 61st Sessions), Haiti (instruments adopted from the 54th to 61st Sessions), Madagascar (instruments adopted from the 56th to 61st Sessions); United Arab Emirates (instruments adopted from the 58th to the 61st Sessions).

127. 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 63rd Sessions of the Conference.

Comments by the Committee and replies from governments

128. 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.

129. 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 reiterates the hope that governments will endeavour in future to supply all the required information and documents.

130. The Committee wishes to recall the importance of the communication by Governments of the information and documents called for in points II and III of the questionnaire in the Memorandum adopted by the Governing Body. Some countries still do not communicate any or most of the information and documents in question. 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 (53rd to 63rd): Byelorussian SSR, Ukrainian SSR, USSR. The Committee trusts that the governments concerned will take the appropriate measures, as indicated in the Memorandum on Submission.

Revision of the Memorandum adopted by the Governing Body

131. The Committee has noted that, following a suggestion made by the Conference Committee in 1974, to review the Memorandum in the light of subsequent developments, the Office submitted to the Governing Body a draft revised Memorandum which was the subject of a first discussion by the Committee on Standing Orders and the Application of Conventions and Recommendations of the Governing Body at its 209th Session (February-March 1979). This Memorandum aims at facilitating both the discharge by governments of the obligation relating to submission and the task of the supervisory bodies. It has certainly contributed to the cases of progress noted by the Committee and to the fact that only a very limited number of cases remain where problems are still found as regards the main aspects of submission.

Special problems

132. The position in several countries is still a matter of 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 (56th to 63rd) have in fact been submitted to the competent authorities: Chad, Guyana, Lao Republic, Lebanon, Malta, Mauritania, Tanzania.

VII. REPORTS ON UNRATIFIED CONVENTIONS

(Article 19 of the Constitution)

133. In accordance with a decision taken by the Governing Body, governments were requested to supply reports under article 19, paragraphs 5 and 7, of the ILO Constitution on the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105).

134. Of a total of 58 reports requested, 33 have been received.¹

¹ ILO: Forced Labour: Summary of Reports on Conventions Nos. 29 and 105, Report III (Part 2), International Labour Conference, 65th Session, 1979, Geneva.

GENERAL REPORT

This represents 56.8 per cent of those requested, a proportion very much lower than that normally reached, which in recent years has been over 70 per cent. This low figure is no doubt to be explained by the fact that the Conventions concerned have been very widely ratified, so that the reports not received represent a higher proportion of the relatively small number of reports requested. The Committee nonetheless urges governments to make every effort to supply the reports requested, so that its general survey can be as comprehensive as possible.

135. 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: Lao Republic, Nepal, United Arab Emirates.

136. Part Three of this report (Volume B) contains the Committee's general survey of the questions covered by the Conventions. 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 six members of the Committee, appointed by it.

*
* *

137. The Committee would like to express its appreciation of the invaluable assistance once again rendered to it by the officials of the ILO, whose competence and devotion to duty make it possible for the Committee to accomplish its increasingly complex tasks in a limited period of time.

Geneva, 28 March 1979.

(Signed) Adetokunbo Ademola,
Chairman.

E. Bazafindralambo,
Reporter.

PART TWO

**OBSERVATIONS CONCERNING PARTICULAR
COUNTRIES**

OBSERVATIONS CONCERNING PARTICULAR COUNTRIES

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

A. GENERAL OBSERVATIONS

Afghanistan

The Committee notes that the reports due have not been received and that the Government states that it is contemplating the enactment of new labour legislation, after the adoption of which it will be in a position to supply the reports requested. The Committee trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions.

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. 5, 6, 10, 11, 16, 21, 29, 52, 58, 59, 77, 78, 87, 98, 100 and 112).

Angola

The Committee notes with regret that for the second consecutive year 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.

Bahamas

The Committee notes with regret that the reports due including two first reports which have been due for two years (Conventions Nos. 12 and 17) 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.

Burundi

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.

Central African Empire

The Committee has noted the direct contacts which took place in December 1978 between the competent national services and a representative of the Director-General of the International Labour Office regarding Conventions Nos. 18, 29, 33, 41, 62, 67, 81, 87, 88, 105 and 119, on the application of which the Committee had made comments.

The Committee notes with interest that, as a result of these direct contacts, various draft decrees for the application of the aforementioned Conventions have been prepared taking into account the comments of the Committee. The Committee hopes that this draft legislation will be approved at an early date and requests the Government to inform it of any measures taken to that end, and to supply reports on the application of these Conventions for the period ending 30 June 1979.

The Committee notes with regret, however, 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.

Chad

The Committee notes with regret that for the fourth consecutive year 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.

Costa Rica

1. The Committee in 1978 took note of the direct contacts that had taken place in November 1977 between the competent national services and a representative of the Director-General of the ILO in connection with Conventions Nos. 92, 94, 95, 113, 114, 120 and 127, on the application of which it has been making comments. At that time the Committee noted that, as a first result of the direct contacts, various draft decrees had been drawn up for the application of these Conventions, in which its comments were taken into account. The Committee now notes that in October 1978 the Government informed the representative of the Director-General of the ILO that the drafts were still under study. The Committee trusts that the drafts will be adopted shortly and that they will bring the national legislation into conformity with the provisions of the Conventions in question, and therefore requests the Government to be good enough to inform it of any measures that may be adopted for the purpose. It also requests the Government to supply reports on these Conventions for the period ending 30 June 1979.¹

¹ The Government is asked to supply full particulars to the Conference at its 65th Session.

2. Furthermore, the Committee regrets that two first reports that have been due for five years (on Conventions Nos. 102 and 130) have not yet been received. It trusts that the Government will supply these reports in the near future.

Dominican Republic

The Committee has noted in previous observations the direct contacts which took place in November 1976 between a representative of the Director-General of the ILO and the competent national authorities. On the occasion of these contacts the following were prepared: (a) a draft Bill to amend various sections of the Labour Code relating 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 various sections of the Penal Code, with a view to the better implementation of Convention No. 105.

The Committee now notes that in October 1978 the Government informed the representative of the Director-General of the ILO that the draft legislation mentioned above would be submitted as soon as possible to the competent authorities, and that it was to be hoped that it would be approved at an early date.

The Committee trusts that the speedy adoption of this draft legislation will enable the national law to be brought into conformity with the provisions of the Conventions in question, and accordingly requests the Government to inform it of any measures taken to this end.

It also requests the Government to supply reports on these Conventions for the period ending 30 June 1979.

El Salvador

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.

Ghana

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.

Guatemala

The Committee noted in 1978 that the draft decrees, prepared on the occasion of the direct contacts in November 1975 between the competent national authorities and a representative of the Director-General of the ILO with a view to the better application of Conventions Nos. 30, 95, 96, 113 and 114, and a Bill relating to Conventions Nos. 87 and 98, were to be submitted shortly to the Council of State and subsequently to the President of the Republic for consideration.

The Committee now notes that in October 1978 the Government informed the representative of the Director-General of the ILO that examination of this draft legislation was still continuing. The

Committee trusts that the speedy adoption of this draft legislation will enable the national law to be brought into conformity with the provisions of the Conventions in question, and accordingly requests the Government to inform it of any measures taken to this end.¹

It also requests the Government to supply reports on these Conventions for the period ending 30 June 1979.

Guinea

The Committee notes with regret that for the second consecutive year 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.

Guinea-Bissau

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.

Haiti

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.

Iceland

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.

Iraq

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.

Jamaica

The Committee notes with regret that most of the reports due including one first report (Convention No. 122, on which reports have been due for two years) 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.

¹ The Government is asked to supply full particulars to the Conference at its 65th Session.

Jordan

The Committee notes that the reports due have not been received. It notes with interest however that the Government has requested direct contacts in order to assist it in discharging its obligation to report on the application of ratified Conventions, and that a representative of the Director-General is to visit Jordan shortly in order to provide assistance in this matter. It hopes therefore that the reports due will be communicated in the near future.

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 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.

Lesotho

The Committee notes with regret that the reports due have not been received. It recalls 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. It hopes that the Government will not fail in future to supply all the reports due.

Liberia

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.

Libyan Arab Jamahiriya

The Committee notes with regret that the reports due including five first reports (Conventions Nos. 102, 103, 121, 128, 130 on which reports have been due for two years) 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.

Malawi

The Committee notes with regret that for the second consecutive year 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.

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 report on the application of ratified Conventions.

Nicaragua

The Committee noted in 1978 that, following the direct contacts that had taken place in 1975 between the competent national authorities and a representative of the Director-General of the ILO, a decree had been adopted in 1977 to amend various sections of the Labour Code with a view to applying more fully various Conventions that had been ratified by Nicaragua. The Committee noted at the same time that the appropriate measures had still not been adopted in relation to other Conventions which had also been discussed during the direct contacts, namely Conventions Nos. 8, 17, 30, 87 and 98. It accordingly requests the Government to inform it of any measures taken to this end. It also requests the Government to supply reports on the Conventions in question for the period ending 30 June 1979.¹

Panama

The Committee in 1978 took note of the direct contacts that had taken place in November 1977 between the competent national services and a representative of the Director-General of the ILO, in connection with Conventions Nos. 13, 27, 30, 42, 52, 77, 78, 105, 112, 113, 119, 123 and 127, on the application of which it has been making comments. At that time the Committee observed that, as a first result of the direct contacts, various draft decrees had been drawn up for the application of the above-mentioned Conventions, taking into account the comments it has made.

The Committee now notes that in October 1978 the Government informed the representative of the Director-General of the ILO that these drafts were under examination. The Committee hopes that the drafts will be adopted shortly and that they will bring the national legislation into conformity with the provisions of these Conventions, and therefore asks the Government to be good enough to inform it of any measures that may be taken for the purpose. It also asks the Government to supply reports on these Conventions for the period ending 30 June 1979.

Moreover, the Committee recalls the statements made by a Government representative at the 61st Session of the Conference to the effect that the Government was considering making a request for technical co-operation with a view to drawing up laws on the employment of seafarers that would take account of the Conventions it had ratified

¹ The Government is asked to supply full particulars to the Conference at its 65th Session.

OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

and for the adoption of administrative measures to ensure the application of these laws. The Committee hopes that the Government, in respect of these Conventions too, will shortly take the necessary measures to ensure their application in law and in practice and asks it to be good enough to provide the text of any provisions it may adopt in this connection.¹

Papua New Guinea

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.

Paraguay

The Committee notes with satisfaction that, following the direct contacts which took place in July 1977 between the competent national authorities and a representative of the Director-General of the ILO, Act No. 738 was adopted on 28 December 1978 with a view to the better implementation of Convention No. 29.

The Committee trusts that other draft legislation examined on the occasion of these direct contacts in relation to Conventions Nos. 1, 29, 105 and 115 will be approved at an early date, and requests the Government to inform it of any measures taken to this end. It also requests the Government to supply reports on the Conventions in question for the period ending 30 June 1979.

Peru

The Committee notes the direct contacts which took place in October 1978 between the special committee for the study and evaluation of international maritime Conventions (CPCM) and a representative of the Director-General of the ILO on the application of Conventions Nos. 9, 22, 23, 68 and 69.

The Committee notes with interest that the CPCM, which is a tripartite body, informed the representative of the Director-General that the relevant texts would shortly be drafted, that the comments of the Committee of Experts would be taken into account and that, when they were ready, the drafts would be sent to the ILO for any further comment before their adoption. The Committee hopes that the adoption of these texts will bring the national legislation into conformity with the above-mentioned Conventions and asks the Government to be good enough to report any progress in the matter. It also asks the Government to send reports on these Conventions for the period ending 30 June 1979.

Furthermore, the CPCM informed the representative of the Director-General that it had carefully examined Conventions Nos. 123, 134, 145, 146 and 147 and that it would shortly recommend their ratification to the competent authorities.

¹ The Government is asked to supply full particulars to the Conference at its 65th Session.

Qatar

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.

Seychelles

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.

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).

Swaziland

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.

Tanzania

The Committee notes with regret that for the second year in succession the reports due have not been received. It also notes the statement by a government representative to the Conference in 1978 to the effect that efforts are made to obtain reports from Zanzibar. The Committee trusts that in future the Government will not fail to fulfil its obligation to provide reports on the application of the Conventions it has ratified and that measures will be taken to enable the Government to provide information on the effect given to ratified Conventions in Zanzibar.

Togo

The Committee notes with regret that most of the reports due have not been received. It trusts that the Government will not fail in

OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

future to discharge its obligation to supply all the reports due on the application of ratified Conventions.

Trinidad and Tobago

The Committee notes with regret that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions.

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.

Yemen

The Committee notes with regret that the reports due including a first report which has been due for two years (Convention No. 14) 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.

Yugoslavia

The Committee notes with regret that most of the reports due including four first reports which have been due for two years (Conventions Nos. 32, 129, 132, 136) 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.

Zaire

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.

*
* *

In addition, requests regarding certain points are being addressed directly to the following States: Argentina, Bangladesh, Barbados, Benin, Bolivia, Colombia, Cuba, Gabon, Guatemala, Haiti, Ivory Coast, Kenya, Kuwait, Nepal, Panama, Peru, Romania, Rwanda, Tunisia, Turkey, Yugoslavia, Zambia.

B. INDIVIDUAL OBSERVATIONS

Convention No. 1: Hours of Work (Industry), 1919Chile (ratification: 1925)

The Committee notes with interest that the exception contained in section 25 of the Labour Code concerning persons performing functions that, by their very nature, cannot be confined to a fixed time table has not been retained in Legislative Decree No. 2200 of 1 May 1978 respecting the contract of employment and the protection of workers, which replaces Books I and II of the Labour Code.

On the other hand, the Committee notes that section 42 of Legislative Decree No. 2200 of 1978 provides (like section 28 of the Labour Code, which has been the subject of its previous comments) that in operations that by their very nature are harmless to the health of workers up to two hours' overtime per day can be agreed to in writing. The Committee notes the statement by the Government that in practice overtime is resorted to only in exceptional cases of pressure of work and within the limit of two hours per day laid down by law, but it requests the Government to adopt the necessary measures to bring the legislation into conformity with the provisions of Article 6, paragraphs 1(b) and 2, of the Convention.

Egypt (ratification: 1960)

Article 6 of the Convention. The Committee notes that the report of the Government contains no reply to its last observation. It again points out that Ministerial Order No. 62 of 1960, which lists all transport operations, whether of passengers or of goods, whether by road, by rail or by inland waterway, among activities considered to be "intermittent by their nature", within the meaning of section 117 of the Labour Code, for which workers can be present at the workplace for more than 11 hours a day, is not in conformity with the Convention.

The Committee is bound to stress once more that Article 6, paragraph 1(a), of the Convention, which provides for permanent exceptions in cases where attendance at the workplace must necessarily exceed the normal hours prescribed by the Convention, allows such exceptions only in relation to persons whose work is essentially intermittent. This possibility of making exceptions cannot therefore be used for all transport workers.

The Committee hopes that the Government will shortly take the necessary measures to bring the legislation into conformity with the Convention on this point.

Kuwait (ratification: 1961)

The Committee notes the information supplied by the Government in 1978 to the Conference Committee and also that contained in its latest report.

Articles 1 and 2 of the Convention. 1. Noting that the Government no longer mentions the need to amend the provision of the Labour Law (Private Sector) that provides for the exclusion from its scope of temporary workers employed for a period of not more than six

months, the Committee is obliged to emphasise that the Convention does not permit such an exception. It therefore requests the Government to reconsider this question and to take the necessary steps to ensure the application of the Convention to the above-mentioned category of workers.

2. The Committee notes the statement by the Government that, regarding small establishments, which are mostly private family-run enterprises, a general survey is being carried out to determine their conditions and their proportion with a view to amending the law on the basis of realistic findings. In this connection, the Committee wishes to call the attention of the Government to the fact that the Convention applies to all industrial undertakings, even if they do not use machinery and irrespective of the number of persons they employ, with the exception of those in which only members of the same family are employed. The Committee trusts that the Government will shortly take appropriate steps in this connection to ensure the conformity of the national legislation with the Convention.

Articles 3 and 6(1)(b) and (2). The Committee notes the statement by the Government that "the country is undergoing a phase of building and development in all walks of life and is, therefore, in need of more work effort". It must, however, point out that under the Convention overtime is permitted only in the form of temporary exceptions to avoid serious interference in the ordinary working of the undertaking, the maximum number of hours of overtime being fixed in each case and the employers' and workers' organisations concerned being consulted on the matter. Accordingly, sections 34 and 35 of the Labour Law (Private Sector) and sections 14 and 15 of the Labour Law (Public Sector), which provide that the employer may exact two hours of overtime every day and work on the weekly day of rest without laying down any limit to this overtime, are, in their present wording, incompatible with these provisions of the Convention.

Since the Government has already declared its intention of taking the necessary steps to bring the legislation into conformity with the above-mentioned provisions of the Convention, the Committee hopes that these steps will be taken in the near future.¹

Peru (ratification: 1945)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee notes from the Government's latest report that a multi-sectoral tripartite committee was set up in February 1976 to examine the final draft of the Labour, Employment and Social Security Bill and that this committee is to take into account the texts of international labour Conventions, and the comments made by the ILO Committee on the Application of Conventions and Recommendations regarding Peruvian labour legislation.

Recalling the observations which it has made since 1951 and the repeated statements of the Government to the effect that it intends adopting either a labour code or other texts to give effect to the provisions of the Convention (including a draft supreme decree prepared following the direct contacts which took

¹ The Government is asked to report in detail for the period ending 30 June 1979.

place in 1972), the Committee expresses the hope that the necessary measures will be taken soon to ensure application of the Convention, particularly as regards Articles 3 to 6 (conditions for exceeding the prescribed hours of work).

*
* * *

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

Convention No. 2: Unemployment, 1919

Spain (ratification: 1922)

See under Convention No. 88.

Uruguay (ratification: 1933)

The Committee has noted that there exists no system of free public employment agencies as provided for in Article 2, paragraph 1, of the Convention, although a National Employment Service was created in 1974 and the Government has reported that its activity and structure were being developed. The Committee notes that the Government has not furnished the information requested on progress achieved in the implementation of this legislation. However, the Committee notes from Decree No. 225/977 of 27 April 1977 that the National Employment Service Advisory Committee created by that decree was to submit a plan for the implementation of the Act creating the National Employment Service before the end of May 1977. It also notes that a working group has been set up by the Ministry of Labour and Social Security to draft regulations for the implementation of international labour standards.

The Committee again requests the Government to indicate what progress has been accomplished in establishing a system of free public employment agencies, and hopes that it will communicate information on the number and locations of offices established as well as a copy of any employment service regulations which may have been adopted.¹

Convention No. 3: Maternity Protection, 1919

Chile (ratification: 1925)

The Committee has examined Legislative Decree No. 2200 of 1 May 1978 respecting contracts of employment and the protection of workers. It notes with satisfaction that under section 95 of this text women workers cannot be dismissed during their absence on maternity leave, in conformity with Article 4 of the Convention.

¹ The Government is asked to supply full particulars to the Conference at its 65th Session and to report in detail for the period ending 30 June 1979.

Colombia (ratification: 1933)

Article 3(a), (b) and (c) of the Convention (duration of leave and of maternity benefit). The Committee has pointed out in its previous comments that section 236 of the Labour Code and section 33 of Decree No. 1848 of 1969, which provide for 8 weeks of maternity leave, are incompatible with the Convention, under which a woman worker is entitled to 12 weeks of maternity leave, of which 6 must be taken after confinement. The Committee has also pointed out that the above-mentioned texts, contrary to the Convention, contain nothing to provide for the extension of pre-natal leave in the event of a mistake by the physician or midwife in estimating the date of confinement.

Lastly, it has noted that the General Sickness and Maternity Insurance Regulations (Decree No. 770 of 1975, section 16(b)) also restrict the payment of maternity benefit to eight weeks and contain nothing to provide for the extension of the period of payment in the event of delayed confinement.

In its last report, the Government states that it will soon be able to carry out a reform of the Labour Code, which will cover the field of the Convention. The Committee notes this statement with interest; it hopes that the reform will ensure the application of this basic provision of the Convention by extending maternity leave to 12 weeks and laying down through an express provision that in the event of a mistake in the estimation of the presumed date of confinement, pre-natal leave and the payment of maternity benefit may be extended to the date on which confinement in fact occurs.

The Committee hopes at the same time that Decree No. 1848 of 1969 may be modified in the same way and that the General Sickness and Maternity Insurance Regulations (No. 770 of 1975) may be brought into harmony with the new provisions.

The Committee asks the Government to indicate in its next report any progress made in this respect and to provide information on the other points raised in its previous comments, which, in the absence of a reply, it is bound to repeat in a new direct request.¹

Libyan Arab Jamahiriya (ratification: 1971)

The Committee notes that the report of the Government has not been received. With reference to its previous comments, it trusts that the Government will provide information on the following points in its next report:

Article 3(a), (b) and (c) of the Convention (in conjunction also with Article 4). The Government has stated 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 again expresses the hope 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 must be taken 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 should illness result from pregnancy or confinement, as required by these basic provisions of the Convention.

¹ The Government is asked to report in detail for the period ending 30 June 1979.

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) or entitlement to medical and cash benefits for maternity, the Government has stated 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 has noted the statement with interest and again expresses the hope that the orders will soon be issued.

The Committee also asks the Government to include information in its next report on the progress made in bringing the new social security system into operation.¹

*
* *

In addition, requests regarding certain points are being addressed directly to the following States: Colombia, Hungary, Ivory Coast, Upper Volta.

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

Guinea (ratification: 1959)

The Committee notes with regret that once again the Government's report has not been received. 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)

With reference to its previous observation following the comments made by the Centre of Indian Trade Unions and the subsequent observations of the Government concerning the employment of children of under 12 in various branches of activity, the Committee notes that this observation has been addressed to the state governments and the administrations of union territories and the other central authorities concerned. It also notes with interest the detailed information provided by these various authorities concerning the application of the Convention, and hopes that the Government will continue to supply such information in its future reports.

¹ The Government is asked to report in detail for the period ending 30 June 1979.

Singapore (ratification: 1965)

The Committee has noted that the Employment (Amendment) Act, 1975 and section 4 of the Employment of Children and Young Persons Regulations 1976 authorise the employment of children aged 12 years or over in industrial undertakings with the written permission of the Commissioner for Labour and their engagement as apprentices, which is contrary to the Convention. The Committee notes from the information contained in the last report that in practice the Commissioner for Labour has not granted permission under this provision, but it hopes that the Government will shortly take the necessary measures to amend the texts in question and so bring the legislation into harmony with the Convention. The Government is asked to indicate any progress made in this connection.

Convention No. 6: Night Work of Young Persons (Industry), 1919Benin (ratification: 1960).

With reference to its previous comments, the Committee notes with satisfaction the adoption of Order No. 233/MFPT of 11 September 1978 amending Order No. 1781/ITLS of 12 July 1954 and confining exceptions to the prohibition of night work by young persons to the classes specified in Article 2 of the Convention.

*
* * *

In addition, a request regarding certain points is being addressed directly to Upper Volta.

Convention No. 8: Unemployment Indemnity (Shipwreck), 1920Iraq (ratification: 1966)

The Committee has been calling attention for some years to the need to take appropriate measures with a view to introducing a provision in the national legislation prescribing (a) in accordance with Article 2 of the Convention that all persons employed on board a vessel (and not only young persons) shall be entitled (in case of loss or foundering of the vessel) to an indemnity fixed at the same rate as the wages payable under the contract for the whole period of actual unemployment, provided that the total indemnity payable to any one seaman may be limited to two months' wages, and (b) in accordance with Article 3 of the Convention that the same privileges shall attach to this indemnity as to arrears of wages, seamen having the same remedies for recovering such indemnities as they have for recovering arrears of wages.

In its report for 1976, the Government referred to Act No. 201 of 1975 respecting the Maritime Civil Services and stated that seamen in this group retain their civil service status in the event of loss of the vessel. It added that a draft Maritime Labour Code was being prepared and that other legal texts (including Regulations No. 37 of 1972) would be amended to include provisions corresponding to those of the Convention.

Since the Government has provided no report, the Committee is not in a position to assess the progress made in this connection. It hopes that the necessary measures will be taken very shortly and that the Government will not fail to provide a report for examination at the next session of the Committee and to indicate any measures taken.

Jamaica (ratification: 1963)

In reply to the previous comments of the Committee concerning section 157 of the United Kingdom Merchant Shipping Act, 1894, which is applicable to Jamaica and, unlike the Convention, provides that "in all cases of wreck or loss of the ship, proof that the seaman has not exerted himself to the utmost to save the ship, cargo and stores shall bar his claim to wages", the Government again states that the Jamaica Bill on merchant shipping is still at the drafting stage and that this particular aspect of the question has been referred to the expert adviser of the Government for examination. In these circumstances, the Committee can only repeat the hope that the new merchant shipping Act will be adopted very shortly and that, in conformity with the assurances given earlier by the Government, it will no longer provide for exception such as that set out in section 157 of the 1894 Act referred to. The Committee requests the Government to indicate any progress made in this connection.

Mauritius (ratification: 1969)

Article 2 of the Convention. With reference to its earlier comments concerning the forfeiture of the right to unemployment indemnity in cases of shipwreck where it is proved that the seaman has not exerted himself to the utmost to save the ship, cargo and stores (section 157 of the United Kingdom Merchant Shipping Act 1894, read in conjunction with section 1 of the United Kingdom Merchant Shipping (International Labour Conventions) Act 1925, whose application has been extended to Mauritius), the Committee notes with interest the statement by the Government that the preparatory work for the revision of the Merchant Shipping Ordinance has been completed and that the Bill prepared for the purpose is under active consideration. The Committee hopes that the Bill will be adopted very shortly and that the Government will not fail to communicate its text.

Panama (ratification: 1970)

Article 1 of the Convention. The Committee notes that the term "international service", which, in section 251 of the Labour Code, defines the scope of Chapter VIII, Title VII, Book I, of this Code, concerning maritime labour, also covers pleasure vessels (namely, deep-draft vessels employed on tourist or recreational activities in the Caribbean and pleasure yachts).

Article 2. The Committee also notes that the Government is considering the adoption of measures with a view to drawing up a statutory provision to provide - in conformity with the Convention - that in case of loss or foundering of the vessel, the owner (or the person with whom the seaman has contracted his service) shall pay to each member of the crew for each day during which he remains in fact unemployed an indemnity at the same rate as the wages contracted for, the total amount of the indemnity not to be less than two months' wages, whatever the length of the previous service of the person concerned and the form of his agreement (a provision similar to that of section 10 of Act No. 7 of 1950 might be considered to be sufficient if the words "imputable al capitán" were deleted).

The Committee hopes that a provision to this effect may be adopted shortly.

Application in practice. The Committee hopes that the Government will not fail to provide in its next report the statistics called for at Point V of the report form.

Seychelles (ratification: 1978)

The Committee has pointed out the restriction placed on the seaman's right to unemployment indemnity in case of loss or foundering of the ship by section 157 of the United Kingdom Merchant Shipping Act 1894, read with section 1 of the United Kingdom Merchant Shipping (International Labour Conventions) Act 1925, which remain applicable in the Seychelles. Under these texts the indemnity is not paid if the seaman has not exerted himself to the utmost to save the ship, cargo and stores. The Committee has pointed out that this restriction is not in conformity with Article 2 of the Convention and has asked the Government to take the necessary measures for removing this restriction.

In its previous report, the Government stated that it was considering the possibility of taking measures to ensure the full application of the Convention on this point. Since no report has been provided for the period 1977-78, the Committee can only express the hope that the next report will mention the measures taken to this end.

Sierra Leone (ratification: 1961)

Article 2 of the Convention. The Committee has drawn attention to the incompatibility between the Convention and the provisions of section 157 of the United Kingdom Merchant Shipping Act 1894, taken in conjunction with section 1 of the United Kingdom Merchant Shipping (International Labour Conventions) Act, 1925, both Acts being applicable in Sierra Leone. These provisions constitute a bar to the right of a seaman to unemployment indemnity in case of shipwreck where it is proved that he has not exerted himself to the utmost to save the ship, cargo and stores. The Committee has asked the Government to take the necessary measures to give full effect to the Convention by removing this bar.

In its latest report, the Government states that in this connection it has consulted the Government of the United Kingdom (which intends to take into account the comments of the Committee) and that, in view of the influence that any amendment brought to the British Act may have on the law of Sierra Leone, the necessary legislative measures can be taken only following those of the United Kingdom.

The Committee notes these statements and repeats its hope that the above-mentioned provisions of the 1894 Act will be amended very shortly in conformity with the Convention.

Singapore (ratification: 1964)

In the comments that it has been making since 1967, the Committee has asked the Government to take the necessary steps to extend the right to unemployment indemnity provided for seamen in case of shipwreck under section 77 of the Merchant Shipping Act to ships' masters, who are not covered by the definition of "seafarers" in section 2 of the Act, whereas they are covered by the Convention.

In its latest report, the Government states that it is considering the possibility of including in the above-mentioned Act provisions concerning unemployment indemnity for masters. The Committee hopes that the Merchant Shipping Act will shortly be amended correspondingly.¹

United Kingdom (ratification: 1926)

The Committee observes, from the reply of the Government to the comments it has been making since 1971, that no measure has yet been adopted to amend section 15 of the Merchant Shipping Act 1970, so as: (a) to extend the scope to masters and pilots (Article 1 of the Convention) and (b) to abolish the bar to claims to unemployment indemnity applicable to a seaman who has not made reasonable efforts to save the ship and persons and property carried in it (Article 2 of the Convention).

The Committee again notes the statement of the Government that full account will be taken of its comments before the above-mentioned section is brought into force. The Committee trusts that the amendments under consideration will be adopted very shortly, especially since so long as section 15 of the 1970 Act has not come into force, the situation will continue to be governed by section 157 of the 1894 Act, which contains a limitation similar to that mentioned under point (b) above, and moreover the governments of certain British non-metropolitan territories, in which the latter Act continues to apply, state that they can consider this question only on the basis of the amendments which may be adopted by the United Kingdom. The Committee hopes that the next report will indicate the progress made in this connection.¹

*
* *
*

In addition, requests regarding certain points are being addressed directly to the following States: Finland, Papua New Guinea, Sri Lanka, Tunisia.

Convention No. 9: Placing of Seamen, 1920

Requests regarding certain points are being addressed directly to the following States: Colombia, New Zealand.

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

A request regarding certain points is being addressed directly to Guinea.

¹ The Government is asked to report in detail for the period ending 30 June 1980.

Convention No. 11: Right of Association (Agriculture), 1921Bangladesh (ratification: 1972)

With reference to its previous observations, the Committee notes with interest the information supplied by the Government to the effect that there are no legal restrictions on the right of association of workers employed in agriculture, including self-employed workers, tenant farmers, sharecroppers and smallholders, and that the Government encourages these workers to organise.'

The Committee requests the Government to provide information on the application of the Convention in practice (number of existing trade unions, number of collective agreements, etc.).

Byelorussian SSR (ratification: 1956)

See under Convention No. 87.

Costa Rica (ratification: 1963)

By a letter dated 17 February 1979, the General Workers' Confederation communicated to the Office comments on the Government's reports concerning the application of Conventions Nos. 11, 87, 95, 98, 107, 117 and 122. These comments have been sent to the Government for its observations, and the Committee will examine the issues raised at its next session, together with any observations on them received from the Government.

Czechoslovakia (ratification: 1923)

See under Convention No. 87.

India (ratification: 1923)

The Committee notes the information provided by the Government. It also notes the observations of the National Labour Organisation (Ahmedabad) enclosed by the Government with its report, which mention the practical difficulties confronting trade union activity in agriculture, owing to the nature of work in this sector. The Committee asks the Government to provide further information on any developments in this situation.

Pakistan (ratification: 1923)

With reference to its previous comments, the Committee notes the statement by the Government that there is no law restricting the right of agricultural workers to establish associations or organisations. The Committee has asked the Government to indicate how the right of association is secured for persons working in agriculture other than wage earners, such as self-employed farmers, sharecroppers, tenants or smallholders. The Government states in this connection that the right of every citizen to establish associations and trade unions is guaranteed by the Constitution (section 17) as a fundamental right.

The Committee would be grateful if the Government would be good enough to provide information on the number of trade unions and

associations of self-employed workers comprising persons engaged in agriculture, the number of members and any other facts concerning the application of the Convention in practice.

Poland (ratification: 1924)

See under Convention No. 87.

Romania (ratification: 1930)

See under Convention No. 87.

Rwanda (ratification: 1962)

With reference to its earlier comments, the Committee notes the information provided by the Government to the effect that the right of association is guaranteed to agricultural workers in terms similar to those applying to industrial workers, by virtue of section 42 of the Constitution of the Rwandese Republic. Furthermore, the Government states that there are no legal provisions restricting the right of association of workers in agriculture.

In its previous reports, the Government said that a draft legislative decree extending the provisions of the Labour Code to workers employed in agriculture had been drawn up.

The Committee notes the information supplied by the Government in its last report to the effect that the extension of the labour legislation to agricultural workers is to be part of a forthcoming revision of the Labour Code.

The Committee trusts that the Government may shortly take steps to bring its legislation into harmony with the Convention and requests it to provide all information in this connection.

Ukrainian SSR (ratification: 1956)

See under Convention No. 87.

USSR (ratification: 1956)

See under Convention No. 87.

*
* * *

In addition, requests regarding certain points are being addressed directly to the following States: Burma, Gabon, German Democratic Republic, Kenya, Lesotho, Morocco, Papua New Guinea, Peru, Sri Lanka.

Convention No. 12: Workmen's Compensation (Agriculture), 1921Colombia (ratification: 1933)

Referring to its previous comments, the Committee notes that no measure has yet been taken in practice to extend the workmen's compensation scheme provided for by Decree No. 433 of 27 March 1971 to agricultural wage earners (whether they are employed in industrial undertakings or not). The Committee hopes that measures may shortly be adopted to ensure the full application of the Convention and requests the Government to report any progress made in this connection.

Convention No. 13: White Lead (Painting), 1921Afghanistan (ratification: 1939)

The Committee notes with interest the Government's statement that the enactment of new labour laws and regulations is receiving serious consideration, with a view to giving effect to all ratified Conventions. 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 which was to ensure legislative conformity with Convention No. 13. It accordingly hopes that the draft text will be taken into consideration in the preparation of the legislation now being envisaged and that appropriate provisions will soon be adopted to ensure the full application of the Convention.

Chad (ratification: 1960)

The Committee notes with regret that, in the absence of a report, for the third consecutive year, 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 notes with regret that for the second consecutive year the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

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)

The Committee notes with interest from the Government's report that section 139 of the General Regulations concerning occupational safety and health of 2 June 1978 provides for ILO Convention No. 13 to be respected in the use of the inorganic compounds of lead, including white lead, and that the Secretariat of Labour and Social Security intends to lay down rules to give effect to Articles 2, 5, 6 and 7 of the Convention.

The Committee hopes that such rules will be adopted shortly and will give full effect to the detailed requirements of the Convention.

Upper Volta (ratification: 1960)

In its previous direct requests the Committee asked the Government to supply statistics on cases of morbidity and mortality caused by lead poisoning (Article 7 of the Convention). The Government's latest report states that these statistics are not available for lack of resources. The Committee once again requests the Government to indicate the measures taken or contemplated to ensure that the statistics with regard to lead poisoning among working painters are obtained, as to morbidity, by notification and certification of all cases of lead poisoning and, as to mortality, by a method approved by the official statistical authority of the country.

*
* * *

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

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

Requests regarding certain points are being addressed directly to the following States: Bolivia, Burundi, Lebanon, Malaysia (Sarawak).

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

Guinea (ratification: 1966)

The Committee notes with regret that for two consecutive years the Government's report has not been received. It must therefore repeat its previous observations which read as follows.

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 recalls the concern expressed in this respect by the Conference Committee in 1978 and trusts that the Government will be in a position to provide the text of the order adopted with its next report.

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

Bolivia (ratification: 1973)

Article 5 of the Convention (compensation of beneficiaries). Referring to its previous comments, the Committee notes with satisfaction that Legislative Decree No. 13214 of 24 December 1975 to reform social security (sections 48 and 39) and the regulations issued under it (Legislative Decree No. 14643 of 3 January 1976, section 14) have abolished the conditions formerly governing the granting of a pension to the widow of the victim of an occupational accident.

Colombia (ratification: 1933)

Articles 5 and 10 of the Convention (public sector). The Committee pointed out that certain provisions of Legislative Decree No. 3135 of 1968, which governs, among other things, the scheme of insurance benefits for public employees and officials, are not in conformity with the Convention. These include sections 22, 23 and 35 of the Decree, which provide, in the event of permanent partial incapacity and death, for the payment of lump-sum compensation of an amount not exceeding the equivalent of 23 and 24 months' wages, respectively, whereas Article 5 of the Convention, which does not authorise such limitations, provides that the compensation shall be paid in the form of periodical payments and that it is only in exceptional cases that it may be wholly or partially paid in a lump sum and only if the competent authority is satisfied that it will be properly utilised. Furthermore, the above-mentioned Decree does not provide for the free supply and renewal of artificial limbs and surgical appliances, as does Article 10 of the Convention.

In its report for 1976-78 the Government states that in cases of partial incapacity the above-mentioned workers lose neither their employment nor their right to medical benefits but that it is considering the adoption of the necessary measures to amend sections 22, 23 and 35 of the Legislative Decree in question in conformity with the Convention. The Committee notes this statement with interest and hopes that the draft text to amend these provisions will be submitted to the Congress in the near future, as the Government states.

The Committee also takes note with interest of the statistics furnished by the Government in response to its previous requests and notes the areas where the social security scheme is now applicable. The Committee requests the Government to continue to furnish data of this kind in its future reports and hopes that the social security scheme will shortly cover all the workers of the country.

Guinea (ratification: 1966)

The Committee notes with regret that for the second year in succession the report of the Government has not been received. It is therefore bound to repeat its previous observation, which related to the following points:

Articles 1 and 3 of the Convention. In reply to the comments of the Committee, the Government stated that the new Social Security Code, the draft of which had been submitted to the National Assembly for adoption, would apply the provisions of the Convention. The Committee hopes that this Code will also cover officials, the permanent civil service, auxiliary officials and assimilated staff, since these classes of workers are covered by the Convention and they do not yet come under any scheme of workmen's compensation for accidents.

Article 5. The Committee also hopes that the new Code will comply fully with this provision of the Convention, under 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, and then only if the competent authority is satisfied that this will be properly utilised.

The Committee trusts that the new Code will be adopted in the very near future.

Mauritius (ratification: 1968)

With reference to its previous comments, the Committee notes with interest the adoption of the National Pensions Act, 1976, which contains provisions corresponding to the following Articles of the Convention: Article 5 (payment of compensation in the form of periodical payments in the case of permanent incapacity or death), Article 7 (additional compensation for injured workmen whose incapacity is such as to call for constant help by another person), Article 9 (granting of medical aid and such surgical aid as is necessary), Article 10 (supply and renewal of the necessary artificial limbs and surgical appliances) and Article 11 (guarantee against the insolvency of the employer or insurer).

The Committee hopes that the above-mentioned Act will come into force very shortly and that it will be applied - by Ministerial Order as provided in section 12 - to all the classes of workers covered by the Convention and not only to those appearing in the First Schedule to the Act.

The Committee also notes the statement by the Government that the Workmen's Compensation Ordinance (Cap. 220), which has been the subject of earlier comments, continues to apply pending the putting into effect of the 1976 Act, and that draft legislation to bring this Ordinance into conformity with the provisions of the above-mentioned Act is being finalised.

The Committee requests the Government to indicate any progress made in this connection.

Philippines (ratification: 1960)

The Committee notes the information supplied by the Government to the 64th Session of the Conference (June 1978) and the amendments introduced to sections 192 to 194 of the Labour Code by Presidential Decree No. 1368, which was issued following direct contacts that had taken place in 1977 between the competent national services and a representative of the Director-General of the ILO.

Article 5 of the Convention. (a) Benefits in the case of total permanent incapacity or death: (i) The Committee notes with satis-

faction that the limitation of the duration to five years and of the amount to 12,000 pesos is abolished in the new sections 192 and 194 of the Labour Code and that compensation equivalent to the monthly income benefit of the victim plus 10 per cent for each dependent child (up to five) will be paid henceforth to the beneficiaries.

(ii) The Committee notes, however, that under section 192(b) and section 194(a), both as amended by Decree No. 1368, the monthly income benefit is guaranteed only for five years. Since these provisions might place new limitations on the period during which benefits are paid, and this would be contrary to Article 5 of the Convention (which establishes the principle of periodical payments for life) and Article 11 (under which the monthly payments must in all circumstances be guaranteed against the insolvency of the employer or insurer), the Committee requests the Government to indicate the precise bearing of this provision, and if a new limitation is actually imposed, it hopes that the necessary measures may be taken to remove this new limitation in the above-mentioned sections of the Labour Code.

(iii) The Committee also notes that section 194(a) and (b) of the Labour Code, as amended by the above-mentioned Presidential Decree, provide that survivors' benefits can in certain cases be paid in the form of a lump sum but do not provide - as the Convention does - that such a conversion may be made only if the competent authority is satisfied that the lump sum will be properly utilised. The Committee hopes that the necessary measures may be taken to ensure the full application of the Convention on this point too.

(b) Benefits in the case of permanent partial incapacity. The Committee notes that the new section 193 of the Labour Code, although it introduces certain improvements respecting the duration and the amount of benefits in the case of permanent partial incapacity, maintains the limitation of the payment of compensation to a certain number of months, whereas the Convention, in this case too, lays down the principle of periodical payments for life. Moreover, when the compensation is converted into a lump sum (section 193(g)), no guarantee of proper utilisation is provided for, which is contrary to the Convention.

The Committee hopes that the Government will be good enough to reconsider the situation in respect of this point too, taking into consideration in particular the suggestions set forth in the Technical Memorandum of the ILO that was presented to it during the direct contacts.

Article 7. Presidential Decree No. 1368 contains no provision prescribing, as the Convention does, the granting of additional compensation to injured workmen whose incapacity is such as to require the constant help of another person. The Committee hopes that such a provision may be adopted in the near future, so as to give full effect to the Convention, in accordance with the intention expressed by the Government both in its reports and during the direct contacts.¹

*
* *

In addition, requests regarding certain points are being addressed directly to the following States: Bolivia, Chile, Iraq, Upper Volta.

¹ The Government is asked to report in detail for the period ending 30 June 1980.

Convention No. 18: Workmen's Compensation (Occupational Diseases), 1925Chile (ratification: 1933)

Article 2 of the Convention. In its previous comments, the Committee has pointed out that the schedule of occupational diseases appended to Presidential Decree No. 109 of 1968 does not mention, among the specific agents entailing occupational risks, poisoning by the alloys of lead or the amalgams of mercury or, among the activities apt to lead to anthrax infection, the operations of the loading and unloading or transport of merchandise in general.

In its report for 1976, the Government stated that in its opinion the above-mentioned Decree covered the risks appearing in Article 2 of the Convention but that it was prepared to take into consideration the comments of the Committee in the new social security scheme, which was being studied at the time, by expressly including the poisonings and operations mentioned above.

The last report of the Government repeats the previous statement without mentioning any measures taken in this connection. The Committee can only express once more the hope that the new social security scheme - including in particular the details mentioned above - will be adopted shortly and that the Government will report any progress made in the matter.

Colombia (ratification: 1933)

Article 2 of the Convention. (a) Activities apt to lead to anthrax infection. The Government refers again in its last report (received in June 1978) to section 201 of the Labour Code as amended. The Committee, however, has pointed out that the list of activities corresponding to anthrax infection that appears both in the Labour Code (section 201, paragraph 1, as amended by Decree No. 2355 of 1972) and in Decision No. 539 of 1 August 1974 (clause VIII, No. 6) of the Governing Board of the Colombian Social Security Institute is not in conformity with the schedule to Article 2 of the Convention. The Convention lists, among the activities apt to lead to anthrax infection, the "loading and unloading or transport of merchandise" in general and thus establishes an automatic presumption of the occupational origin of the disease for workers, such as dockers, suffering from anthrax infection, who may have transported or handled merchandise that had previously without their knowledge been in contact with infected animals or animal remains. The above-mentioned national legislation does not mention these operations or, where it mentions them, it restricts them to the handling of "infected" merchandise, which means that workers suffering from anthrax infection have, contrary to the Convention, to prove that they have been in contact with contaminated animals. The Committee hopes that the Government may bring the above-mentioned national legislation into full conformity with the Convention on this point, as it expressed its intention of doing, during the direct contacts that took place in 1972 between the competent national services and a representative of the Director-General of the ILO.

(b) Automatic presumption of the occupational origin of diseases. The previous comments of the Committee on the presumption of the occupational origin of the diseases listed in Article 2 of the Convention did not concern the compensation scheme established under the Labour Code (section 202), as the Government seems to believe, but

the social security scheme and in particular Decision No. 539 of 1 August 1974. Section 3 of this text provides that the fact that a worker suffering from one of the diseases listed in the Decision has performed one of the corresponding activities "does not constitute sufficient proof to describe his lesion as occupational". Since the Convention provides that the diseases and poisonings caused by the substances listed in the schedule shall be considered to be occupational when these diseases or poisonings affect workers engaged in the trades or industries listed opposite to them, the Committee hopes that the necessary measures will be taken shortly to amend section 3 of the above-mentioned Decision in conformity with the Convention.

Guinea (ratification: 1959)

Since 1964 the Committee has been pointing out that the list of occupational diseases contained in section 136 of the Social Security Code is not in conformity with that given in Article 2 of the Convention in that it does not mention poisoning by the alloys or compounds of lead, or poisoning by mercury, its amalgams and compounds, and does not contain a list of the operations apt to cause these poisonings or anthrax infection.

The Government has stated several times in the past that a new list of occupational diseases conforming to that of the Convention would be adopted either by order or in connection with a new Social Security Code. For the second year in succession the report on the application of the Convention has not been supplied, and the Committee is not in a position to judge whether the text instituting the new list of occupational diseases has been adopted. In these circumstances, the Committee can only come back to the question and hope that the list of occupational diseases may be revised so as to include the poisonings and diseases mentioned above, which appear in the left-hand column of the schedule of the Convention and for which the Convention establishes an automatic presumption of occupational origin when they are contracted by workers engaged in the trades or industries appearing in the right-hand column of the schedule.

The Committee trusts that the Government will not fail to indicate any measures taken or under consideration in this connection.¹

Upper Volta (ratification: 1960)

The Committee notes, from the report of the Government received in June 1978, that the list of occupational diseases has not yet been revised in conformity with that appearing in Article 2 of the Convention. It also notes that the regulations issued under the new Social Security Code are being drawn up with the help of the ILO and hopes that these regulations - in particular the decree provided for in section 43 of the Code - will be adopted shortly and will take account, in accordance with the statement of the Government, of the comments that the Committee has been making for some years, so that the new list of occupational diseases may, in conformity with the Convention, include:

- (a) all poisoning by lead, its alloys or compounds and their consequences (and not only certain pathological manifestations due to this poisoning);

¹ The Government is asked to supply full particulars to the Conference at its 65th Session and to report in detail for the period ending 30 June 1979.

- (b) poisoning by mercury, its amalgams and compounds and their consequences and the activities apt to lead to this poisoning;
- (c) the loading and unloading or transport of merchandise in general as operations apt to lead to anthrax infection.

The Committee requests the Government to indicate any progress made in this connection.¹

Zaire (ratification: 1960)

The Committee has considered the information supplied by the Government in reply to its previous comments and notes with satisfaction that the forms of poisoning which can be caused by alloys of lead are now covered by Order No. 71/77 of 5 May 1977.

The Committee notes that consideration is being given to the question of adding poisoning by amalgams of mercury to the list of occupational diseases laid down by national legislation, in accordance with the Convention. The Committee hopes that the Government will provide information on the progress made in this connection.

*
* * *

In addition, a request regarding certain points is being addressed directly to Guinea-Bissau.

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

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

Mauritania (ratification: 1963)

Article 1, paragraph 2, of the Convention. 1. The Committee notes the reply of the Government made to the 64th Session of the Conference and also in its report (received in June 1978). This reply shows that allowances for industrial accidents occurring after the coming into force of Act No. 76-039 on social security dated 3 February 1967 continue to be paid to nationals of every State bound by the Convention and to their dependants in case of residence or transfer of residence abroad.

2. With regard to industrial accidents occurring before the coming into force of the above-mentioned Act of 1967, the Committee notes with interest that the Government is studying the possibility of amending section 29 of Decree No. 57-245 of 1957, which applies in this case, so that the injured workmen or their dependants, when they are nationals of a State which is party to the Convention, may also continue to receive their allowances in the event of residence outside Mauritanian territory. The Committee hopes that this amendment will shortly be adopted.

*
* * *

¹ The Government is asked to report in detail for the period ending 30 June 1980.

In addition, requests regarding certain points are being addressed directly to the following States: Gabon, Hungary, Upper Volta.

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)

With reference to its previous comments, the Committee notes the information supplied by the Government (including that given to the Conference Committee in 1978) to the effect that there was reason to hope that the next legislative assembly - whose sittings were to begin in July 1978 - would approve a new Bill to govern the application of this Convention. The Committee recalls that various bills have been mentioned successively since 1967 by the Government which also states in its latest report that the relevant provisions will be incorporated in the national legislation when the Executive has obtained the necessary powers. The Committee trusts that steps will very shortly be taken to apply the various provisions of the Convention.

France (ratification: 1928)

Article 9, paragraph 1, of the Convention. In its previous comments, the Committee has pointed out that the provisions of the Maritime Labour Code (sections 93, 99 and 100), which limit the possibilities open to a seaman of terminating his agreement in a foreign port, are contrary to the provisions of the Convention, under which a seaman has the right to terminate an agreement for an indefinite period in any port where the vessel loads or unloads, subject to the giving of notice. In reply to these comments, the Government has announced the forthcoming adoption of a new Bill, which was to eliminate all distinction in this connection between metropolitan French ports and foreign ports.

The Committee observes, however, that Act No. 77-507 of 18 May 1977 to amend the Maritime Labour Code retains in sections 95 and 96 the previous provisions in accordance with which the termination of the agreement by notice takes effect only in French ports. It requests the Government to indicate the measures it intends to take with a view to ensuring the application of Article 9, paragraph 1, of the Convention.¹

Federal Republic of Germany (ratification: 1930)

Article 9, paragraph 1, of the Convention. The Committee again recalls that section 63(3) of the Seafarers' Act, 1957, which restricts the right of a seaman to terminate an agreement for an indefinite period in a foreign port, is incompatible with the above provision of the Convention, under which such an agreement may be terminated in any port where the vessel loads or unloads.

¹ The Government is asked to report in detail for the period ending 30 June 1980.

The Committee notes from the report of the Government that the negotiations with the social partners on the proposals to amend the Act have not yet reached a successful conclusion, the arguments advanced being too contradictory, but that discussions are to be taken up again and that consideration is to be given to a proposal by the trade unions that it should also be possible to terminate an agreement when the vessel arrives in a port of the European Community. The Committee hopes that the Government may be able in its next report to indicate amendments introduced to the 1957 Act.¹

Iraq (ratification: 1966)

The Committee notes that, in the absence of a report, no information is available on any progress made in the adoption of legislative provisions to give effect to the Convention. As the Government has referred to a draft Maritime Code since 1970, the Committee trusts that the necessary measures will be taken in the near future.

Mauritania (ratification: 1963)

Article 3, paragraph 1, of the Convention. With reference to its previous comments, the Committee notes with satisfaction that under section 96 of the Merchant Marine and Sea Fisheries Code (Act No. 78 043 of 28 February 1978), seamen may have the articles of agreement explained and translated by the services of the marine division.

Article 9, paragraph 1. The Committee notes that the provision of the former Code that prohibited a seaman from leaving the ship outside a Mauritanian port without the permission of the marine authority has been taken over by section 138 of the new Code. The Committee points out that a provision of this kind is incompatible with the Convention, which provides that a seaman has the right, subject to giving notice, to terminate an agreement for an indefinite period in any port where the vessel loads or unloads, whether at home or abroad. The Committee hopes that this discrepancy between the legislation and the Convention may be eliminated in the near future.

Mexico (ratification: 1954)

The Committee notes the information supplied by the Government to the Conference Committee in 1978 and in its latest report, in reply to its previous comments.

Article 5, paragraph 2, of the Convention. The Committee notes that, although the Government maintains its opinion that the present practice of including in the seaman's book an evaluation of his work is to his advantage, it is considering the possibility of eliminating the item in question in order to resolve the disagreement with the Committee, after consultation with the employers' and workers' organisations. The Committee hopes that the change in the seaman's book can be made shortly.

Article 9, paragraph 1. The Committee notes with interest that the Government is prepared, in consultation with the representatives of the shipowners and seamen, to study the question in order to reach a

¹ The Government is asked to report in detail for the period ending 30 June 1980.

solution removing all possibility of discrepancy between the Federal Labour Act, section 209(III), and this provision of the Convention, which prescribes the seamen's right to terminate an agreement for an indefinite period in any port where the vessel loads or unloads, provided that the agreed notice has been given. The Committee hopes that the Government will be able in its next report to indicate the solution adopted.¹

Pakistan (ratification: 1932)

With reference to its previous observations, the Committee again points out that, under Article 1 of the Convention, the Convention also applies to seamen engaged on Pakistan ships in ports outside Pakistan, whereas the Merchant Shipping Act of 1923 limits the articles of agreement to seamen engaged in a Pakistan port. It notes from the Government's report that the new Merchant Shipping Bill, which would take into account the provisions of the Convention, is awaiting the constitution of a new National Assembly. Since the Government has been referring to this Bill for many years, the Committee trusts that the necessary measures will shortly be taken to bring the legislation into conformity with the provisions of the Convention.¹

Panama (ratification: 1970)

Article 9, paragraph 1, of the Convention. With reference to its previous observation and in the absence of further information on this matter in the report of the Government, the Committee again points out that section 257 of the Labour Code prohibits the termination of an agreement in any port but that where the seaman was signed on, whereas, under the above provision of the Convention, an agreement for an indefinite period may be terminated in any port where the vessel loads or unloads, provided that the agreed period of notice is observed. Since the national legislation authorises the conclusion of agreements for an indefinite period (section 254 of the Labour Code), the Committee again expresses the hope that section 257 of the Code may be amended to bring it into conformity with the provisions of the Convention, on the occasion of the drafting of general legislation in conformity with the maritime Conventions that have been ratified by Panama, for which the Government has indicated its intention of requesting the technical assistance of the ILO.¹

Venezuela (ratification: 1944)

Article 9, paragraph 1, and Article 14, paragraph 2, of the Convention. In its previous comments, the Committee has noted that: (i) section 289 of the Regulations issued under the Labour Act, which prohibits the termination of the agreement when the vessel is in a foreign port, is contrary to Article 9, paragraph 1, of the Convention; and (ii) nothing in the legislation provides that a seaman shall have the right to obtain from the master a separate certificate as to the quality of his work, as provided by Article 14, paragraph 2, of the Convention. The Committee notes with interest that, under Orders Nos. 1756 and 1780 of 20 September and 19 October 1978 respectively, the committee to prepare draft regulations on work on board national merchant vessels has now been set up and that it has received express instructions to bear in mind the provisions of Convention No. 22. The

¹ The Government is asked to report in detail for the period ending 30 June 1980.

Committee hopes that the next report of the Government will provide information on the measures adopted to give full effect to the Convention.¹

*
* *

In addition, requests regarding certain points are being addressed directly to the following States: Bangladesh, Ghana, Iraq, Mauritania, Panama, Tunisia, Uruguay, Venezuela.

Convention No. 23: Repatriation of Seamen, 1926

Ireland (ratification: 1930)

Article 3, paragraphs 1 and 4 of the Convention. For some years the comments of the Committee have related to section 32 of the Merchant Shipping Act of 1906, which does not cover the right to repatriation of (a) a seaman who leaves the ship in a Commonwealth country or (b) a foreign seaman who joins the ship in a foreign port and leaves it in another foreign port. The first exception set out in section 32 is incompatible with Article 3, paragraph 1, of the Convention and the second exception, applying to a foreign seaman who joins a ship in his own country, is contrary to paragraph 4 of the same Article. Though maintaining that national practice in this field is in conformity with the Convention, the Government has referred since 1965 to a proposed revision of the merchant shipping legislation. The latest report indicates that this revision is proceeding but that as it is a work of considerable magnitude and the requirements of the Convention are fully met in practice, it would not be justifiable to give priority to a special amendment over more pressing draft legislation.

The Committee notes this information. It is, however, bound to recall that as long as section 32 has not been amended, the seamen concerned will not enjoy in national law the protection to which they are entitled through the ratification of the Convention by Ireland. The Committee therefore trusts that the Government will soon take suitable measures to bring national law into conformity with the Convention.¹

Philippines (ratification: 1960)

With reference to its previous comments, the Committee notes with satisfaction the specimen of the Standard Format of a Service Agreement concerning Filipino Crews communicated by the Government with its report. This Service Agreement contains provisions ensuring the repatriation of Philippine seamen, without cost to themselves (except when they have been put ashore for disciplinary reasons), in accordance with Article 3, paragraph 1, and Article 4 of the Convention.

The Committee hopes that measures may shortly be taken, in accordance with Article 3, paragraph 4, of the Convention in order - (i) to guarantee the right to repatriation of foreign seamen "engaged in a port of their own country" and (ii) to establish conditions in

¹ The Government is asked to report in detail for the period ending 30 June 1980.

which foreign seamen "engaged in countries other than their own" may enjoy this right.¹

Yugoslavia (ratification: 1929)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

Article 3, paragraph 1, of the Convention. Further to its earlier comments, the Committee notes from the Government's report that the revision of current legislation respecting maritime shipping is proceeding. Since this revision should ensure, inter alia, that the repatriation of foreign seamen is no longer subject to conditions of reciprocity, in accordance with this Article of the Convention, the Committee hopes that the Government will soon be able to announce that the revision has been completed and to supply the text of the new legislation.

*
* *

In addition, requests regarding certain points are being addressed directly to the following States: Iraq, Mexico, Tunisia.

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

Chile (ratification: 1931)

Article 4, paragraph 1, of the Convention. With reference to its previous observation, the Committee notes the reply of the Government, and observes once more that no progress has yet been made in the full application of this provision of the Convention.

It also notes the statement by the Government that the new national social security system, which is still under study, will guarantee the full application of Article 4, paragraph 1, of the Convention, so that the insured person shall be entitled free of charge, as from the commencement of his illness and at least until the period prescribed for the grant of sickness benefit expires, to the supply of proper and sufficient medicines and appliances. The Committee hopes that the new social security system will come into force shortly and trusts that it will apply the above-mentioned provision of the Convention in full.¹

Ecuador (ratification: 1942)

The Committee notes that the Social Security Code is still being revised by the Ecuadorian Social Security Institute, and that the old legislation therefore remains in force. The Committee trusts that the process of revision will soon be completed and that consideration will be given to its previous observation, which was as follows:

In the comments that it had made earlier the Committee had pointed out that this law is inconsistent with the Convention on

¹ The Government is asked to report in detail for the period ending 30 June 1980.

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 Security 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.

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.

On the second point, the Committee 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.¹

Haiti (ratification: 1955)

With reference to its previous comments, the Committee notes that the compulsory sickness insurance scheme established by the Decree of 18 February 1975 has not yet been put into effect. The Committee trusts that this scheme will be gradually put into effect as the Government stated during the direct contacts that took place in November 1976, and requests the Government to indicate any progress made in this connection.

The Committee is again addressing a direct request to the Government on Articles 2, paragraphs 1 and 2, and 4, paragraph 1, of the Convention.¹

Peru (ratification: 1945)

Article 2 of the Convention (scope). With reference to its previous comments, the Committee notes that the necessary legislation has not yet been issued to provide the Social Insurance Scheme with the hospital infrastructure needed for the granting of medical benefits in the provinces that have been brought under it by virtue of Presidential Decree No. 002-75-TR of 1975. The Committee trusts that this legislation will be issued in the near future.

Article 4 (medical assistance). The Committee notes that the draft legislative decree to establish the Unified Social Insurance Health Benefits Scheme indicates minimum conditions for the granting of health benefits in the event of non-occupational diseases and accidents, and that these conditions are less strict than those at present in force. The Committee recalls that in previous comments it has requested the Government to abolish the qualifying conditions on which the granting of medical benefit depends, which are contrary to this provision of the Convention. The Committee therefore trusts that

¹ The Government is asked to report in detail for the period ending 30 June 1980.

the Government will take the necessary measures to abolish these qualifying conditions in the near future.¹

Uruguay (ratification: 1933)

The Committee notes that Conventions Nos. 24 and 25 have been denounced. Since Convention No. 130 has been ratified by Uruguay the Committee refers to its comments under that Convention.

*
* *

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

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

Chile (ratification: 1931)

See under Convention No. 24.¹

Haiti (ratification: 1955)

See under Convention No. 24.¹

Peru (ratification: 1945)

See under Convention No. 24.¹

Uruguay (ratification: 1933)

See under Convention No. 24.

*
* *

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

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

Bolivia (ratification: 1954)

The Committee has noted the Government's reply, confirming the setting up of the National Wages Council, whose administrative units are at present studying all questions within their competence, in accordance with the administrative rules of the Ministry of Labour. The Committee trusts that the Government will soon be in a position to

¹ The Government is asked to report in detail for the period ending 30 June 1980.

indicate the minimum wage rates fixed and the approximate number of workers covered (Article 5 of the Convention).¹

*
* *

In addition, requests regarding certain points are being addressed directly to the following States: Chile, Costa Rica, Gabon.

The Committee has noted the information supplied by Congo in reply to a direct request.

Convention No. 29: Forced Labour, 1930

Belgium (ratification: 1944)

The Committee notes with interest the information supplied by the Government in its last report concerning restrictions on the right of career officers and non-commissioned officers to resign.

It notes that there seem to have been some changes in administrative instructions on the matter following its previous comments. According to the report of the Government, cadets of the Royal Military Academy when they are called on to sign their contract of service are explicitly informed that their legal situation implies that resignation can be refused by the Minister if he deems it to be contrary to the interests of the service, but that the application for permission to resign will be accepted in principle when the officer has completed a period of service equal to at least one-and-a-half times his period of training, and no longer one-and-three-quarters times as before. In reply to a question put by a deputy (appearing in questions and replies in the Chamber of 27 December 1977), the Government stated that the present regulations respecting resignation from the armed forces are determined by the provisions of Instruction No. SGE DEG 202A of 2 July 1976, which apply to all officers. The Committee requests the Government to be good enough to communicate the text in question.

The Committee observes that, as the texts are at present, youths under 18 are entitled to leave the service only during the first three months of their engagement, which appears to be a very short period for very young persons. Moreover, it seems that under the new conditions, once they become officers, they are still bound to reach the rank of captain and to have completed, for example, nine years of service after a period of training of six years, before they can free themselves of their professional obligations, under pain of various penalties.

The Committee asks the Government to indicate in its next report any additional measures that may be taken or under consideration in this sphere, with a view to granting minors the possibility of leaving the service when they reach the age of 18 years, and to provide for those who choose to remain in the military career the possibility of ending it at certain intervals or by giving a reasonable notice, subject to the conditions that might reasonably be required of them to ensure the continuity of the services performed by the armed forces, or to replace the procedures entailing the compulsory performance of service by procedures applicable to contractual relations.

¹ The Government is asked to report in detail for the period ending 30 June 1979.

Benin (ratification: 1960)

With reference to its previous comments concerning civic service, under which citizens could be mobilised for social and economic work, the Committee notes with satisfaction that, following the direct contacts that took place between the competent national services and a representative of the Director-General of the ILO in 1973, texts have been adopted to bring the national legislation into fuller harmony with Article 2, paragraph 2(a), of the Convention.

Under Ordinance No. 77-14 of 25 March 1977, the armed forces now include only the defence and security forces and the people's militia.

Ordinance No. 77-22 of 6 May 1977 repeals section 39 of Ordinance No. 70-42/CP/DN of 24 July 1970 respecting the organisation of national defence, which placed the chief of staff of the civic service under the order of the supreme defence authority.

The Committee notes the information in the reports received in September 1978 and March 1979 from the Government that these ordinances repeal the provisions in the old texts governing the civic service and that the civic service has been dissolved, its property being handed over to the provinces.

The Committee, however, noting that the ordinances in question do not specifically repeal certain other sections of Ordinance No. 70-42/CP/DN of 24 July 1970 that still mention the civic service, in particular sections 23, 36, 37, 38 and 40 or Decree No. 71-43/CP/DN of 9 March 1971 respecting the organisation and operation of the civic service, hopes that the Government will be kind enough to confirm the repeal of the texts in question and that its next report will contain information on the changes occurring in this connection.

Burundi (ratification: 1963)

The Committee takes note with satisfaction of Legislative Decree No. 1/19 of 30 June 1977 to abolish the traditional institution of ubugererwa, a form of serfdom that placed on the ugurerwa and their descendants an obligation to perform ill-defined personal services.

The Committee notes that special procedures are laid down for giving effect to the Legislative Decree and also sanctions in the event of infringement. It would be grateful if the Government would communicate information on the practical application of these new provisions.

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, which dealt with the following points:

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 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.

The Committee hopes that the Government will supply a detailed report for examination by the Committee at its next session.

Colombia (ratification: 1969)

Article 2(2)(c) of the Convention. In its previous comments, the Committee noted that under sections 175 and 233 of the Prison Code, as amended (Decree No. 1817 of 17 July 1964), all detainees except those medically declared unfit for work are obliged to perform labour. It follows from these provisions that both convicted offenders and prisoners who have not been convicted by a court of law are compelled to perform prison labour. Moreover, the Committee noted that under this decree, prisoners may be hired to private persons or enterprises (section 182).

In its latest report, the Government states that detainees may work outside the prison under labour contracts, and supplies a copy of

Decree No. 2119 of 1977 adopted under Act No. 32 of 1971. The Committee notes that this text does not repeal the above-mentioned Decree No. 1817.

The Committee accordingly would ask the Government to amend all relevant provisions of Decree No. 1817 so as to ensure the observance of Article 2(2)(c) of the Convention.

Gabon (ratification: 1960)

1. In its earlier comments, the Committee noted that section 4(a) of the draft Labour Code provided for the imposition of labour or service under the civic service laws consisting in the performance of tasks of general interest. It pointed out that this provision was incompatible with the Convention since it was not expressly confined to the exceptions laid down in Article 2, paragraph 2. Having examined the new Labour Code supplied by the Government to the Conference Committee, the Committee regrets to observe that section 4(a) has been adopted without change. It requests the Government to indicate the measures taken or under consideration to ensure observance of the Convention in this respect.

2. In the observations that it has been making since 1964, the Committee has pointed out the incompatibility with the Convention of Ordinance No. 50-62 of 21 September 1962, which imposes on every citizen over 18 who cannot show that he has an occupation or is registered at an educational establishment the obligation to accept, under pain of penal sanction, any employment assigned to him by the authorities. According to the repeated statements of the Government, both in its earlier reports and before the Conference Committee in June 1978, this Ordinance has never in fact been applied but has always been regarded as encouraging young people to work. The Committee again expresses the hope that the Government will take the necessary measures to repeal Ordinance No. 50-62 formally and bring its legislation into conformity with the Convention, which prohibits the exaction from any person under the menace of any penalty of work for which he has not offered himself voluntarily.

Guinea (ratification: 1961)

See under Convention No. 105.

Indonesia (ratification: 1950)

In earlier observations the Committee noted that large numbers of persons had been detained for periods of over ten years without having been tried by a court of law, on the island of Buru and in other parts of Indonesia, where they were performing forced or compulsory labour within the meaning of the Convention. In 1976 and 1977 the Government undertook to settle the entire matter by the end of 1978 by the trial or release of all remaining detainees.

In its report dated 8 March 1978 the Government stated that 10,000 detainees were released on 20 December 1977 from various rehabilitation centres all over Indonesia and that 19,791 remaining detainees were to be released in 1978 and 1979. According to the Government these releases were absolute and unconditional, and resettlement projects established by the Government within the framework of the national transmigration programme could be taken advantage of by the ex-detainees on a voluntary basis.

In its observation in 1978 the Committee noted this information with interest. As regards detainees whom it was proposed to bring to trial, the Committee expressed the hope that the Government would supply detailed information on the action taken, including the number of persons tried, reclassified or still awaiting trial, and the measures taken to ensure that those who are acquitted or whose sentences do not involve further detention are permitted to recover their free choice of employment.

As regards detainees who were not to be brought to trial, the Committee expressed the hope that the Government would provide full information on the action taken for their release in conditions which would permit them once again to enjoy full and effective freedom of choice of employment. In this connection it asked the Government to supply copies of the rules governing participation in resettlement schemes, including more particularly the conditions under which persons taking part in resettlement projects may terminate such participation.

The Committee notes that detailed information has not been supplied regarding the situation of persons tried, reclassified or still awaiting trial.

As regards the release of detainees who have not been brought to trial, the Committee notes the indications provided by the Government to the Conference Committee in 1978 and in a report received on 30 October 1978 that on 20 May 1978, 21 July 1978 and 3 September 1978, 265 persons, 3,921 persons and 1,324 persons respectively were released from various rehabilitation centres in West Java or throughout Indonesia, bringing the total number of releases for the first nine months of 1978 to 5,510 persons.

With regard to its request for information concerning the action taken to ensure that those released enjoy full and effective freedom of choice of employment, the Committee notes the Government's reaffirmation to the Conference Committee in 1978 that the release of detainees was absolute and unconditional. It regrets, however, that the rules governing participation in resettlement schemes and the conditions for leaving such projects have not been communicated.

The Committee trusts that the necessary measures will be taken to ensure the observance of the Convention and that full information concerning these measures, including the texts requested by the Committee, will be supplied.¹

Lesotho (ratification: 1966)

Further to its previous comments, the Committee notes with satisfaction from the Government's report on Convention No. 105, submitted under article 19 of the Constitution, that section 79(2) of the Employment Act (which authorised chiefs to require persons to act as their messengers) was repealed by the Employment (Amendment) Act 1977.

Liberia (ratification: 1931)

The Committee notes the information supplied by the Government in reply to its previous observation, as well as the indications given to the Conference Committee in 1978.

¹ The Government is asked to supply full particulars to the Conference at its 65th Session.

1. Local public works. In its previous observations, the Committee recalled that the Revised Laws and Administrative Regulations for Governing the Hinterland, 1949, contain provisions permitting the exaction of forced labour inter alia for public works; although stated to have been repealed in 1962, these continued to be used as the basis for local administration according to information made available by the Government in 1972.

The Committee notes the provisions of an Act to amend the Executive Law with respect to the Ministry of Local Government, Rural Development and Urban Reconstruction, adopted in May 1972, the text of which has been supplied by the Government. It notes that this Act has provided for the creation of the Ministry of Local Government, Rural Development and Urban Reconstruction, the duties of which shall include, inter alia, overseeing the orderly functioning of tribal government and drafting rules and regulations to this end, as well as initiating and organising programmes for rural community development. It would appear that while the Act does not contain specific provisions to replace the 1949 Revised Laws and Administrative Regulations for governing the Hinterland, the Ministry of Local Government, Rural Development and Urban Reconstruction is called upon to draft rules and regulations on the subject.

In this connection, the Committee recalls the Government's statement in its report for the period ending 15 October 1976, that the competent government agency was engaged in modifying and updating the Revised Laws and Administrative Regulations for Governing the Hinterland, 1949. In the 1977 report of the Ministry of Local Government, Rural Development and Urban Reconstruction, reference was also made to the need of revising and updating provisions of this text, and in a statement to the Conference Committee in 1977, the Government indicated that a draft law aimed at repealing provisions contrary to the Convention had been referred to a committee which had submitted a report to the President on the matter.

In its latest report, the Government refers to a copy of the findings and conclusions of this committee; however these were not communicated with the Government's report.

Noting also the information supplied in the Government's report on the practical arrangements made for provision of labour to self-help projects in rural areas, the Committee again urges the Government to take the necessary action to clarify the legal situation regarding the supply of labour for local public works. It hopes that full information on measures adopted to this end will be supplied at an early date.

2. Prohibition of forced labour. In its report for 1974-75, the Government indicated that penal sanctions for the illegal exaction of forced labour were included in the new draft Labour Code and that, pending adoption of this Code, draft legislation on the matter had been prepared to bring the law into conformity with Article 25 of the Convention.

The Committee notes from the Government's latest report that the new draft Labour Code is still being revised to take account of all ILO Conventions and Recommendations, and that it is hoped that a final decision on the draft will be reached. Pending this, the Committee again expresses the hope that the necessary legislation will be adopted soon to give effect to Article 25 of the Convention.

3. 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, to ensure 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 where according to reports of the Ministry of Labour, Youth and Sports lack of adequate transport prevented the carrying out of frequent inspection visits, and non-concessionary agricultural undertakings did not appear to have been inspected. The Committee requested 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. It also asked for information on the measures taken to ensure that compulsory cultivation was no longer imposed by tribal chiefs.

In its latest report, the Government states that the problems have been overcome and some progress has been made in respect of labour inspection. In this connection, it refers to a memorandum on labour inspection in agricultural establishments which states that in 1977 and until May 1978 more than 300 inspections had been conducted in an unspecified number of non-concessionary undertakings employing 2,531 workers, and that nearly all violations of the Labour Practices Law noted had been rectified. The Committee hopes that more detailed information on the measures taken to enforce the prohibition of forced or compulsory labour in non-concessionary agricultural undertakings as well as in relation to Chiefs will be supplied with future reports of the Ministry of Labour, Youth and Sports and the Ministry of Local Government, Rural Development and Urban Reconstruction.

Paraguay (ratification: 1967)

The Committee notes with satisfaction the adoption, as a result of the direct contacts that took place in 1977 between a representative of the Director-General and the competent national authorities, of Act No. 738 of 27 December 1978, which amends section 3 of Legislative Decree No. 1429 of 23 May 1940 by defining the offence of vagrancy more narrowly so as to ensure fuller observance of the Convention. The Committee also notes with interest that another Bill drawn up during the direct contacts has been brought before the National Congress. It hopes that this text, which would amend section 39 of Act No. 210 of 22 September 1970 on the prison system, will also be adopted in the near future in order to bring the provisions of the national legislation into conformity with Article 2, paragraph 2(c), of Convention No. 29 and Article 1(a) of Convention No. 105.

Sudan (ratification: 1967)

With reference to its previous comments, the Committee notes with satisfaction that the National Training Act, 1976, repeals the National Service Act, 1970, which imposed three years' non-military service on certain graduate conscripts, varying with their studies, and the Study Missions and Scholarships Act, which restricted the liberty of graduates in government service and state scholarship holders to leave their employment.

It is, however, asking the Government to supply additional information on this point and on certain others in a direct request.

Trinidad and Tobago (ratification: 1963)

The Committee notes the information supplied by the Government in its report.

1. With reference to its 1974 general observation on the Convention requesting governments to supply information on the present position of national law and practice concerning the use of convict labour by private individuals, companies or associations, the Committee notes from the Government's report that although the Prison Rules (Chapter 11, No. 7) have not yet been amended, national practice does not permit the use of convict labour by private individuals, even though Rule 252 allows prisoners under certain circumstances to be employed for the private benefit of any person. Having also noted the comments of the Employers' Consultative Association of Trinidad and Tobago on this particular matter, the Committee hopes that the Government will be able to amend the Prison Rules at an appropriate occasion so as to ensure compliance with the Convention both in law and in practice.

2. The Committee has taken note of the observations made by the Communication Workers' Union on 29 January 1979 concerning the application of the Convention in respect of the Trinidad and Tobago Telephone Company. These observations having been communicated to the Government for comment on 8 February 1979, the Committee hopes that the Government will supply full information on the subject for examination at the Committee's next session.

Zaire (ratification: 1960)

The Committee notes with regret that for the fourth year in succession no report has been received from the Government. In its previous observation the Committee recalled that in its report for 1967-69, the Government stated that it would without fail introduce appropriate amendments to the provisions whereby persons not making the minimum personal contribution may be imprisoned and forced to perform prison labour on the basis of an administrative decision (section 160 of Annex 1 to the Law of 10 July 1963 on income tax, read together with articles 9 and 64 of Ordinance No. 344 of 1965 on the prison system). The Committee noted that Legislative Ordinance No. 71-087 of 14 September 1971 on minimum personal contributions, which, according to the Government, replaced but did not expressly repeal the relevant provisions of the Law of 10 July 1963, still provided for imprisonment of tax defaulters by decision of the chief of the local community and the burgomaster for a period of up to two months, and for the imposition of labour on those imprisoned as a means of recovery of the minimum personal contribution (sections 18 to 21). The Committee again requests the Government to take the necessary measures to bring the legislation on the minimum personal contribution into conformity with Article 2(2)(c) of the Convention, which excludes prison labour from the scope of the Convention only when it is imposed as a consequence of a conviction in a court of law.

*
* *
*

In addition, requests regarding certain points are being addressed directly to the following States: Benin, Burundi, Colombia, Czechoslovakia, Iraq, Sri Lanka, Sudan, Zaire, Zambia.

Information supplied by Lesotho and Malta in answer to a direct request has been noted by the Committee.

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

Kuwait (ratification: 1961)

See under Convention No. 1.

*
* * *

In addition, requests regarding certain points are being addressed directly to the following States: Bolivia, Ghana, Morocco.

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

Argentina (ratification: 1950)

The Committee notes from the Government's reply to its previous observation that the review which had been started with a view to the reorganisation of port operations and in which the requirements of the Convention were to be taken into account has been suspended awaiting the outcome of the current revision of the Convention.

The Committee recalls that it has been drawing attention since 1952 to the fact that there are no national legal provisions to 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 once again urges the Government to lay down legally binding rules to ensure the safe conduct of port operations and thus to give effect at least to the basic requirements of the Convention.

Chile (ratification: 1935)

The Committee notes with satisfaction, that the Internal Regulations concerning Industrial Safety and Health of 1972, communicated in response to the Committee's observation of 1978, give effect to Article 2, paragraph 2, Article 5, paragraphs 2, 3 and 6, Article 9, paragraphs 2(4), (8) and (9), Article 11, paragraphs 3 to 7 and Article 14 of the Convention.

The Committee is addressing a direct request to the Government on the measures needed to give effect to certain further provisions of the Convention.

Honduras (ratification: 1964)

The Committee notes with satisfaction that, as a result of direct contacts which took place between the competent national services and a representative of the Director-General of the ILO, regulations concerning safety and health in loading and unloading of vessels have been issued on 20 April 1978, to give effect to the provisions of the Convention.

Italy (ratification: 1933)

The Committee recalls that in information communicated to the Conference Committee in 1977 the Government indicated that the local port regulations issued by the maritime authorities must be considered to be partially inadequate to prevent accidents so that the need was apparent for a single set of regulations applicable to the whole country and in complete conformity with the Convention. It stated further that a tripartite committee had been created by a decree dated 20 October 1976 to study draft regulations for the prevention of accidents in port work which had been prepared by the Minister of the Merchant Marine.

The Committee regrets that the Government's latest report makes no reference to these draft regulations or to the work of the tripartite committee, but states that a committee will be set up to lay down a plan for national regulations concerning the protection of the physical integrity and health of port workers as provided for in Bill No. 252 concerning the institution of a national safety service.

The Committee recalls that for a number of years the Government has been stating its intention to adopt general regulations concerning safety in port work which would give full effect to the requirements of the Convention throughout the national territory and would replace the local regulations issued by individual port authorities through which the Convention is at present largely implemented in certain ports.

The Committee recalls that in its reports the Government has listed some 145 ports and has indicated that local regulations are in force in 60 of them (including all the major ports), and it reiterates its hope that national or local regulations to give full effect to the Convention in all the ports of the country will be adopted in the very near future.

It asks the Government to indicate the measures taken or contemplated to ensure that the requirements of the Convention are complied with in the ports which do not appear to have dock work safety regulations, with the exception of those which may be exempted under Article 15 of the Convention, and, if national regulations have still not been adopted, to supply a complete list of the local port regulations concerning the prevention of accidents, together with copies of the regulations which have not yet been communicated.

Mexico (ratification: 1934)

The Committee notes the explanations provided by the Government according to which the provisions of the Convention which have been incorporated into national law as a result of ratification and the ministerial circular issued to give effect to Articles 4, 6, 11 and 13 thereof are among the labour standards for the non-observance of which section 886 of the Federal Labour Act lays down a fine of 100 to 10,000 pesos and are also among the labour standards for the supervision of which the labour inspection service is responsible. The Committee requests the Government to provide information on the manner in which inspection of dock work is carried out in practice, together with particulars of the numbers of inspection visits made in a given period and of the penalties imposed for infringements of the labour standards for dock work.

The Committee notes the provisions of section 237 of the General Occupational Safety and Health Regulations of 5 June 1978 requiring labour inspectors, in addition to supervising the observance of obliga-

tions derived from international Conventions, to provide technical information and guidance to workers and employers on the best way of complying with legal provisions on safety and health, and requests the Government to provide particulars of the manner in which the provisions of the Convention and of the above-mentioned ministerial circular are brought to the attention of those concerned (such as port authorities, stevedoring companies, shipowners, workers) having regard in particular to the provisions of Article 17 (3) of the Convention, according to which a copy or summary of the relevant safety provisions must be posted up in docks, etc.

Peru (ratification: 1962)

The Committee notes with regret that for the third consecutive year the Government's report has not been received. It notes further from the statement of a Government representative to the Conference Committee in 1978 that the Maritime Labour Supervisory Commission and the National Port Undertaking periodically adopted regulatory provisions concerning measures for the prevention of occupational accidents to port workers and that the provisions adopted had been based on the recommendations of an ILO/UNDP technical co-operation project carried out through the Inter-American Centre for Labour Administration.

The Committee has noted that the report of this project contained, in addition to extracts from safety manuals and guidelines for the prevention of accidents, draft safety and health regulations for dock work. Since the last report received from the Government on the Convention, covering the period 1972-74, indicated that no laws or regulations had yet been adopted to ensure its application, the Committee trusts that the Government will indicate the date on which the regulatory provisions referred to in the statement of the Government's representative in 1978 were brought into force and provide a copy thereof.

Singapore (ratification: 1965)

In previous observations, the Committee had drawn the Government's 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 (most recently the Safety Code for Port Operations) issued by the Port of Singapore Authority.

The Committee therefore notes with satisfaction the adoption of the Singapore Port Regulations, 1977, which give effect, as regards processes carried out on board ship, to the following provisions of the Convention: Article 3, paragraphs 1 and 2, Articles 6 and 7, Article 9, paragraphs 1 and 2(1)(2)(4) and (5), Article 11, paragraphs 2 and 8, and Article 17(1) and (2) of the Convention. It also notes that a medical centre and ambulance service are provided by the Port Authority in accordance with Article 13, paragraph 1.

*
* * *

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

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

A request regarding certain points is being addressed directly to Guinea.

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

France (ratification: 1939)

Article 12 of the Convention. Further to its earlier comments with respect to 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 once again that the difficulties in the implementation of the above provision 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 feels bound to repeat yet again that it does not share this view. In the first place, it observes that the granting of the "supplementary allowance" - itself conditional upon the granting of a basic benefit to which it is an accessory - is not in any way dependent upon an individual means test as is customary with an assistance benefit.

In the second place, paragraph 2 of this Article of the Convention provides that foreign insured persons and their dependants shall be entitled under the same conditions as nationals to the benefits derived from the contributions credited to their account. In view of the fact that since 1958 this supplementary allowance is financed almost entirely out of the funds of the general social security scheme (constituted by means of contributions from all insured persons, national and foreign), the Committee can only point out that the method of financing the supplementary allowance precludes its qualifications as an assistance allowance.

The Committee accordingly hopes that the Government will give consideration to the measures necessary to give effect to the Convention on this point, unless it decides to ratify - as regards the Parts 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.

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

Algeria (ratification: 1962)

Article 2 of the Convention. The Committee takes note of the information supplied by the Government in its report received in 1978, and notes in particular the Order of 23 October 1975 to supplement and revise the schedules of occupational diseases appended to the Order of 22 March 1968. The Committee notes with interest that the new list of occupational diseases appearing in this Order has introduced certain improvements, in relation to the old list, particularly in respect of

schedules Nos. 12 (manifestations due to certain halogenated acyclic hydrocarbons) and 34 (occupational manifestations due to organophosphorus compounds and phosphoramides). The Committee also notes the statement by the Government that the national commission instructed to draw up the list of occupational diseases is continuing its research work to determine all diseases that may be caused by forms of poisoning due to the various substances mentioned in the Convention and by the use of new products or products recently brought into use in production and productivity circuits.

The Committee trusts that this research work will be completed very shortly, and also the reorganisation of social security schemes that the Government has been mentioning for some time, and that the schedules of occupational diseases will be brought into full conformity with the Convention on the following points:

- (a) the list of the various pathological manifestations appearing under each "disease" in the left-hand column of the schedules to the Order of 22 March 1968 (as amended) should be of an indicative nature, as in the list of corresponding activities appearing in the right-hand column of these schedules;
- (b) the wording of the items concerning poisoning by arsenic (schedules Nos. 20 and 21), manifestations due to the halogen derivatives of hydrocarbons of the aliphatic series (schedules Nos. 3, 11, 12, 26 and 27), poisoning by phosphorus and certain of its compounds (schedules Nos. 5 and 34) should be replaced by wording covering in general terms - like that of the Convention - all manifestations that may be caused by the above-mentioned substances (a wording of this kind would make it possible also to cover diseases that could be caused by the use of new products, as the Government points out in its report); and
- (c) the activities that may cause anthrax infection (schedule No. 18) should include the loading and unloading or transport of merchandise in general, so as to cover workers, such as dockers, who may unwittingly have transported merchandise contaminated by anthrax spore.

The Committee requests the Government to report any progress made in this connection.

Czechoslovakia (ratification: 1949)

The Committee notes with satisfaction that the list of occupational diseases appended to Notification No. 128/1975 to apply the Act of 12 November 1975 respecting social security refers expressly to alloys of lead and amalgams of mercury and lists among the tasks likely to lead to anthrax infection the loading and unloading or transport of merchandise in general, as provided by the Convention.

France (ratification: 1948)

The Committee has noted with interest the reply of the Government to its previous comments and also the improvements introduced by Decrees No. 76-34 of 5 January 1976 and No. 77-624 of 2 June 1977 to the list of occupational diseases and of activities apt to lead to them.

The Committee's comments concerned the restrictive character of the list of pathological manifestations set forth under each of the diseases appearing in the tables of legislation and also the absence

from these tables of an item covering in general terms poisoning by the whole series of halogen derivatives of hydrocarbons of the aliphatic series and by the whole series of phosphorus compounds and the omission from the activities liable to lead to primary epitheliomatous cancer of the skin of processes involving the handling of certain products other than coal-tar pitch. The Committee notes with interest the efforts undertaken by the Government to develop the national legislation in line with the Convention. It notes in particular that the scope of section L.500 of the Social Security Code has been broadened by the Act of 6 December 1976 and that an Occupational Risks Prevention Board has been set up to consider proposals for new revisions of the tables of occupational diseases.

The Committee hopes that the new revisions envisaged will result in the inclusion of the diseases mentioned above in the schedules of occupational diseases, and will give an indicative and not necessarily exhaustive enumeration of the pathological manifestations referred to in these schedules. Such measures would be in line with the Government's stated intention to consider an amendment of the legislation to provide a broader basis for the compensation of occupational diseases.

The Committee requests the Government to indicate any progress made in this connection.

Haiti (ratification: 1955)

The Committee notes with interest the statistics supplied by the Government in its report communicated in June 1978. These statistics are very detailed but only concern occupational accidents and do not relate to the present Convention. The Committee therefore requests the Government to supply similar statistics on occupational diseases to enable it to evaluate the manner in which effect is given to the Convention in practice.

*
* *

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

Convention No. 44: Unemployment Provision, 1934

Algeria (ratification: 1962)

The Committee notes again the statement by the Government that the International Labour Office will be informed very shortly on the steps taken in respect of the denunciation of this Convention.

Peru (ratification: 1962)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee hopes the Government will 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).

Spain (ratification: 1971)

Article 10 of the Convention. With reference to its previous comments, the Committee notes that there has been no progress for workers who leave their job voluntarily without just cause. The Committee trusts that the Government will be able, in its next report, to indicate the progress made in this respect, since the Convention provides for the suspension of the right of these workers to benefit only during an "appropriate period".

*
* *

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

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

Guinea (ratification: 1966)

The Committee notes with regret that once again the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee 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.

*
* *

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

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

Mexico (ratification: 1938)

The Committee pointed out that the collective agreement concluded between the Fábrica Nacional de Vidrio, S.A. (National Glass Company Ltd.) and the Alianza de Trabajadores de la Industria Vidriera (Glassworkers' Alliance) provides for a system comprising only three shifts, hours of work of up to 48 per week and the inapplicability of an average 42-hour week to certain workers, whereas, under the

provisions of the Convention, the workers to whom it applies should be employed under a system providing for at least four shifts (Article 2, paragraph 1), and the hours of work of these workers should not exceed an average of 42 per week (Article 2, paragraph 2).

The Committee has noted the information provided by the Government in its last report to the effect that the collective agreement entered into by the Fábrica Nacional de Vidrio, S.A. and the Alianza de Trabajadores de la Industria Vidriera is the result of free discussion between workers and employers and that the Government refrains from interfering when its advice is not called for. It adds that Article 2, paragraphs 1 and 2, of the Convention, contain standards of a level that are difficult to apply in the economic conditions of the country and that the workers themselves state that these provisions are strictly contrary to their material interests.

The Committee also takes note of the request of the Government to the effect that, when it examines this information, it should advise the Government on the best way of harmonising the provisions of the collective agreement with those of the Convention.

In this connection, the Committee wishes to point out that the provisions of international labour Conventions are always of the nature of minimum standards (as is confirmed by article 19, paragraph 8, of the ILO Constitution). The working conditions provided for in these standards may be improved upon by collective agreements, but these agreements should not be contradictory to the provisions of ratified international Conventions.

The Committee trusts that these clarifications will enable the Government to take suitable measures to ensure the application of this Convention, by legislation or regulations if necessary, and therefore asks the Government to be good enough to indicate any provision it may adopt in this connection.¹

Convention No. 50: Recruiting of Indigenous Workers, 1936

Tanzania (ratification: 1964)

Zanzibar

See General Observation.

*
* *

Information supplied by New Zealand in answer to a direct request has been noted by the Committee.

Convention No. 52: Holidays with Pay, 1936

The Committee noted that several States which have ratified the Holidays with Pay Convention, 1936 (No. 52), have difficulty with the application of the principle laid down in Article 2, paragraph 1, that

¹ The Government is asked to report in detail for the period ending 30 June 1980.

an annual holiday of at least six working days must be taken each year. The Committee notes moreover that the Holidays with Pay Convention (Revised), 1970 (No. 132), (which provides for an annual holiday of at least three working weeks) authorises the postponement of only that part of the annual holiday which exceeds a stated minimum, for the fixing of which the Convention lays down certain requirements.

The legislation of several States allows holidays to be accumulated in special conditions for two or three consecutive years. Some governments have indicated in their reports on the application of Convention No. 52 that people working a long way away from their usual home, particularly migrant workers, prefer to postpone their holiday entitlement from one year to another to make better use of more extended leave, in view, on the one hand, of the length and high cost of the journey home from the place of work and, on the other hand, of the fact that it is impossible for workers to have proper beneficial rest when they are a long way from their families and often in regions with difficult climatic conditions. One government considers that the ability to accumulate holidays, in whole or in part, should be regarded as an advantage accorded to workers in special conditions and that if this possibility were removed it would be a substantial limitation of their rights and harmful to their interests.

The Committee, which is called on by its terms of reference to pronounce on the conformity or otherwise of national legislation and practice with obligations consequent upon the ratification of a Convention, has repeatedly indicated that legislation and practice authorising the accumulation of the whole of the annual holiday are incompatible with the requirements of Convention No. 52, under which a holiday of at least six working days must be taken each year. As the Committee has previously pointed out, one of the purposes of an annual holiday with pay is to enable the worker to recover the bodily and mental energies expended during the year. The Committee, however, considers it appropriate to draw attention to the difficulties encountered by some States in this matter.

Brazil (ratification: 1938)

With reference to its previous comments, the Committee notes with satisfaction that a Ministerial Order of 7 October 1976 provides that the division of annual holidays with pay into parts shall be made in such a way that the worker takes at least seven days every year, and that a later Legislative Decree (No. 1535 of 13 April 1977) amends certain provisions of the Consolidated Labour Laws in conformity with the provisions of the Convention.

Byelorussian SSR (ratification: 1956)

In reply to the previous observation of the Committee, the Government refers to the statement in its 1977 report that deferment of annual leave to the following year, as authorised in exceptional cases by section 74 of the Labour Code, is not regarded by the legislation and practice as cancellation of the right to leave, and it adds that legislation guarantees workers longer leave than is provided for in the Convention.

In this regard, the Committee wishes to stress that the Convention only lays down a minimum leave, but that this minimum of six days has to be taken each year. Any other interpretation would be contrary to the intention of the Conference which, when it adopted the Convention, took out of the draft Convention the very provision which

would have allowed deferment of annual leave to a subsequent year in exceptional cases (see International Labour Conference, 20th Session, 1936: Record of Proceedings, page 633).

The Committee therefore hopes that the Government will re-examine the question and take appropriate measures to bring the legislation on this point into conformity with the Convention.

Cuba (ratification: 1953)

Article 2, paragraph 1, of the Convention. With reference to its previous comments, the Committee notes from the report of the Government that no measure has yet been adopted to ensure that a worker cannot be deprived of the minimum annual holiday of six working days prescribed by the Convention in virtue of Resolution No. 111 of 1965, section 1, paragraphs F and G, which concern the temporary postponement of holidays. It has, however, noted the statement by the Government, in its report for 1976 on the application of Convention No. 91, that a study is being carried out to revise and improve the labour legislation. The Committee therefore requests the Government to indicate any progress made with a view to bringing the legislation into conformity with this provision of the Convention.

Gabon (ratification: 1961)

With reference to its previous comments, the Committee notes with satisfaction that the 1978 Labour Code has not taken over the provisions of the 1962 Labour Code that permitted, contrary to Articles 2 and 4 of the Convention, to delay the holiday by 24 or 30 months, depending on the case.

Italy (ratification: 1952)

With reference to its previous comments, the Committee notes the information supplied by the Government to the effect that workers enjoy in general an annual holiday with pay of from 4 weeks to 30 working days, depending on the case. It also notes Circulars of the Ministry of Labour and Social Welfare Nos. 239/75 and 67/78 respecting the suspension of holidays on account of sickness. The Committee requests the Government to be good enough to supply any legal provisions of general scope that may be adopted in this matter.

Morocco (ratification: 1956)

With reference to its previous comments concerning section 16 of the Dahir of 9 January 1946, which allows the accumulation of holidays in certain circumstances, the Committee has noted that the Government has, since 1969, been stating its intention of adopting provisions in the future Labour Code to provide that the accumulation or division into parts of a holiday cannot have the effect of reducing the length of the holiday taken each year to a period shorter than six working days.

As the Government states in its latest report that the Labour Code has not yet been issued, the Committee trusts that this Code or other suitable texts will be adopted shortly so that the accumulation or division into parts of the holidays of staff employed in industrial enterprises or establishments cannot have the effect of reducing the

length of the annual holiday to a period shorter than the minimum prescribed by Article 2, paragraph 1, of the Convention.¹

Peru (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 4 of the Convention. In its previous comments, the Committee pointed out that the single section of Supreme Decree No. 4 DT of 26 November 1957 and section 13 of Supreme Decree No. 17 of 24 October 1961 permitting holidays due being carried forward over a period of two consecutive years, are not in conformity with the Convention. It recalls that the persons covered by the Convention are entitled to a compulsory annual holiday of at least six working days and that any agreement to relinquish this right must be considered as void. The Committee therefore requests the Government to take the necessary measures to bring this point of the national legislation into conformity with the Convention.

Ukrainian SSR (ratification: 1956)

The Government, referring to the previous observations of the Committee, states that the carrying over of annual holiday to the following year, which is authorised by section 80 of the Labour Code in exceptional cases (when the granting of a holiday to a worker during the current year may adversely affect the running of the enterprise) with the agreement of the worker and of the trade union committee, is not regarded under the law and practice of the Ukrainian SSR as a cancellation of the worker's right to annual leave but rather as an exception constituting an additional guarantee for the observance of this right. Though it notes these explanations, the Committee recalls that, under the Convention, the persons it covers are entitled to a holiday of at least six working days every year and that only a fraction of the holiday exceeding this minimum can therefore be carried over (Article 2, paragraphs 1 and 4). It therefore again requests the Government to take the necessary measures to bring the legislation into harmony with the Convention on this point.

USSR (ratification: 1956)

The Committee notes the explanations given by the Government to the Conference Committee in 1977 and also the information provided in the report in reply to its previous comments.

1. With regard to the postponement of the annual holiday to the following year in exceptional circumstances (under section 74(2) of the Labour Code of the Russian SFSR and similar provisions in the codes of the other Republics of the Union) and the right to accumulate holidays, in whole or in part, for a maximum of three years in the Far North and assimilated areas (under section 251 of the Labour Code of the RSFSR) the Government repeats its statement that it considers these provisions to be in conformity with the Convention and to the advantage of the workers, and adds that the conditions regarding holidays that apply to workers in the USSR are superior to those laid down by the Convention.

¹ The Government is asked to report in detail for the period ending 30 June 1980.

The Committee wishes to point out that the Convention provides only for a minimum period of holidays but that this minimum period of six working days must be taken every year. Any other interpretation would conflict with the intention of the Conference, which, when it adopted the Convention, removed from the draft the very provision laying down, as an exceptional measure, the postponement of the annual holiday to a later year (see International Labour Conference, 20th Session, 1936: Record of Proceedings, page 633). The Committee therefore hopes that the Government will re-examine the question and take suitable steps to bring the legislation into conformity with the Convention on these points.

2. The Committee notes with interest the statement by the Government that on the occasion of the drafting of Soviet legislation concerning holidays, it might propose the inclusion of a similar provision to that already existing in the legislation of certain republics to allow the division of the annual holiday only in exceptional cases and on condition that each part is not shorter than seven days. This provision would ensure conformity with Article 2, paragraph 4, of the Convention.¹

*
* * *

In addition, requests regarding certain points are being addressed directly to the following States: Chad, Ivory Coast, Kuwait, Lebanon, Libyan Arab Jamahiriya.

Convention No. 53: Officers' Competency Certificates, 1936

Mauritania (ratification: 1963)

Article 4 of the Convention. Further to its previous comments, the Committee notes that, under section 90 of the new Merchant Shipping Code of 1978, the conditions governing the acquisition of certificates of competency will be fixed by order. It trusts that the order to be issued under the Code, which was already provided for by the old Merchant Shipping Code of 1962, will be adopted in the near future.

Panama (ratification: 1970)

Article 3 of the Convention. Further to its previous comments, the Committee notes with regret that no provision has yet been adopted to ensure that no person shall be engaged to perform or shall perform on board a vessel the duties listed in this Article, unless he holds the corresponding certificate of competency. The Committee notes the draft texts mentioned by the Government in its last two reports and trusts that it will shortly take the necessary steps to give effect to the Convention, possibly calling on the technical co-operation of the ILO, as it expressed the intention of doing at the 61st Session of the Conference in June 1976, with a view to drawing up legislation in conformity with the provisions of the maritime Conventions that it has ratified.

Article 5. The Committee notes with interest the creation of the Maritime Security Department, responsible for the inspection of vessels

¹ The Government is asked to report in detail for the period ending 30 June 1980.

sailing under the Panamanian flag, which will shortly verify the professional qualifications of seamen. It therefore hopes that the necessary legal provisions, mentioned above, will be adopted in time to fix the criteria required for the verification in question.

Furthermore, the Committee again requests the Government to provide the text of any regulations issued under section 6 of Act No. 39 of 8 July 1976 in order to ensure the efficient functioning of the inspection service.

*
* *
*

In addition, a request regarding certain points is being addressed directly to the Libyan Arab Jamahiriya.

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

Greece (ratification: 1968)

Article 11 of the Convention. With reference to its earlier comments, the Committee notes with satisfaction that Act No. 451 of 11 October 1976 amends section 83, paragraph I, of the Code of Private Maritime Law so as to ensure equality of treatment, in the event of accident or illness, between national and foreign seamen without any condition of reciprocity, as provided by the Convention.

Liberia (ratification: 1960)

The Committee notes with regret that for the third year in succession 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 date specified in the

articles of agreement for reporting for duty and the termination of the 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 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.¹

Peru (ratification: 1962)

The Committee notes that the report of the Government for the period ending June 1978 introduces no new element in reply to its previous comments. It is thus bound to refer again to points raised in its comments:

Article 1 of the Convention. The Committee asks the Government to state whether the provisions respecting the articles of agreement of crew members (trabajadores embarcados) contained in Chapter XIV, sections 663 to 696 of the Regulations concerning Harbour Masters and the Mercantile Marine (approved by Presidential Decree No. 21 of 1951) also cover workers employed on board fishing vessels (other than coastwise boats, which can be excluded from the application of the Convention). If not, the Government is asked to indicate the provisions under which the protection provided for by the Convention is guaranteed to these workers.

Articles 4 and 5. The Committee asks the Government to state how a sick or injured seaman whose state of health calls for his being put ashore in a foreign port receives in practice - for at least 16 weeks from the beginning of his sickness or the day of his injury - medical care and cash benefits (wages in whole or in part if there are dependants or sickness benefit under various insurance schemes) provided for by the Convention.

Article 7. The Committee asks the Government to indicate the measures taken or under consideration to establish the liability of a shipowner to defray burial expenses in case of death occurring on board or on shore where the seaman does not meet the qualifying conditions for entitlement to these benefits under the social insurance legislation (Acts No. 8433 of 1936 and No. 13724 of 1961 respectively). In its previous reports, the Government has referred to its intention of introducing a national health insurance scheme that would contain provisions to this effect, but the scheme does not yet seem to have been adopted.

Article 8. The Committee asks the Government to state whether steps have been taken to introduce in the above-mentioned Regulations

¹ The Government is asked to supply full particulars to the Conference at its 65th Session.

concerning Harbour Masters and the Mercantile Marine an express provision laying down - in conformity with the Convention - that the shipowner or his representative shall take measures for safeguarding property left on board by sick, injured or deceased seamen.

The Committee hopes that the Government will provide the information it has requested and indicate the measures adopted to ensure the full application of the above-mentioned provisions of the Conventions.¹

Tunisia (ratification: 1970)

With reference to its previous comments, the Committee notes with interest the statement by the Government in its last report to the effect that the comments in question have been referred to the Ministry of Transport and Communications, which has been invited to take the necessary steps to ensure that the national legislation is in harmony with the provisions of the Convention. The Committee hopes that these measures will be adopted in the near future and that they will ensure the full application of Articles 4, 5 and 11 of the Convention to seamen engaged by the voyage and to non-resident foreign seamen from the time when they are landed at a Tunisian or foreign port. In particular, the scope of social insurance should be widened to cover this group of seafarers or the liability of the shipowner should be extended to at least 16 weeks from the day of the accident or the beginning of the sickness of the persons concerned.

The Committee requests the Government to indicate any progress made in this connection.

*
* * *

In addition, requests regarding certain points are being addressed directly to the following States: Mexico, Panama, Spain.

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

Peru (ratification: 1962)

Article 3 of the Convention. See under Convention No. 24, Article 4.

Article 7. In reply to the previous comments of the Committee concerning the need to provide for the maintenance as of right of the benefit of compulsory insurance for the seaman after the termination of his 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 has stated, in its reports for 1976 and 1977 and before the Conference Committee in 1976, that the preliminary draft legislative decree respecting the institution of a national social security system provides that assistance benefits shall be granted to the insured person, his wife and his children, for a period of three months after the payment of the last contribution. In its report received in 1978 the Government confirms this information,

¹ The Government is asked to report in detail for the period ending 30 June 1980.

but does not state whether the above-mentioned text has been adopted and put into effect. The Committee can therefore only reiterate the question and ask the Government to state whether the national social security system has been established, and if so, to supply the relevant text.¹

*
* *
*

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

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

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

Liberia (ratification: 1960)

The Committee notes with regret that for three consecutive years the Government's report has not been received. It must therefore repeat its previous observations which read as follows:

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.

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

Colombia (ratification: 1967)

The Committee notes that the Government intends to incorporate the provisions of the Convention into national legislation. Since, as the Committee has already pointed out, there are no legally binding standards to give effect to the Convention, it trusts that laws or regulations will be adopted shortly which will ensure the application of all the requirements of the Convention.

¹ The Government is asked to report in detail for the period ending 30 June 1980.

Guinea (ratification: 1966)

The Committee notes with regret that for the second consecutive year the Government's report has not been received. It recalls that it has been drawing attention since 1968 to the need to ensure the application of Article 7, paragraphs 1, 2 and 5-8; Article 8, paragraph 1(a); Article 9, paragraph 3; Article 10, paragraph 5; and Articles 12-16 of the Convention. It further recalls that in 1973 the Government stated its intention to adopt provisions to give effect to these requirements of the Convention. The Committee hopes that appropriate measures will be taken in the near future.

Honduras (ratification: 1964)

The Committee notes with satisfaction that, as a result of direct contacts which took place between the competent national services and a representative of the Director-General of the ILO, regulations concerning safety provisions in the building industry have been issued on 20 April 1978, which give effect to Articles 3(a), 7, paragraphs 1, 2 and 7; Article 10, paragraph 3, Articles 11 and 13, paragraph 2, and Article 14 of the Convention.

Mauritania (ratification: 1963)

The Committee notes with regret from the Government's report that no measures have yet been taken to prescribe a minimum age for crane operators and signallers as required by Article 13, paragraph 2, of the Convention. It trusts that the necessary measures will be taken shortly.

Mexico (ratification: 1941)

In previous observations, the Committee had noted that effect was given only to certain provisions of the Convention through the Regulations for the Prevention of Occupational Accidents of 1934 and a limited number of provisions adopted at the state level.

The Committee therefore notes with satisfaction that the General Occupational Safety and Health Regulations of 5 June 1978, applicable throughout the national territory, and the Construction Regulations for the Federal District of 14 December 1976, introduce provisions which, together with the 1934 Regulations which remain in force, give a very substantial effect to the requirements of the Convention. A number of specific questions are being pursued in a direct request.

Peru (ratification: 1962)

The Committee notes that the Ministry of Housing and Construction is working out safety rules for building operations. It recalls that the question of the revision of the National Building Regulations has been mentioned by the Government since 1975 and once again expresses the firm hope that measures will be taken in the near future to ensure the application of Articles 3, 10, 13(2), 15(1), 16, 17 and 18 of the Convention.

The Committee once again requests the Government to supply information on the system of labour inspection by which the enforcement is ensured of the legal provisions in force concerning safety in building work (Article 4) as well as the statistical data on the number

and classification of accidents to persons employed on types of work covered by the Convention (Article 6).

*
* *

In addition, requests regarding certain points are being addressed directly to the following States: Denmark, Guatemala, Mexico.

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

Guyana (ratification: 1966)

The Committee notes with interest that the Government has decided to take steps to provide the protection foreseen in the various provisions of the Convention for all indigenous workers covered by it. The Committee accordingly hopes that legislation will be soon adopted to give effect to the Convention on the following points: medical examination (Article 7), minimum age (Article 8), repatriation (Article 13), transport (Article 15) and the responsibilities of various authorities (Article 19).

*
* *

In addition, requests regarding certain points are being addressed directly to the following States: Lesotho, Mauritius, New Zealand.

Convention No. 65: Penal Sanctions (Indigenous Workers), 1939

Requests regarding certain points are being addressed directly to the following States: Mauritius, Tanzania (Tanganyika).

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

Cuba (ratification: 1953)

Article 18, paragraph 3, of the Convention. The Committee notes that the report of the Government contains no new information in reply to its previous comments.

The Committee noted in its previous comments the Government's statement that the provisions of the Convention relating to controls are applied in practice. It recalls that the persons covered by the Convention should have in their possession during working hours, the individual control books prescribed by the competent authority, in accordance with the requirements of this provision of the Convention. It therefore hopes that the Government will in the near future take the necessary steps to give effect to this provision of the Convention.

*
* *

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

Convention No. 68: Food and Catering (Ships' Crews), 1946**Argentina** (ratification: 1956)

The Committee notes with regret that the necessary legislative measures proposed by the Government since the entry into force of the Convention for Argentina have not yet been taken. It recalls that following direct contacts between the competent government authorities and a representative of the Director-General of the ILO, a special commission was set up to prepare these measures in 1973. The Committee notes that the latest information supplied by the Government refers to a preliminary draft of a text respecting the status of seagoing personnel containing provisions to give effect to the Convention.

Since at present only very limited effect is given to the Convention by the statutory provisions and collective agreements mentioned in recent reports, the Committee trusts that the Government will shortly take the necessary measures to secure the full application of the Convention.

Panama (ratification: 1970)

The Committee trusts that the Government will shortly take the necessary measures to give effect to the Convention, possibly calling on the assistance of an ILO expert, as it expressed the intention of doing in its previous report.

Articles 6, 8, 9 and 10 of the Convention. With regard to the inspection system to supervise the application of the relevant provisions, see under Convention No. 53, Article 5.¹

Spain (ratification: 1971)

Article 2(a) of the Convention. The Committee notes the statement by the Government that the work on the special annex to the General Ordinance on Occupational Safety and Health in the Merchant Shipping Sector is not yet finished. It also notes that the general collective agreement for merchant shipping provides for the setting up of a study committee to review and bring up to date the labour standards in force in this sector and to propose such amendments as it thinks fit. The Committee expresses once more the hope that suitable regulations will be adopted shortly in respect of the construction, location, ventilation, heating, lighting, water system and equipment of galleys.

Article 2(d) and Article 12. The Committee notes the information supplied in the report. It points out that, under these provisions of the Convention, various measures must be taken concerning research and the collection and dissemination of information in respect of food and catering. The Committee hopes that the next report will indicate the progress made in this connection.

¹ The Government is asked to report in detail for the period ending 30 June 1979.

Convention No. 77: Medical Examination of Young Persons (Industry), 1946Algeria (ratification: 1962)

The Committee notes with interest that Act No. 78-12 dated 5 August 1978 concerning the general status of the worker provides for the pre-employment medical examination of workers, for their preventive medical supervision and for special measures for handicapped workers, thus giving partial effect to the Convention with regard to workers employed in the public and socialist sectors. The further measures necessary for the full application of the Convention in these sectors are indicated in a direct request.

Philippines (ratification: 1960)

The Committee has noted that the legislation which gave effect to the Convention has been repealed following the adoption of the Labour Code of 1974 and its implementing regulations, but that the latter contained only very limited provisions concerning the medical examination of young persons in certain classes of establishments.

In its latest report, the Government again refers to section 9, Rule I, Book IV of the Rules and Regulations implementing the Labour Code, according to which physicians engaged by employers pursuant to that rule are required to conduct free pre-employment medical examinations for the proper selection and placement of workers and free annual physical examination of the workers. As has already been pointed out by the Committee, the provision only applies to workplaces employing more than 200 workers, so that no provision is made for the medical examination of young persons employed in workplaces with fewer than 200 workers (except apprentices who are covered by sections 11 and 14, Rule VI, Book II of the implementing Rules and Regulations).

The Committee notes with interest however that Policy Instruction No. 23, referred to in the Government's report on Convention No. 90, contains regulations which give effect to certain provisions of Convention No. 77 as regards young workers in industrial undertakings irrespective of their size, by providing that no young persons under 18 years of age shall be admitted to employment in such undertakings unless they have been found fit for the work on which they are to be employed by a thorough pre-employment medical examination, as required by Article 2, paragraph 1, of the Convention, and by providing that the physician engaged by an employer shall, as well as the pre-employment medical examination, conduct a free annual physical examination of the workers, as required by Article 3, paragraph 1. The Committee refers on this matter to its observation under Convention No. 9 concerning the publication of these regulations in accordance with section 5 of the Labour Code.

The Committee is addressing a direct request to the Government with a view to clarifying the manner in which effect is given to certain other provisions of the Convention, and hopes that in its next report the Government will be able to provide information confirming that the Convention is fully applied to young workers in all industrial undertakings, whatever their size.

In so far as supplementary measures may still be necessary, it recalls that, within the framework of the direct contacts referred to in its observation of 1978, suggestions were made in a technical memorandum sent to the Government in September 1977 as to the measures

which might be taken to ensure the full application of the Convention. The Government may wish to bear these suggestions in mind in determining any further measures which may need to be taken to give full effect to the Convention.¹

*
* *
*

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Bolivia, Dominican Republic, Ecuador, Paraguay, Peru, Philippines, Spain, Tunisia.

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

France (ratification: 1951)

Further to its previous comments the Committee notes with satisfaction that Decree No. 75-882 dated 22 September 1975 has introduced regulations concerning the medical supervision of domestic employees and caretakers of blocks of flats employed on a full-time basis.

*
* *
*

In addition, requests regarding certain points are being addressed directly to the following States: Bolivia, Ecuador, France, Honduras, Iraq, Israel, Peru, Spain.

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

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

Convention No. 81: Labour Inspection, 1947

Chad (ratification: 1964)

1. 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; and 13, paragraph 2(b) 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.

¹ The Government is asked to report in detail for the period ending 30 June 1979.

2. Articles 20 and 21 of the Convention. The Committee has noted that the last annual report of the Department of Labour, Manpower and Social Welfare received in the ILO related to 1970. It hopes that the Government will take all necessary measures to ensure the publication and communication to the ILO of the annual inspection reports, that they will contain all the information specified in Article 21 of the Convention and that in future the time limits prescribed by Article 20 of the Convention will be respected.

France (ratification: 1950)

1. The Committee notes the comments of the CGT Social Affairs General Union, the CFTD Labour and Employment National Union and the General Confederation of Labour on the application of the following Articles of the Convention: Article 3, paragraph 2 (duties entrusted to inspectors); Article 6 (stability of employment and independence of the inspectors); Article 9 (collaboration of technical experts and specialists with the labour inspectorate); Article 10 (number of labour inspectors); Article 11 (material facilities for the inspectorate); Article 17 (prompt legal proceedings against offenders); Article 18 (penalties for violations of the legal provisions). The reply of the Government to the comments by the above-mentioned organisations has arrived during the present session of the Committee, which is obliged to postpone its examination to the next session.

2. Articles 20 and 21. The Committee notes with interest the information provided by the Government in reply to its previous comments. It also takes note of Circular No. 6-78 of 13 March 1978 intended to facilitate the preparation, starting with the year 1977, of an annual report on the work of the labour inspection services in accordance with the provisions of this Convention. The Committee therefore hopes that the Government will now be able to publish and transmit regularly to the ILO, within the periods laid down, annual inspection reports containing all the information mentioned in Article 21 of the Convention. The Committee also hopes that statistics relating to the work of the inspection services in the overseas departments will in future be included in the annual inspection report for the metropolitan territory, unless the Government prefers to publish this information separately.

Guinea (ratification: 1959)

The Committee notes with regret that for the second year in succession no report has been received. Consequently, it can but renew its previous comments:

Article 13, paragraph 2(b) of the Convention. The Committee recalls that the national legislation contains no provisions empowering labour inspectors to make or to have made orders requiring measures with immediate executory force in the event of imminent danger. It hopes that appropriate provisions will be adopted soon.

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 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.

Haiti (ratification: 1952)

Article 6 of the Convention. The Committee notes that the report of the Government contains no information in reply to the comments that it has been making since 1955. It is therefore bound to request the Government once again to communicate the text of all provisions - other than section 366 of the Act of 18 September 1967 and section 496 of the Labour Code - that govern the status and conditions of service of the staff of the labour inspectorate.

Articles 20 and 21. The Committee has examined the inspection report for the year 1976-77, which has been communicated by the Government. It wishes, however, to point out that this report, like the previous reports, does not appear to be in full conformity with the Convention for the following reasons. Firstly, the report does not appear to have been published and cannot therefore be considered to give effect to Article 20 of the Convention. This Article provides for the publication (and not only the preparation) by the central inspection authority of an annual report on the work of the inspection services and for its transmission to the ILO within prescribed periods. Secondly, the report transmitted by the Government, contrary to the provisions of section 505 of the Labour Code and section 379 of the above-mentioned Act of 1967, does not contain the following information prescribed by Article 21 of the Convention: (a) a list of the legislation relevant to the work of the inspection service; (b) the size of the inspection staff; (c) statistics of workplaces liable to inspection; (f) statistics of industrial accidents; (g) statistics of occupational diseases. The Committee would be grateful if the Government would take the necessary measures so that in future the annual inspection report shall be regularly published and transmitted to the ILO and shall contain all the information laid down in Article 21 of the Convention.

Ireland (ratification: 1951)

With reference to its previous observation, the Committee notes the information provided by the Government in its report for 1976-77, which arrived too late to be examined at the 1978 Session; this information was provided in response to the comments of the Irish Congress of Trade Unions. The Committee also notes the new comments made by the Congress on certain points and the statement by the Government in its last report, for 1977-78, to the effect that these comments are under study and will be dealt with in the next detailed report. In these circumstances, the Committee would be grateful if the Government would provide detailed information for examination at its next session on the points that it is raising in a direct request.

Madagascar (ratification: 1970)

With reference to its previous comments, the Committee notes with satisfaction the adoption of Decree No. 78/225 of 24 July 1978, which abolishes the limitation on the number of women in the labour inspectorate provided for by section 5, subsection 2, of Decree No. 61/226 of 19 May 1961 respecting the special status of inspectors of labour and social legislation.

Mauritania (ratification: 1963)

1. With reference to its previous comments, the Committee notes the information supplied by the Government in respect of Articles 7, 9 and 10 of the Convention.

2. Article 19 of the Convention. In reply to the previous comments of the Committee, the Government states that this provision of the Convention is applied through section 19, Title III, Book V, of the Labour Code and that, furthermore, Order No. 10578 of 31 October 1964 requires employers to supply certain information called for by the Convention. The Committee considers that the laws and regulations mentioned by the Government are not sufficient to ensure the application of Article 19 of the Convention. The above-mentioned section 19, Title III, Book V, of the Labour Code concerns rather the preparation by the central authority of an annual general report on the activity of various services and bodies working for the application of the social legislation. As to Order No. 10578 of 31 October 1964, it provides, according to the Government, for the obligation of employers to communicate certain information. Article 19 of the Convention, however, deals with the obligation of labour inspectors or local inspection offices to submit periodical reports on the results of their activities. The Committee is aware of the administrative difficulties referred to by the Government in its report, but again expresses the hope that the Government, in accordance with the assurance given in its report for 1972-74, may be able to take the necessary steps, in accordance with this provision of the Convention, to ensure the submission to the central inspection authority of periodical inspection reports by the inspectors or local inspection offices.

3. Articles 20 and 21. The Committee notes with interest the statement by the Government that it will shortly transmit to the ILO the reports required by Article 20 of the Convention. Since no inspection report, however, has been transmitted since the ratification of the Convention, the Committee hopes that such a report, containing all the information required by Article 21 of the Convention, will shortly reach the ILO and that in future annual inspection reports will be published and transmitted regularly within the periods laid down by Article 20.

4. Furthermore, the Committee calls the attention of the Government to certain points that it raises in a direct request.

Paraguay (ratification: 1967)

Articles 20 and 21 of the Convention. In reply to the previous comments of the Committee, the Government has provided statistics concerning the complaints received. The Committee notes these statistics, but observes that the report of the Government contains no information on measures taken to publish and transmit to the ILO, within the periods laid down by Article 20 of the Convention, annual inspection reports containing all the information laid down in Article 21. Since no inspection report has been received since the ratification of the Convention, the Committee can only urge the Government to take the necessary measures to give effect to these Articles of the Convention.

Portugal (ratification: 1962)

Referring to its general observation of 1976 with respect to Article 3, paragraph 1(c), of the Convention, the Committee has noted with satisfaction the adoption of Legislative Decree No. 48/78 of 21 March 1978, section 3(1)(c) of which gives full effect to this provision of the Convention.

The Committee wishes to draw the Government's attention to certain points which it is raising in a direct request.

Sri Lanka (ratification: 1956)

Article 13, paragraphs 2 and 3, of the Convention. With reference to its previous comments, the Committee notes with satisfaction the adoption of the Factories (Amendment) Law (No. 12 of 1976), section 44 of which provides for the right of labour inspectors to have orders made requiring measures with immediate executory force in accordance with this Article of the Convention.

Tanzania (ratification: 1962)Tanganyika

The Committee notes with regret 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:

Articles 20 and 21 of the Convention. The Committee notes that no annual inspection report has been published since 1963. It recalls that the Government in its report on the application of the Convention for the period 1974-75 stated that the reports on the activity of the labour inspectorate were being prepared. Since no information on this matter has since been received, the Committee again expresses the hope that the Government will soon take the necessary measures to ensure the publication and transmission to the ILO of annual inspection reports in accordance with the provisions of the Convention.

Yugoslavia (ratification: 1955)

The Committee has noted the information supplied by the Government in its report on the organisation of the inspection services in the various federated republics and autonomous provinces. In particular, it has noted the Government's reply regarding Article 3, paragraph 2, and Article 12, paragraph 1(c) (i) and (iv). It nevertheless wishes to draw the attention of the Government to the following points:

Article 12, paragraph 1(a), of the Convention. The Committee has noted the Government's statement that inspectors are empowered to enter establishments at any time when the workers are working. The Committee would be grateful if the Government would specify the statutory provisions by which these powers are granted to inspectors in each republic and province. The Government is also requested to indicate whether these provisions give inspectors the right to enter establishments outside working hours when they have reasonable cause to believe that the workers are working in contravention of the statutory provisions or to satisfy themselves that the prescribed safety measures are being observed when the machines are not in operation.

Article 14. The Committee notes the statement of the Government that the legislation of all the republics and provinces obliges undertakings to notify the labour inspectorate of serious cases of occupational injury. The Committee would be grateful if the Government would state what are the relevant legal provisions and clarify whether the term "occupational injury" also covers occupational disease.

Article 15(c). The Committee notes from the information provided by the Government that only the legislation of the republics of Slovenia and Serbia applies these provisions of the Convention. In the other republics and autonomous provinces the obligation to treat

complaints from workers as confidential has not been introduced into the legislation, since it has been considered that the efficiency of labour inspection is best served by publicity. In this respect the Committee wishes to stress the importance of this provision of the Convention, the purpose of which is to protect the authors of complaints against possible reprisals; the absence of such protection may lead the workers - or at least certain workers - to refrain from drawing the attention of the supervisory bodies to defects in undertakings. In this connection the Committee has nevertheless noted the Government's statement that the Federal Labour and Employment Committee, in consultation with the competent bodies in the republics and provinces, will co-ordinate the search for uniform solutions to the questions raised by the Committee of Experts and the adoption of a common stand on the need to take measures to secure the full application of a ratified Convention. The Committee accordingly hopes that the Government will be in a position to re-examine the situation and that the necessary steps will be taken to remind inspectors, for example by means of written instructions, that they must treat the source of all complaints as confidential and refrain from revealing to the responsible persons in the undertakings that an inspection has been made following a complaint.

Zaire (ratification: 1968)

Articles 20 and 21 of the Convention. In its earlier observations the Committee drew the Government's attention to the fact that no inspection report had been sent to the ILO since the Convention was ratified. Since the Government's report contains no information on this question, the Committee feels obliged once again to urge the Government to take the necessary steps to ensure the regular publication of annual inspection reports containing all the information required under Article 21 of the Convention, and to communicate them to the ILO within the time limits fixed by Article 20.

*
* *
*

In addition, requests regarding certain points are being addressed directly to the following States: Australia, Burundi, Chad, Colombia, Denmark, France, Haiti, Iraq, Ireland, Madagascar, Malawi, Mauritania, Paraguay, Portugal, Sri Lanka, Sudan, Syrian Arab Republic, Tanzania (Tanganyika), Upper Volta, Yugoslavia, Zaire.

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. 87: Freedom of Association and Protection of the Right to Organise, 1948

One member of the Committee, Mr. Gubinski, stated that he did not associate himself with the comments regarding the observance by the Byelorussian SSR, Czechoslovakia, Bulgaria, Cuba, Hungary, Mongolia, Poland, Romania, the Ukrainian SSR and the USSR of the provisions of

Convention No. 87 because in his view sufficient account had not been taken of the economic and social conditions existing in these countries. He considered that, if the Committee took account of the fact that there existed in the world today different social and economic systems and that consequently the manner in which the life of society was organised was not everywhere the same, it would reach the conclusion that the situation in these countries was not in conflict with the provisions of the Convention.

Another member of the Committee, Mr. Tunkin, stated that he could not agree with the 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 different 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 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 coexistence of States with differing social and economic systems. In this particular case, it resulted in an entirely wrong evaluation of the legislation and practice of several socialist countries.

Another member of the Committee, Mrs. Bokor-Szegö, noted that in interpreting any international instrument, in order to ascertain its goal, consideration must be given also to its preamble. The preamble to Convention No. 87 affirms, inter alia, that freedom of association is a means of improving conditions of labour and of establishing peace. Certain observations relating to the interpretation of the Convention have not taken due account of this fundamental aim of the Convention and have not duly appreciated the fact that the social and economic system of the socialist countries enables the trade unions to carry out activities which meet the goal fixed in the preamble of the Convention. Furthermore, in carrying out these activities, the trade unions elect their representatives freely and take decisions on all matters within their competence in full freedom, without any interference from the public authorities.

In this regard, having noted the statements mentioned above, the Committee wishes to repeat the comments it made in its report of 1977, which cover the issues raised in these statements.

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 provisions of several new texts (Act No. 78-12 of 5 August 1978 relating to the general status of the workers; Constitution of 1976; National Charter of 1976). The Committee notes that these texts expressly reinforce the single trade union system imposed by law and designate the General Union of Algerian Workers (UGTA) as the only workers' organisation. Moreover, both the Constitution and the Charter place mass organisations, in particular workers' organisations, under the care and control of the Party. These provisions, which appear not to allow the establishment of workers' organisations independent of the UGTA and of the Party, are not in conformity with the principles of the Convention, which provides that workers have the right to form and join organisations of their own choosing (Article 2) and that these organisations have the right to draw up their rules as well as to organise their activities and formulate their programmes without interference from the public authorities which would restrict that right (Article 3).

Furthermore, the Committee refers to its previous observation, which read as follows:

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 conformity with the Convention.

Argentina (ratification: 1960)

The Committee notes the information supplied by the Government to the Conference Committee in 1978 and that contained in its last report, and has examined the reports of the Committee on Freedom of Association on Case No. 842 concerning Argentina and the complaint concerning the observance by that country of Convention No. 87 submitted by several delegates to the 63rd (1977) Session of the International Labour Conference under article 26 of the Constitution of the ILO.

Although it appears from the latest information available that trade union activities have increased in practice, the Committee observes that the restrictions imposed by law since 1976 on trade union elections and meetings, collective bargaining and the right to strike, and also on the free administration of a number of trade union organisations that have been placed under the control of the authorities, have not yet been lifted. These various restrictions on trade union life leave workers' organisations without the possibility of effectively furthering and defending the occupational interests of their members, and are incompatible with the provisions of the Convention.

The Government states, however, that the legislation in force will be revised in accordance with the international commitments deriving from the Conventions of the ILO. In this regard the Committee refers to the Government's previous statements that a new trade union law was to be adopted during the first four months of 1978.

The Committee trusts that the Government will rapidly take the necessary measures to lift the present restrictions. It also expresses the hope that the amendments the Government is considering introducing to the trade union legislation will be adopted shortly and that they will permit the free exercise of trade union rights both in law and in practice.¹

Belgium (ratification: 1951)

In a previous direct request, the Committee had noted that a trade union had to be affiliated to an organisation represented on the National Labour Council in order to be considered representative in the private sector (Act of 5 December 1968) and especially to be able to sit on a joint committee. It observed that a similar condition in the public sector (Act of 19 December 1974) governed the participation of a trade union in the work of the general bargaining committees. Under the Act of 29 May 1952 to set up the National Labour Council, the members of this Council include members of representative workers' organisations appointed by the King from among the candidates presented by the inter-occupational organisations, which are federated at the national level.

The Committee had considered that the above-mentioned legislation might result in practice in preventing a trade union that appeared to be the most representative in a given branch of economic activity but did not belong to one of the major national trade union movements, from carrying out as important a trade union activity as collective bargaining and denying it the place on the corresponding collective bargaining body (a joint committee or a general bargaining committee), that was as much its due, for this branch, as that of the organisations belonging to these major movements. It had asked the Government to re-examine the above-mentioned provisions in the light of these considerations.

The National Confederation of Senior Staff (Confédération nationale des cadres) has since made certain observations on this aspect of Belgian legislation. The Government has made comments on this point in its latest report. The Committee notes, however, that the Committee on Freedom of Association of the ILO has before it a complaint from the National Confederation of Senior Staff on the same matter. The Committee of Experts intends to continue the study of this question in the light of the conclusions of the Committee on Freedom of Association on this matter.

Bolivia (ratification: 1965)

The Committee notes the information supplied by the Government to the Conference Committee in 1978 and that contained in its last report.

The Committee notes with interest from the Government's statements that elections took place in most unions at the beginning of 1978.

With regard to the General Labour Act that is now in force, the Committee made comments earlier on the following matters: denial of the right to organise to civil servants, exclusion from the scope of the

¹ The Government is asked to supply full particulars to the Conference at its 65th Session and to report in detail for the period ending 30 June 1979.

Act of homeworkers and casual workers, requirement of prior authorisation for the establishment of a trade union, impossibility of establishing more than one union in an undertaking, supervision of the activities of trade union committees by the labour inspectorate, possibility of trade union organisations being dissolved by administrative authority and the possibility of the executive power prohibiting a strike by resorting to compulsory arbitration.

The Committee notes that the draft Labour Code has not yet been formally approved. It points out that comments on certain provisions of this draft are being addressed to the Government in a direct request.

The Committee hopes that the Government will take the necessary measures to give full consideration to its comments concerning the General Labour Act and the draft Labour Code. It hopes that the new legislation will be adopted in the near future and that its provisions concerning the points mentioned above will be in conformity with the Convention.

Bulgaria (ratification: 1959)

The Committee notes the information provided by the Government in reply to its previous direct request.

The Committee has commented on the role as guiding force in society and the State conferred on the Bulgarian Communist Party by section 1(2) of the Constitution.

According to the Government's report, this provision does not constitute a legal basis for interference by the Bulgarian Communist Party in the establishment and activities of trade unions or a legal hindrance to the establishment of unions in addition to existing unions. The Government also refers to the rules of the Bulgarian trade unions, under which the unions willingly accept the guiding role of the Bulgarian Communist Party.

The Committee notes these statements by the Government. It observes, however, that under section 52(3) of the Constitution, organisations directed against the established socialist system are prohibited. Furthermore, compliance with the provisions of the Constitution is mandatory (section 8(2)). The Committee also observes that under section 7 of the Labour Code, as amended, the Central Directorate of Trade Unions, the individual unions and the occupational trade union organisations have legal personality. Other trade union groups acquire legal personality by decision of the central directorate of the occupational trade union concerned.

The Committee considers that these provisions could make it impossible to establish legally an organisation independent of the trade unions already existing and of the Communist Party. It therefore requests the Government to state whether the granting of legal personality to an organisation is conditional on its recognising the rules of the Bulgarian trade unions and, in particular, of the rules concerning the guiding role of the Communist Party. The Committee also requests the Government to provide the text of the 1977 rules of the Bulgarian trade unions.

With regard to the trade union rights of members of co-operative farms, the Government states that the trade union rules, by providing for the joining not only of manual and non-manual workers but also of "other workers" make it possible for members of co-operative farms to

join. The Government also states that a very large number of members of co-operative farms have joined trade unions and that the rate of union membership of persons engaged in the rural economy is very high. The Committee notes this information. It requests the Government to indicate the legal basis on which trade unions of these workers can function to further and defend the interests of their members.

Byelorussian SSR (ratification: 1956)

The Committee notes the information supplied by the Government in its last report. This information refers to texts or situations similar to those of the USSR. The Committee therefore invites the Government to refer to the comments it makes on this country under Convention No. 87.

Chad (ratification: 1960)

The Committee notes with regret that once again the Government's report has not been received. The Committee is obliged, therefore, to repeat its previous observation which read as follows:

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.

In addition, in its previous direct requests, the Committee has noted the statement of the Government that trade unions may affiliate

with organisations provided these have African allegiance. The Committee again requests the Government to indicate whether organisations of workers and employers have the right to affiliate with international organisations of workers and employers, in general, as provided in Article 5 of the Convention.¹

Costa Rica (ratification: 1960)

The Committee takes note of the information provided by the Government in its last report.

The Committee had previously made comments on a provision of the Bill for the amendment of Title V of the Labour Code which might be interpreted as authorising the authorities to intervene in the administration and operation of trade unions. The Committee notes that this Bill has not been approved by the Legislative Assembly.

The Committee recalls that in its previous observation it noted with regret that the Bill designed to protect the right to hold trade union meetings on plantations had not been adopted by the Legislative Assembly. The Committee notes that the Government's last report contains no new information on this matter. In these circumstances, it can only refer to its previous comments and insist again that the Government should take steps to guarantee trade union officers' right of access to plantations and the right of workers to meet on plantations.

The Committee also refers to its observation under Convention No. 11.

Cuba (ratification: 1952)

The Committee has examined the information communicated by the Government in its latest report.

It notes with interest the abrogation of Act No. 962 on trade union organisation on which it had previously made comments. It also notes the Government's statement that the only present legislation applicable to the exercise of trade union rights is contained in Legislative Decree No. 3 of 1977.

The Committee points out that this Legislative Decree recognises in section 1 the right of all workers, without previous authorisation, to associate freely and to establish trade union organisations. However, section 3 of the same Decree refers to the Cuban Workers' Central with which unions can affiliate freely as an expression of the unity of Cuban workers. According to the Constitution (section 7), the State recognises, protects and encourages mass social organisations such as the Cuban Workers' Central.

The Committee considers that these provisions appear to institute and maintain a single union system. Such a monopoly imposed by legislation is contrary to the principles of Convention No. 87. The Committee has already had occasion to stress that although the aim of the Convention is not to make diversity of trade unions obligatory, the Convention requires that there should be at least the possibility of diversity in every case.

¹ The Government is asked to supply full particulars to the Conference at its 65th Session and to report in detail for the period ending 30 June 1979.

The Committee requests the Government to indicate on what legal basis the workers could establish, if they so wished, an organisation of their choice, independent from the Central specified in the legislation.

Czechoslovakia (ratification: 1964)

The Committee notes the information supplied by the Government in its last report.

Right of workers to establish
organisations of their own choosing

The Committee has previously observed that, under article 5 of the Constitution, Act No. 37 of 1959 and the Labour Code of 1965, the only trade union organisations that appear to be recognised are the Revolutionary Trade Union Movement and its constituent units. The Committee has pointed out that, even if workers could establish, as the Government has explained, other trade union organisations, these could not exercise any trade union function, since the legislation allocates such functions exclusively to the Revolutionary Trade Union Movement and its basic units. Any other trade union organisation that might be legally established could not function as such, since it would be unable - under the law - to further and defend its members' interests.

The Government stresses, in its report, that the unification of the unions is not imposed by law; owing to the most representative character of the Revolutionary Trade Union Movement, which includes over 90 per cent of all wage earners, the law accords it certain prerogatives going beyond the furthering and defence of the interests of workers within the meaning of Article 10 of the Convention. The possibility of freely establishing other trade union organisations is guaranteed by law. The Government considers the argument that any other trade union organisation that might be established could not further and defend the interests of its members and of the workers in general to be hypothetical and not proved in practice; it is of the opinion that any other trade union organisation that might be established could further and defend the interests and rights of the workers within the meaning of Article 10 of the Convention.

The Committee considers, nevertheless, that the role expressly conferred by the legislation on the Revolutionary Trade Union Movement - which is indicated by name in article 5 of the Constitution and in various legal provisions - and on the organisations coming under it is such as to stand in the way of the exercise of similar functions by other workers' organisations. For example, Act No. 37 of 8 July 1959 establishes works committees of the basic organisations of the Revolutionary Trade Union Movement. Similarly, the Labour Code of 1965, as amended, provides, for example, that the participation of the Revolutionary Trade Union Movement in the labour relations governed by the Code is implied in the relevant provisions (tenth basic principle); it also provides that collective agreements shall be concluded on behalf of the workers by the bodies of the Revolutionary Trade Union Movement.

A situation of this kind does not appear to guarantee to the workers the right to establish organisations of their own choosing able to carry on trade union activities. The Committee wishes to point out again that, even if it may be in the interest of the workers to avoid a multiplicity of trade union organisations, unity imposed by legislation is contrary to the principles of the Convention. The

Committee requests the Government to provide additional information on any measures it may take with a view to ensuring the full application of the Convention.

The right to organise of members of collective farms

With reference to its previous comments, the Committee notes that members of collective farms are not covered by the provisions of the Labour Code concerning trade union bodies (sections 3 and 267(a)).

The Government states that the possibility for members of collective farms to establish trade union organisations outside the Revolutionary Trade Union Movement is guaranteed under law. Under the rules of this movement, the members of collective farms cannot join it; for this reason it is impossible to apply to these workers the provisions of the Labour Code which concern the Revolutionary Trade Union Movement.

The Committee notes this information. It again invites the Government, however, to consider the possibility of adopting legal provisions enabling members of collective farms to establish trade unions, should they so desire, and enabling these unions to function effectively to represent, further and defend the interests of their members.

Dominican Republic (ratification: 1956)

The Committee has taken note of the last report communicated by the Government as well as the information it supplied to the Conference Committee in 1978, and it notes the conclusions formulated in February 1979 by the Committee on Freedom of Association in its 190th Report, on several cases concerning the Dominican Republic.

Within the framework of this latter procedure, a representative of the Director-General undertook a direct contacts mission to the country in November 1978. He also discussed the Committee of Experts' comments on the application of the Convention.

The Committee on Freedom of Association noted favourable progress in the trade union situation in the country. The Committee notes these developments with interest. In addition, it wishes to make the following comments regarding points it has raised previously.

1. In the first place, it notes that the refusal of the Ministry of Labour to register a union can, like all administrative action, be the subject of judicial appeal.

2. In another connection the Government has stated that it intends to repeal Resolutions Nos. 13/74 (relating to the presence of labour inspectors at certain trade union meetings) and 15/64 (requiring a minimum number of organisations to establish a federation or confederation). The Committee hopes that these measures will be taken in the near future and requests the Government to provide information on any progress in this regard.

3. The Committee had also pointed out that the Labour Code only permits strikes within very narrow limits (see sections 373, 374 and 377 as well as the provisions relating to arbitration procedure). From the information available it seems that the Government intends to revise its legislation on this point. The Committee takes note of this intention and invites the Government to provide detailed information on the measures that it envisages taking to this end.

4. As regards the trade union rights of agricultural workers, the Committee had observed that under section 265 of the Code it does not apply to agricultural, agro-industrial, stock-rearing and forestry undertakings which do not employ more than ten workers on a continual and permanent basis. During the direct contacts mission, the national authorities stressed that this provision relating to undertakings and not to workers signifies that the workers cannot create a union within an undertaking (under section 298 of the Code, trade unions must have more than 20 members): however nothing prevents workers from forming occupational unions (crafts). The Committee notes this information and invites the Government to introduce more explicit provisions into the Labour Code on this point during the announced revision of the Labour Code.

5. In addition, civil servants and other workers employed by the State are, with some exceptions, excluded from the labour legislation (section 3 of the Labour Code and Act No. 2059 of 19 July 1949) and therefore are deprived of the guarantees provided for therein concerning freedom of association. Furthermore, Act No. 56 of 24 November 1965 prevents all trade union propaganda and proselytism within public and municipal administrations or autonomous institutions of the State. Finally, while public servants do have the right of association on the basis of Act No. 520 (regarding non-profit associations), this law contains provisions the application of which could be contrary to the Convention (such as section 13 which refers to the dissolution of an association by the executive authorities).

Nevertheless the Government has expressed its intention to propose new public service regulations which will recognise trade union rights in this sector. The Committee asks it to provide detailed information on the measures it intends to take in this regard.

Ecuador (ratification: 1967)

1. Further to its earlier comments, the Committee notes the information supplied by the Government in its report. Moreover, it takes note of the Labour Code of 1978 and must note with regret that this text contains no amendment in relation to the points previously raised, that is:

- (a) the prohibition of trade unions to engage in party political activities (section 443 (11)): the Committee notes the Government's statement that this provision does not prevent a trade union from publicly taking a position to defend its members' economic and social interests; however, it considers that the responsibility of restraining any abuses which might be committed by trade union organisations whose basic objective is the economic and social advancement of their members, should be left to the judicial authorities;
- (b) the composition of the managing committee of a workers' organisation (section 445): the Committee considers that this question should be governed by the internal administrative arrangements of trade unions and not be regulated by law;
- (c) compulsory arbitration (section 466): the Committee notes that, according to the Government, amendments are to be made to the Code as soon as the new Constitution, which guarantees the right to strike, comes into force;
- (d) powers regarding representation of workers (in particular section 457): the Committee notes that, according to the Government, the

fact that in practice the trade unions cover the majority of workers in undertakings means that they enjoy the rights of representation attributed by law to the works committee. Nevertheless, the Committee is of the opinion that these rights ought to be expressly recognised by law. In addition the Committee considers that federations and confederations ought to have the right to represent workers, to bargain collectively and to strike;

- (e) refusal to register an occupational organisation (sections 441 and 455): the Committee notes that according to the Government the Ministry approves the rules solely on the basis of the legal requirements (section 443) and that no complaints have been made on this point. The Committee considers that the possibility of appealing against a refusal to register ought to be clearly established in the legislation and that the courts ought to have the power to re-examine the substance of the matter.

2. The Committee requests the Government to supply information on the trade union rights of public officials and of employees in public undertakings who are not considered to be manual workers.

3. The Committee notes that the works committee, considered by the legislation to be an occupational organisation, registered and endowed with legal personality, can be dissolved by administrative action when the number of its members is less than 25 per cent of the total number of workers. This provision is not in conformity with Article 4 of the Convention.

4. The Committee notes Legislative Decree No. 105 of 1967 and of Supreme Decree No. 1475 of 1977. The provisions in these texts imposing sanctions in cases of strike seem to authorise a general prohibition of strikes contrary to Article 3 of the Convention.

5. The Committee requests the Government to undertake a new examination of the questions mentioned above with a view to ensuring conformity of the legislation with the Convention and to supply information on the measures adopted or contemplated in this regard.

Egypt (ratification: 1957)

With reference to its earlier comments, the Committee notes the information supplied by the Government.

1. It notes the information supplied by the Government according to which the amendment of the trade union legislation is under study and that the comments of the Committee will be taken into account. It trusts that the opportunity will be taken to adopt measures bringing the legislation into full conformity with the Convention, particularly in respect of the following questions raised by the Committee in its comments of 1977 and 1978: the right of workers to establish organisations of their own choosing (the single trade-union structure imposed or maintained by legislation is incompatible with the principles of the Convention); the right to organise of certain higher categories of workers (the Convention covers all workers without distinction); the right of trade unions to organise their administration and activities (guaranteed by Article 3 of the Convention); the right of trade union organisations to further and defend the interests of their members, by means including strikes (compulsory arbitration may considerably restrict this possibility).

2. The Committee notes the information supplied by the Government on the trade union rights of persons sentenced for certain

offences. In this connection, it considers it useful to recall that, although restrictions can be placed on the eligibility of these persons for trade union office, depending on the nature of the offence, all workers should be able to join a trade union as members.

Ethiopia (ratification: 1962)

The Committee notes the statement made by the government representative to the Conference Committee in 1978 and regrets that the Government's report contains no information on the questions raised in its observations.

The Committee's comments concerned the following points:

1. The Labour Proclamation of 1975 establishes the system of a single trade union (section 51(3); 52(3)(b); 50(4) and (7) and 49(2)).

The Committee again points out that, though it fully appreciates the concern of the Government to promote a trade union movement free from division, it is desirable in such a case to encourage trade unions to combine voluntarily in order to form united organisations. The Committee considers that trade union unity should not be established or maintained by legislation, which would be contrary to Article 2 of the Convention.

In this connection, the Committee notes the statement by the government representative that a study is being undertaken with the participation of the trade unions to examine the Proclamation and to carry out the necessary amendments.

The Committee hopes that the Government will take the necessary measures, as part of the examination to which it has referred, to bring its legislation into conformity with the Convention.

2. Certain categories of workers (public service employees, management personnel and domestic servants) are not covered by the Labour Proclamation. The Committee notes that, according to the government representative, the Proclamation is not the only text governing the right of association, and access to conciliation and arbitration procedure is open to these workers. The Committee requests the Government to indicate the legislative provisions governing the trade union rights of the workers in question.

With regard to employees of the public service, the Committee notes the statement by the government representative that the possibility of organising in trade unions for public servants is being studied. The Committee points out that the Convention ensures the right to organise of workers and employers without distinction whatsoever (Article 2 of the Convention) and requests the Government to provide information on developments in the matter.

3. The Committee has already pointed out that the Proclamation (sections 106 and 99(3)) places serious restrictions on the right to strike. It notes the statement of the government representative, which repeated information already provided, namely that the Proclamation does not prohibit strikes and that the procedures it laid down do not prevent workers from exercising their rights.

The Committee points out that under the legislation strikes are illegal if the collective dispute has not been brought before the Labour Division of the High Court, or if the dispute has been brought

before the Labour Division, strikes are still illegal until the expiry of 50 days if no decision has been taken. Moreover, a strike is illegal if it is started in opposition to a decision of the Labour Division of the High Court, before which the case may be brought by either party to the dispute, and whose decision is final. Although the provisions in question do not place an absolute prohibition on striking, the Committee considers that the conditions laid down may well make it very difficult, indeed practically impossible, to declare a strike. This results in a serious limitation of the possibilities open to trade unions to further and defend the interests of their members (Article 10 of the Convention) and their right to organise their activities (Article 3).

The Committee requests the Government to consider measures, on the occasion of the examination of the Proclamation, to bring the legislation into full conformity with the Convention.

4. Only the All-Ethiopia Trade Union can affiliate with an international organisation; the right of international affiliation of trade unions is submitted to certification by the Minister (Labour Proclamation, sections 51(3) and 109(13)). The Committee notes in this connection that the government representative had stated that the right of international affiliation of trade unions was unlimited and that the certification exercised by the Minister was intended to ensure that the unions conform to their own constitutions, drawn up by themselves.

The Committee again points out that the provisions in question do not appear to be compatible with the principle of the free and voluntary affiliation of trade unions with international organisations embodied in Article 5 of the Convention, and requests the Government to provide information on any development in the matter.

5. The Committee notes the statement by a government representative in reply to its previous observation on the dissolution of the employers' federation. According to the government representative there was not a dissolution but rather a change in organisation resulting from the nationalisation of certain sectors. Managers in the public and private sectors can now, according to the government representative, set up their own organisations under the Chamber of Commerce. In this connection the Committee has examined the Chamber of Commerce Proclamation (No. 140 dated 1978). It does not appear that the organisations mentioned in this text constitute employers' organisations in the sense of the Convention, that is to say organisations to further and defend the interests of the employers (Article 10). According to the Proclamation their functions seem to be intended mainly to apply the programme of the Revolution, and the Secretary-General of the National Chamber is appointed by the Minister. The Committee considers it necessary to recall that under Article 11 of the Convention, the Government undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise.

6. Lastly, the Committee notes from the statement by a government representative that the possibility of establishing direct contacts may be considered. The Committee is of the opinion that such contacts would be of great value in examining the questions raised concerning the application of the Convention.¹

¹ The Government is asked to report in detail for the period ending 30 June 1979.

Ghana (ratification: 1965)

The Committee notes with regret that the Government's report has not been received.

In its previous observation, the Committee commented on the following points:

- 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;
- section 3(4) of the Industrial Relations Act, 1965, under which 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;
- the lack of provisions concerning the right to form and join federations and confederations or the right to join international organisations of workers or employers.

Regarding the first two points, the Committee would point out that the provisions concerning the powers conferred on the registrar to refuse registration of a union are so wide that they might be used in a manner contrary to Article 2 of the Convention, by preventing workers from establishing organisations of their choosing without previous authorisation. As regards the impossibility of granting a registration certificate when a union is already registered, the Committee recalls that it is not necessarily incompatible with Article 3 of the Convention to provide for the granting to the majority union of a given unit, a certificate of registration recognising it as sole bargaining agent for that unit. However, determination of the majority union should be based on objective and predetermined criteria. Furthermore, the legislation should provide that if another union becomes the majority one, it should have the right to receive the certificate as sole bargaining agent. The Committee hopes that the Government will take the necessary measures to bring these points of the legislation into full conformity with the Convention.

The Committee again requests the Government to supply information on the right to establish and join federations and confederations as provided for in Article 5 of the Convention.

In addition, the Committee requests the Government to indicate the scope of the Emergency Powers Decree of 7 November 1978, which includes in its definition of "emergency" any action taken or immediately threatened which is likely to deprive any substantial proportion of the community of the essentials of life or to interfere in any way with government services.

Greece (ratification: 1962)

The Committee notes the information communicated by the Government in its last report.

In its previous observations, the Committee had made certain comments regarding the system of financing workers' organisations and federations (Legislative Decree No. 891 of 1971, amended by Legislative Decree No. 42 of 1974) and had requested the Government to adopt legislation permitting trade unions who so wished to collect dues from their members according to a check-off system established by collective agreements. The Government refers in this regard to an announcement

made in 1977 by the Minister of Labour, according to which the Government is ready to propose the adoption of legislation on contributions to workers' organisations which does away with the present system, as soon as suggestions in this sense are made by the organisations concerned. As no request or suggestion has been made to the Government up till now, the present system continues to function provisionally. Moreover, the Government points out that the check-off system is already used in important branches of activity. The Committee hopes that the discussions between the Government and trade union organisations will lead to the elimination, in the near future, of the present system of financing organisations and to its replacement by a check-off system established by collective agreements.

The Committee had requested the Government to supply information on the manner of holding elections within the seafarers' trade unions. The Committee notes the Government's statement that the organisations concerned have held elections with a view to appointing their governing bodies.

In addition, the Committee is addressing a request directly to the Government concerning other questions relating to seafarers, journalists and public employees, as well as on the penal sanctions applied in case of illegal strikes.

Guatemala (ratification: 1952)

The Committee notes the statement made by the Government representative to the Conference Committee in 1978 and the information supplied by the Government in its report.

The Committee notes in particular that the draft of a new Labour Code is still being examined by the Congress of the Republic and that the Labour and Social Insurance Committee of the Congress is assembling further reports on the matter. The new legislation will include regulations concerning the right of association of civil servants for occupational purposes. The Government states that no other draft is under examination at present.

The Committee recalls that a draft text containing amendments to the Labour Code was prepared during the direct contacts in November 1975 to bring the legislation into conformity with the Convention on the points raised by the Committee. This draft was intended to amend or repeal certain provisions of the Labour Code concerning the prohibition of the re-election of trade union leaders, the control of the unions by the Government, the prohibition on establishing minority trade unions within enterprises, the dissolution of unions that had been active in questions of electoral and party politics and the rights of workers in decentralised, autonomous and semi-autonomous state enterprises in union matters. The Committee also noted that the application of section 63 of the Civil Service Act, which recognises the right of association of civil servants, was not regulated by any provision.

The Government states that this draft is among the elements that Parliament will take into consideration in reforming the Labour Code.

The Committee also notes the Government's statement that any provision adopted by Congress will be communicated immediately.

The Committee trusts that the legislation will very shortly be amended in accordance with the comments it has made on several

occasions and with the draft text drawn up during the direct contacts of 1975.¹

Honduras (ratification: 1956)

The Committee notes the information communicated by the Government to the Conference Committee in 1978, as well as in its report.

The Committee observes that, according to the Government's report, five draft decrees intended to amend certain provisions of the Labour Code have been submitted to the competent authorities; moreover a Government representative had stated that the text of an act to amend the Code had been submitted to the head of State who, with the Council of Ministers, must decide on its adoption.

However, the Committee recalls that it has for several years been making comments on the following points:

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.

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

¹ The Government is asked to supply full particulars to the Conference at its 65th Session.

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 modifications to the legislation, announced by the Government, will be promulgated very soon. It requests the Government to supply information on any developments in this connection.¹

Hungary (ratification: 1957)

The Committee notes the information supplied by the Government in its report in reply to its previous comments, which related to the following points:

The Committee had understood from the explanations given by the Government and from the provisions of the Labour 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 notes the Government's statement that this explanation is correct. It also notes that according to the Government the legal rules make no distinction in respect of the date of creation of a trade union organisation. Thus a recently created organisation has the same rights as a previously existing organisation. In these circumstances, since the Labour Code refers expressly and exclusively to the works committee and the National Council of Trade Unions, the Committee considers that it would be useful to introduce into the legislation amendments designed to avoid any doubt as to the interpretation of the provisions in question. More particularly, it would be useful if the legislation would clearly recognise in particular the right of workers to establish organisations of their own choosing for furthering and defending their economic and social interests (Articles 2 and 10 of the Convention) and these organisations should receive the protection provided for by the Convention.

As regards the right to organise of members of co-operatives, the Committee notes from the information supplied by the Government that a legislative decree (No. 9 of 1977) to supplement the Act on co-operatives has been issued. Certain sections of this legislative decree provide for the establishment of various committees, namely supervisory committees, arbitration committees and women's committees, whose general function is "to assure the defence of the interests of the members, the promotion of the validity of their rights of self-management, of control ...". In addition, according to the Government, no legal rule prohibits members of co-operatives to establish trade union committees if they request them. While noting this information, the Committee observes that there is no express provision to guarantee the right of collective farm members to establish trade unions. It requests the Government to examine the possibility of adopting provisions to this end.

¹ The Government is asked to supply full particulars to the Conference at its 65th Session.

Ireland (ratification: 1955)

The Committee has noted the information communicated by the Government in its report and the comments made by the Irish Congress of Trade Unions.

The Committee notes in particular that, according to the Government, consultations have been held with the Irish Congress of Trade Unions on the amendment of the Trade Disputes Act, 1906, which has been the subject of previous comments by the Committee.

According to the Irish Congress of Trade Unions an Industrial Relations Commission was set up in May 1978 but no proposal for the amendment of the 1906 Act has been made so far.

The Committee notes that work on the amendment of the Act is under way, and requests the Government to provide information on developments in the situation.

Jamaica (ratification: 1962)

The Committee takes note of the information provided by the Government in reply to its previous direct request.

The Committee notes that under section 28 of the Labour Relations and Industrial Disputes Act, 1975, banking services (by Order dated 25 May 1976) and the air transport and civil aviation services (by Order dated 5 July 1976) have been added to the list of essential services. This list, as the Committee has already pointed out, includes activities such as public passenger transport in general, the loading and unloading of ships and services connected with oil refining. The Government states that there have been strikes in all the services on the list and that the tribunal empowered to deal with industrial disputes invariably requests the resumption of work before starting the arbitration and conciliation procedures.

Furthermore, the Committee has taken note of a document submitted by the Government to Parliament in 1978 to amend the Labour Relations and Industrial Disputes Act. Under this text, the Minister may refer any dispute to compulsory arbitration, which would lead to the possibility of a general prohibition of strikes.

The Committee takes the view that compulsory arbitration places considerable restrictions on the possibilities open to the trade unions of furthering and defending the interests of their members and on the right of unions to organise their activities (Articles 3 and 10 of the Convention), and points out, as it has already done in its previous comments, that the prohibition of strikes should be confined to services that are essential in the strict sense of the term.

The Committee requests the Government to re-examine its legislation with a view to bringing it into conformity with the Convention and to provide information on the amending text of 1978 mentioned above.

Japan (ratification: 1965)

The Committee notes the information supplied by the Government in its reports and to the Conference Committee in 1978, the comments communicated by the Japanese General Council of Trade Unions (SOHYO) and the Government's reply to these comments.

The Committee notes that the Bills it referred to in its previous observation have been adopted. It notes with satisfaction that Act No. 80 of 21 June 1978 provides for the registration of trade unions in the public sector with the competent authorities and that the registration certificate confers legal personality on the unions concerned. It also notes with satisfaction that a provision has been introduced in Act No. 79 of 21 June 1978 to the effect that the cancellation of the registration of a trade union can take effect only after the expiry of the period for appeal or after the decision of the court if an appeal has been disallowed. However, the Committee requests the Government to give details on the permissible grounds for cancellation.

The Committee notes that the definition of managerial, supervisory and confidential staff (which, under the legislation, cannot belong to the same unions as the rest of the staff) has been laid down in Act No. 79 of 21 June 1978. The Committee requests the Government to indicate the interpretation given in practice to the expression "persons making important administrative decisions" or who participate in making such decisions (section 108-2, paragraph 3).

With regard to its previous comments on the right to organise of fire-fighting staff, the Committee notes the observations submitted by the SOHYO. The Committee refers to its previous comments and notes with interest the statement by the Government to the effect that it has no intention of interfering with the activities of the National Council of Firemen, unless this Council should carry on illegal activities and, more generally speaking, that it would continue carefully to study in a longer-term perspective the question of the right to organise.

With regard to strikes in certain public sectors, the Committee notes that, according to the Government, a proposal is under study with a view to placing certain sectors under private management (part of the railway services, and those of the tobacco and alcohol monopolies), which would make it possible to recognise the right to strike of the staff concerned.

The SOHYO, in its comments, refers to disciplinary penalties imposed for striking, particularly in teaching and the postal services. The Committee notes the statement by the Government that it hopes for a normalisation of relations with the trade unions, that strikes are legally prohibited in the sectors concerned, that the penalties have been imposed flexibly and that proposals have been made by the Government to limit the negative effects on wages of certain penalties but that no agreement has been concluded with the unions concerned. In this connection, the Committee wishes to point out the importance it attaches, where strikes in the public services or essential services in the strict sense of the term are prohibited or subjected to restrictions, to the existence of adequate guarantees to the workers concerned for the safeguarding of their interests; in the past it has made special reference to adequate 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. Moreover, the Committee is of the opinion that these procedures should be both impartial and considered to be so by the parties, for it is on the confidence of the parties that their true success depends.

The Committee asks the Government to indicate in its next report any development occurring in any of the above-mentioned matters.

Kuwait (ratification: 1961)

The Committee notes the information supplied by the Government to the effect that a draft text to amend the Labour Law (Private Sector) has been referred to the competent authorities and that it takes account of the Committee's comments.

These comments related to the formation of trade unions, the membership of national and foreign workers, the denial of the right to vote to foreign trade union members, the inspection of the books and registers of trade unions, the disposal of union property in the event of dissolution, the prohibition of political activity by unions and restrictions on the formation of federations and confederations of unions.

The Committee trusts that the draft amendment to this Labour Law, referred to by the Government for many years, will be adopted in the near future and that the legislation will be brought into conformity with the provisions of the Convention. It requests the Government to supply a copy of the text as soon as it is adopted.

Liberia (ratification: 1962)

The Committee notes the information supplied by the Government to the Conference Committee in 1978. It regrets that the report has not been received.

In its previous observations, the Committee has pointed out that certain provisions of the Labour Practices Act are not in conformity with the Convention. These provisions relate to the following matters: the ban on unions having both industrial and agricultural workers as members and on these workers' joint membership of a national central trade union organisation; the absence of statutory provisions 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 noted that the ban on the joint membership of industrial and agricultural workers had been omitted from the draft of the new Labour Code. It noted that this draft was still under examination, that it had been submitted to the Ministry of Justice, and that it was hoped that decisions would be taken on the new Code before the 1978 Session of the Conference.

As the draft of the new Code has been under study for some years, the Committee considers it desirable that section 4601-A of the Labour Practices Act banning the joint membership of industrial and agricultural workers should be repealed as soon as possible. Its repeal would be in conformity with the statement made by the President in 1976 regarding the formation of a national central trade union organisation on a voluntary basis.

The Committee noted that the Government did not refer in its statements on the draft Labour Code to the other questions raised by the Committee. It considered that the Government should adopt the necessary legislative measures to take account of the comments that it has been making for many years on the right to organise in the public sector and the supervision of union elections. It therefore requested the Government to state what measures it intended to take to this end.

The Committee hopes that the new Code, which has been under consideration for some years, will be promulgated very shortly and that it will take into account the comments of the Committee, so as to bring

the legislation into conformity with the requirements of the Convention.¹

Malta (ratification: 1965)

The Committee notes the information provided by the Government in its report and also the comments by the Confederation of Trade Unions and the reply of the Government to these comments, which deal with the following points among others: the delay in the setting up of the Joint Negotiating Council for the Public Sector and of the Industrial Tribunal (sections 25 and 26 of the Industrial Relations Act, 1976); the right of a minority union to represent its members and to bargain; the right to strike and to bargain in certain public sectors.

The Committee is addressing a direct request to the Government on these and other questions.

Mauritania (ratification: 1961)

In its previous observations, the Committee has commented on sections 1 and 7 of Book III of the Labour Code in respect of the right of workers' organisations to elect their representatives in full freedom (Article 3 of the Convention). The Committee notes the statement of the Government that under section 4 of Book III of the Code persons who no longer work in the occupation covered by the trade union may nevertheless belong to it and, consequently, be among its leaders.

The Committee has also noted that, 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 may set up only one trade union. The Committee considered that this provision was incompatible with Article 2 of the Convention, under which workers and employers have the right to establish and to join trade union organisations of their own choosing. The Government stated that the provision was intended to prevent the setting up of unions on an ethnic and linguistic basis but that this aim had been realised and that there was nothing in the way of repealing it. The Committee requests the Government to supply the repealing text as soon as it has been adopted.

Finally, the Committee noted that, under sections 40 and 48 of Book IV of the Code, the Minister of Labour could, at his discretion, prohibit a strike or lock-out and submit a collective dispute to an arbitration procedure. The arbitration award or the judgement of the Supreme Court hearing the appeal against it is enforceable under section 45. The Committee noted that these provisions could result in a general prohibition of strikes and so place serious restrictions on the freedom of action of trade unions, which would be incompatible with Articles 3 and 8, paragraph 2, of the Convention.

The Committee notes the statement by the Government in its last report to the effect that the possibility of amending section 1 of Book III and sections 40 and 48 of Book IV of the Labour Code in accordance with the comments of the Committee was under study and that a draft amendment had been drawn up.

¹ The Government is asked to supply full particulars to the Conference at its 65th Session and to report in detail for the period ending 30 June 1979.

The Committee hopes that the Government will take steps to bring its legislation into conformity with the provisions of the Convention. It requests the Government to communicate information on any progress made.¹

Mexico (ratification: 1950)

The Committee notes the information communicated by the Government in its last report.

The Committee has carefully examined the explanations given by the Government in reply to the comments which it has been making for many years. It notes with regret that the Government does not provide any new information which would enable it to modify its previous conclusions, namely 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 re-emphasise its conclusions. It hopes furthermore that any new developments will be brought to its attention by the Government, and expresses its readiness to examine further the questions raised.

Mongolia (ratification: 1969)

Following its earlier comments, the Committee notes the information communicated by the Government in its report.

1. The Committee had asked the Government if a trade union organisation other than the "trade union committee" referred to in the Labour Code (sections 4 and 185 in particular) could exist. It notes that according to the Government the legislation does not prohibit the creation of organisations different from those which exist at present but that no proposals to this end have been made.

The Committee requests the Government to indicate the legislative basis on which a trade union organisation other than those which exist at present could, if the situation arose, be constituted and function so as to promote and defend the interests of its members.

2. As regards the right of association of managers of undertakings, the Committee notes that according to the Government the legislation does not limit their right to constitute organisations to protect their interests; such organisations have not however been set up in practice.

3. As regards the members of agricultural co-operatives, who are excluded from the Labour Code (section 3), the Government states that these workers can constitute their own trade unions or join existing unions. Both manual and non-manual workers from the agricultural sector have, according to the Government, joined agricultural workers' unions.

The Committee again requests the Government to indicate whether the trade union committees of the agricultural co-operatives represent only the workers employed by these co-operatives or whether they also

¹ The Government is asked to supply full particulars to the Conference at its 65th Session and to report in detail for the period ending 30 June 1979.

represent the members of the co-operatives. The Committee also again requests the Government to communicate the text in Russian of the regulations relating to the rights of trade union committees to which the Government referred in a previous report.

4. The Committee had made comments on article 82 of the Constitution, which provides that the People's Revolutionary Party of Mongolia is the avant-garde and guide of all state organisations and other mass organisations of the working population.

According to the Government, article 82 of the Constitution does not contemplate that trade union activities should in any way be limited by the Party, which on the contrary tends to strengthen the unions.

The Committee still considers that if the above-mentioned constitutional provision had the effect of preventing the creation of a trade union independent of the Party it would lead to a limitation, resulting from a legislative provision adopted by the State, on the rights guaranteed by Articles 2 and 8, paragraph 2, of the Convention. Moreover, the Committee must observe that the constitutional rule which assigns a leading role to the Party has the same legal value as the rule which guarantees workers' right to organise. Consequently, even if workers can form a trade union without the authorisation of the Party, it does not seem possible for these organisations to function without being subjected to the guidance or directives of the Party.

Nicaragua (ratification: 1967)

The Committee notes that according to the Government's report, which arrived during its present Session, a draft Trade Union Act is being discussed in Parliament, and that the Government hopes it will be approved soon.

In this connection, the Committee considers it useful to refer to the comments it made previously, in particular in 1974, on Conventions Nos. 87 and 98, and which relate to the following points:

- trade union rights of persons excluded from the Labour Code, that is, public officials, those working in family workshops, independent workers in the urban and rural sectors (sections 2, 3, 9 and 175 of the Code);
- the excessively high minimum number of members required to establish a trade union in an undertaking or a departmental trade union (section 8 of the Trade Union Regulations);
- in the case of refusal to register a trade union by the administrative authority (sections 13 and 46 of the Regulations), an appeal to judicial authorities should be available and its effect ought to be suspensive;
- the legislative provisions according to which only employed workers can be candidates (sections 23 and 24 of the Regulations), the election of the Executive Committee is limited to two successive terms (section 35) and Committee members can be dismissed by administrative action, without appeal (sections 39 and 41), are not in conformity with Article 3 of the Convention;
- also in conflict with Article 3 of the Convention are certain provisions which provide for representation of the labour administration in constituent meetings and general meetings of

trade unions (sections 10 and 31 of the Regulations), the presentation of registers and other documents to the authorities at any moment (section 36), the allocation of certain percentages of union dues to specific objectives (section 20), rules on the automatic loss of membership (section 23) and the general prohibition of political activity (section 204);

- restrictions on the right to strike provided for in sections 225, 228 and 314 of the Code are not compatible with Articles 3, 8(2) and 10 of the Convention;
- also not compatible with the Convention are certain conditions and limitations imposed by the legislation (sections 43 and 62 of the Regulations) on the right to form federations and confederations;
- the number of trade union delegates to a federation congress is limited by section 52 of the Regulations;
- the right of federations to collective bargaining is not recognised in section 44 of the Regulations and the power of federations and confederations to intervene in collective disputes is limited (section 63).

The Committee hopes that the draft legislation to which the Government referred will soon be adopted, and that it will take into account the Committee's above-mentioned previous comments. It requests the Government to supply information on developments in this connection.

The Committee also requests the Government to provide information on the following points: (a) the possibility of creating national trade unions; (b) the possibility for rural federations to join urban confederations; (c) legislative provisions governing the right of association and freedom of expression.¹

Nigeria (ratification: 1960)

The Committee has noted the information communicated by the Government to the Conference Committee in 1977 and in its latest report. The Committee has taken note of Decrees Nos. 21 and 22 of 1978.

Further to its comments, the Committee notes that the restructuring of the trade unions has now been completed and that the functions of the administrator have come to an end.

In its previous comments, the Committee recalled that the imposition of a single central trade union organisation by legislation or regulation is not compatible with Articles 2, 5 and 6 of the Convention under which workers have the right to establish the organisations of their own choosing. As the Committee pointed out, while there may be an advantage in the unity of the trade union movement, this unity should be the spontaneous outcome of the free development of the trade unions and should not be imposed by state intervention through legislation or regulations.

In this connection, the Committee must note that Decree No. 22 of 1978, amending the Trade Unions Decree, 1973 (No. 31), imposes a single

¹ The Government is asked to report in detail for the period ending 30 June 1979.

trade union system: the Central Labour Organisation is designated by name as the sole confederation; registered trade unions are compulsorily affiliated to the confederation; a number of listed trade unions are automatically registered, while the registration of all existing trade unions under the 1973 Decree is automatically cancelled without right of appeal; in addition, only one trade union may exist for each category of workers.

The Committee recalls its previous comments referred to above. It recalls, in addition, that the cancellation of the registration of trade unions by decree is equivalent to their dissolution by administrative authority and constitutes a measure contrary to Article 4 of the Convention.

In these circumstances, the Committee requests the Government to re-examine the whole issue in the light of the Convention's principles, and to examine the measures which might be taken to adapt the legislation to these principles.

Pakistan (ratification: 1951)

The Committee has noted the information supplied by the Government to the Conference Committee in 1978 and in its last report.

As regards the right to organise of civil servants, the Committee had noted in its previous comments that associations had been established in the civil service. The Committee again requests the Government to communicate the text of the instructions issued which authorise government employees to form associations without restrictions.

The Committee notes that, according to the Government's report, the position of civil servants above grade 16 is being examined; it requests the Government to supply information on developments in the situation.

The Committee has examined the Industrial Relations Regulations which were communicated by the Government in response to a previous direct request concerning a point raised by the Pakistan National Federation of Trade Unions. According to the Government, these Regulations are binding. The Committee notes that Regulation 8 confers very broad supervisory powers on the Registrar, who can have any document produced to him at any time. It considers that inquiries into the administration of trade unions should be limited to exceptional cases in which they are justified by special circumstances, such as presumed irregularities revealed by the presentation of the annual financial reports or complaints from members of a union.

The Committee therefore requests the Government to consider amending the above-mentioned provision of the Industrial Relations Regulations so as to bring it into conformity with Article 3 of the Convention.

Panama (ratification: 1958)

The Committee takes note of the information provided by the Government in its last report.

The Government states that it has noted the Committee's comments concerning the following sections of the Labour Code: section 344 (a minimum number of members for the creation of an occupational

organisation); section 346 (prohibition on creating more than one union per undertaking); section 359 (loss of office of a union officer who is dismissed from employment); and section 376(4) (the authorities' power to inspect unions' records containing minutes and accounts at any time); and section 347, which requires that 75 per cent of the members of a trade union should be Panamanians. As regards this last provision, the Government indicates that foreign workers can join the organisations of their choice and that there is no restriction on this point in the Code. The Committee considers, however, that the fixing of a minimum percentage of national workers within a union could constitute an obstacle to the creation of organisations of their own choosing by foreign workers or to their joining such organisations.

The Committee again expresses the hope that the Government will re-examine all the provisions mentioned above, and that it will on this occasion take account of the comments made by the Committee.

The Committee also notes that the staff regulations for persons in the public sector are still under study. It hopes that this draft will be adopted in the near future and that it will enable workers in the public sector to enjoy the protection provided for in the Convention.

Paraguay (ratification: 1962)

The Committee takes note of the information communicated by the Government in its last report concerning sections 284 to 320 of the Code of Labour Procedure, which establish a system of compulsory conciliation and arbitration and thus result indirectly in a prohibition of strikes.

The Government indicates in this respect that the question is being examined with a view to providing the information requested as soon as possible.

The Committee expresses the hope that the Government will amend the legislation in the near future so as to give full effect to the Convention, and requests it to provide information on any developments in this matter.

It notes with regret that the Government has not replied to the requests for information in its previous direct requests which read as follows:

1. In particular the Committee notes that civil servants can form associations under sections 45 or 46 of the Civil Code. It requests the Government to indicate the manner in which these associations can defend the interests of their members and to state the activities that may be exercised by such associations.
2. The Committee requests the Government to provide information on the procedures applicable to labour disputes in a public undertaking.

Peru (ratification: 1960)

The Committee notes the statement made by a representative of the Government to the Conference Committee in 1978; however it notes with regret that the Government's report has not been received.

The Committee notes that there have been no new developments. It is therefore bound to refer to the points raised in its previous observation, which read as follows:

The Committee notes that the fundamental labour law has not yet been promulgated and that the Committee's comments have been brought to the attention of a multisectoral committee which is preparing this law.

Regarding the right to organise in the public sector, the Committee notes that the draft Supreme Decree on the right to organise of workers in state enterprises, prepared during earlier direct contacts, has also been submitted to the multisectoral tripartite committee. It notes also that, in practice, several categories of workers in the public sector already have the right to organise. The Committee recalls in this connection that the Convention applies to all workers without distinction whatsoever and that the only categories which may be excluded from the safeguards of the Convention are the armed forces and police. The Committee is of the opinion that the Government should bring legislation and practice into conformity and adopt as soon as possible, provisions recognising the right to organise of state employees and workers in the public sector, as recently requested by the Committee on Freedom of Association in a case relating to Peru (see 172nd Report of the Committee, Case No. 870, paragraphs 307-330).

The Committee recalls that in addition to its comments on right to organise in the public sector, it has for several years made comments on the following matters:

- the trade union rights of workers in welfare institutions, hospitals and similar occupations;
- the right of workers to set up more than one union, if they so wish, in the same undertaking;
- the right of workers to choose as trade union representatives persons who are not workers or employees of the undertaking in question;
- the desirability of lifting the prohibition on trade unions engaging in political activities;
- the need to bring into conformity sections 5 and 9 of Decree No. 009, under which unions may be established only for an undertaking or occupation, with Article 2 of the Convention and the practice announced by the government, under which industrial unions may be established;
- the right of unions belonging to different branches of activity to form federations.

The Committee hopes that the Government will take all these comments into account in the amendments to the legislation which are being prepared at present.¹

Philippines (ratification: 1953)

The Committee notes the information provided by the Government in reply to its previous direct request.

1. The Committee has noted that the Labour Code (section 246) deprives managerial staff of the right to organise. In its report, the Government states that the staff in question is the staff that exercises decision-making functions concerning the policy of the undertaking or the recruitment, transfer and suspension of employees. The Committee considers that these persons should be defined restrictively so that only those directly representing the interests of

¹ The Government is asked to report in detail for the period ending 30 June 1979.

the employers are covered. It requests the Government to state the provisions defining this class of staff. The Committee also considers not only that the legislation should recognise these persons' right to establish their own organisations but also that they should have the right to organise their activities. It requests the Government to supply information on any development in the matter.

2. The Committee has made comments on several legal provisions concerning administrative decisions relating to the registration of a trade union (sections 231, 235, 239 and 240 of the Code) and the removal from office of a trade union officer (section 242). The Committee notes from the report of the Government that an appeal lodged with the Supreme Court against an administrative decision refusing or cancelling registration has a suspensive effect: the trade union continues to enjoy the rights of a registered union. The Committee requests the Government to state whether this procedure also applies to the removal from office of a trade union officer, as provided for under section 242 of the Code.

3. The Committee has noted that under section 234(c) of the Code, a union can be registered only if it includes at least 50 per cent of the workers of a bargaining unit. The Government states that this provision, and also that laying down that a federation, if it is to be registered, must comprise at least ten unions of the same region and the same industry, are transitory measures taken to reorganise and unify the trade union system, which under the former legislation had reached the number of 7,000 registered trade unions, of which some had ceased their activities and others were controlled by employers.

The Committee considers that it is sometimes in the interest of the workers to avoid a multiplicity of trade union organisations. However, although it understands the desire of the Government to promote a vigorous trade unionism, free from the imperfections caused by an excessive multiplicity of small rival organisations, it considers that a reorganisation imposed by law on basic trade unions and federations is incompatible with Convention No. 87, Articles 2 and 6 of which provide that workers shall have the right to establish organisations of their own choosing, on the sole condition that they conform to the rules of the organisation concerned. Furthermore, the provisions in question are contrary to Article 7 of the Convention, which provides that the acquisition of legal personality by these organisations shall not be made subject to conditions of such a character as to restrict the application of the principles of the Convention.

4. With regard to the powers of inquiry conferred on the Secretary for Labour in respect of the financial management of unions (section 275 of the Code), the Committee notes the statement of the Government that this provision is intended to prevent the existence of trade unions under the control of employers and ephemeral trade unions.

The Committee notes this information and points out that it has asked the Government to consider, at the next revision of the legislation, adapting it to the normal procedure followed in this field which consists of limiting inquiries to cases where a complaint has been submitted.

5. The Committee has made comments on the restriction by various legal provisions of the right to strike. According to the information supplied by the Government, a certain number of strikes have in fact taken place in the last three years, of which most have ended in conciliation and a few in compulsory arbitration. The Committee also notes that, in more than half the cases of strike notice, the disputes have been settled by conciliation and that, in about one-quarter, they have been submitted to compulsory arbitration.

The Commission considers, however, that the legal provisions in force (Presidential Decree No. 823, Presidential Decree No. 849, section 264 of the Code, etc.) make it possible to submit any conflict to compulsory arbitration and could be so applied in practice as to result in a general abolition of the right to strike, which would considerably restrict the right of unions to organise their activities (Article 3 of the Convention). It requests the Government to continue to supply information on the number of strikes that have actually taken place under the legislation.

The Committee has noted that the industries regarded as vital, in which strikes are prohibited, are defined very broadly by the legislation. It considers that the prohibition against strikes should be confined to services that are essential in the strict sense of the term. According to the Government's report, the list of vital industries contained in Letter of Instruction No. 368 is under study and is to be submitted to a tripartite conference. The Committee requests the Government to communicate the text of Letter of Instruction No. 368 and to supply information on the re-examination of the list of industries regarded as vital.

Furthermore, the Committee has asked for information on various other points:

- (a) the status of security staff: the Committee notes the statement by the Government that on account of the state of emergency and the risk represented by this category of personnel for national security, it is excluded from the right to organise. The Committee notes, however, that security staff is employed by bodies - which appear to be private bodies - under official licence. The Committee considers that, if this staff comes neither under the armed forces nor under the police, it should be able to organise to defend its own interests before its employers;
- (b) exercise of the right to organise by employees of the State: the Committee notes the statement by the Government that the formation of a separate system of labour relations for employees of the State is at present under study. It recalls that the guarantees provided by the Convention apply to workers without distinction whatsoever, including civil servants and employees of the public sector;
- (c) rights of meeting and of expression in the trade union field: the Committee notes the statement by the Government that the rights of meeting and expression in the trade union field, under martial law, are specified by Presidential Decree No. 823, as amended, and that the Government has no intention of restricting these rights.

Poland (ratification: 1957)

The Committee has noted the information supplied by the Government in its latest report.

1. In reply to earlier comments, the Government states, *inter alia*, that members of agricultural production co-operatives may join the Agricultural Workers' Union. The Committee notes this information. However, it must recall the more general issue it raised earlier in connection with the Trade Unions Act of 1 July 1949 - namely the right of all workers, irrespective of their branch of activity, to establish organisations of their own choosing without previous authorisation.

The Committee considers that the Labour Code of 1974 - which in several instances (see in particular section 24), concerning collective agreements) mentions by name the Central Council of Trade Unions - likewise does not appear to leave open to workers the possibility, should they so wish, of forming trade union organisations outside the Central Council of Trade Unions, nor to offer any such organisations the guarantees provided for in the Convention.

2. The Government further states that directors of undertakings may join the trade union corresponding to the branch of activity to which the undertaking under their management belongs; in practice, no application has been made so far by directors to form their own union. The Committee, as it has already done previously, nevertheless requests the Government to specify whether such directors are authorised by law to establish organisations separate from those to which employees of the undertaking belong, should they so wish, in order to further and defend their own interests.

3. The Government states once again that work on the preparation of the new Trade Unions Act is continuing. The Committee trusts that this work will be completed in the very near future and that the provisions adopted will take into account the above comments and the observations made previously by the Committee concerning points which were not in conformity with the Convention.

Romania (ratification: 1957)

The Committee notes the Government's report in reply to its previous observation, and in particular the information that the competent authorities are still involved in drafting the new Trade Union Act, and that this draft will deal, amongst other things, with certain aspects of the constitution and functioning of trade unions.

The Committee recalls that it had expressed the hope that to avoid any doubts regarding the scope of the provisions of section 164 of the Labour Code, the new Trade Union Act which was being drafted should clearly establish the possibility for workers, if they so wish, to establish unions, federations and confederations which can freely elaborate their own regulations and exercise their activities in complete independence from the General Union of Trade Unions. In this regard, the Committee considers that trade union unity imposed by law is contrary to the principle of formation by workers of organisations of their own choice and that, in all cases, diversity of trade unions ought to remain possible.

With regard to members of collective farms, who are excluded from the Labour Code, the Committee, whilst noting the statement contained in the Government's previous report according to which members of collective farms can establish organisations which they consider appropriate under provisions of the Constitution and of Law No. 52 of 1945 relating to trade unions, had expressed the hope that they would be covered by the new Trade Union Act so that they could establish or join trade union organisations if they so wished.

The Committee asks the Government to communicate further information concerning the draft Trade Union Act.

Sweden (ratification: 1949)

The Committee notes the information communicated by the Government in its last report as well as the comments of a number of trade union organisations and employer associations in the public and private sectors which were annexed thereto.

The Committee had noted in its previous comments that under the 1976 Act concerning co-determination at work, all workers' organisations possess the general right to negotiate work conditions, salaries, etc. (section 10). Trade unions which have entered into a collective agreement with an employer in addition enjoy more extensive rights, particularly in regard to bargaining: employers must enter into discussions before deciding on important changes in their activities (section 11) and these unions possess a wider right to information on questions relevant to bargaining (section 19).

It was, however, pointed out in the comments of the Swedish Dockers' Union that that organisation - apparently the most representative dockers' trade union - had sought without success the possibility of negotiating the terms of a separate collective agreement with the employers concerned.

From the information available, it appears that the above-mentioned organisation - like other unions not affiliated to the Swedish Confederation of Trade Unions - enjoys the right of collective bargaining with employers, but that the latter cannot be obliged to sign a collective agreement; in case of disagreement, it is open to the organisation concerned to call a strike to try to obtain satisfaction of its demands.

In the light of this information, the Committee is of the opinion that the situation described above cannot be considered incompatible with the principles laid down in the Convention. However, it remains that the tendency noted in several recent Swedish laws to grant increasingly numerous advantages only to unions which have signed collective agreements, may lend to a growing sense of injustice among other union organisations which may not be favourable to a harmonious climate of industrial relations.

Switzerland (ratification: 1975)

The Committee notes with interest the information supplied by the Government in reply to its comments. It also notes the observations of the Swiss Trade Union Organisation on the Government's report.

The Committee requests the Government to supply detailed information relating to the practical application of the Convention, and in particular on all judicial decisions taken in relation to the application of the Convention.

Syrian Arab Republic (ratification: 1960)

The Committee notes the information communicated by the Government to the Conference Committee in 1978 and in its report. It notes in particular the Government's statement that a draft law was submitted on 22 May 1978 to the competent legislative authorities. The draft takes into account the Committee of Experts' observations, and aims at bringing Legislative Decree No. 84 of 1968 (on trade union organisation) into conformity with the Convention.

1. The Committee recalls that its observations on the Decree dealt with the following matters: various provisions (sections 25, 32, 35, 44) limiting the trade union rights of foreigners and restricting free administration and management of unions; sections 2 and 8, requiring a minimum of 50 workers for the establishment of a trade union organisation; sections 32 and 36, concerning the deposit and compulsory allotment of trade union funds; section 49(c), under which

the General Federation may dissolve the executive committee of any union on various grounds; system of unified structure imposed by law (sections 2 and 7).

The Committee hopes that the draft law mentioned by the Government will be adopted in the very near future and that the new provisions will be in conformity with the Convention. It requests the Government to supply information on any developments in this regard.

2. Some of the points raised in the above paragraph have also been raised by the Committee in connection with sections 2, 6 and 12 of Legislative Decree No. 250 concerning small employers and artisans. The Committee has also referred to the prohibition of strikes by the Agricultural Labour Code (section 160) and arising from section 19 of the Economic Criminal Code. It had recalled in this connection that the direct or indirect prohibition of strikes may considerably restrict trade unions' possibilities of action, contrary to Articles 3 and 8 of the Convention.

The Committee requests the Government to indicate what measures it proposes to take with a view to bringing these various provisions in conformity with the Convention.

3. The Committee also asked the Government whether all agricultural workers, whether or not members of co-operatives, could join trade unions under general legislative provisions and what provisions governed the right of state employees freely to form trade union organisations, in conformity with the Convention.

4. The Committee invites the Government to supply detailed information on the points raised in the foregoing paragraphs.¹

Trinidad and Tobago (ratification: 1963)

With reference to its previous comments, the Committee notes the information supplied by the Government in its report, and that presented to the Conference Committee, concerning the amendment of certain legal provisions (section 24 of the Civil Service Act, section 72 of the Education Act, sections 27 and 28 of the Fire Service Act, and section 26 of the Prison Service Act) with a view to bringing the legislation into conformity with the Convention.

In this connection, the Committee has noted that the tripartite commission has submitted its report to the Government and that discussions between the specially appointed working group and the Labour Congress have been going on. The Committee has also noted the observations of the Employers Consultative Association on this point.

The Committee trusts that the Government will be able to adopt the amendments under consideration in the near future and requests the Government to continue to supply information on developments in the situation.

Ukrainian SSR (ratification: 1956)

The Committee has taken note of the information communicated by the Government in its last report. As this information refers to texts

¹ The Government is asked to report in detail for the period ending 30 June 1979.

or situations similar to those in the USSR, the Committee requests the Government to refer to the comments made for this country under Convention No. 87.

USSR (ratification: 1956)

With reference to its previous observation, the Committee notes the statements made by the government representative to the Conference Committee in 1977 and the information provided by the Government in its last report.

Right to organise of members of collective farms

The Committee has previously noted 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 the scope of this Code. It noted in its previous observation that, according to the Government, members of these farms may establish their own unions pursuant to the Constitution and Civil Code and that they may join the already existing union which, by its nature, is closest to them. In support of this information, the Government cited the resolution adopted in September 1976 by the All-Union Central Trade Union Council.

The Committee has examined this resolution, appended by the Government to its last report. The resolution recommended that the Union of Agricultural Workers and the Union of Workers in the Food Industry take measures to enrol members of collective farms who wished to become trade union members. This was to be carried out progressively during the period 1976 to 1978 on the basis of strict compliance with the principle of free choice. The Government states in its report that, following this resolution, the number of members of the Agricultural Workers' Union increased from 3.2 million in 1976 to 11.3 million at the end of 1978 and that at present 87 per cent of the permanent workers of collective farms are members of this union.

The Committee notes this information with interest. It also notes that the text that has led to the joining of members of collective farms is a resolution of the central trade union body enabling them to join, on a voluntary basis, two existing unions mentioned by name.

The Committee requests the Government to provide information on the activities that can be carried on within collective farms by the unions representing these workers, on the legal provisions governing these activities and on the practical situation in the matter. It also requests the Government to supply information on any provision it may adopt on the functioning of trade unions that members of collective farms might wish to set up independently of the already existing organisations.

The right of workers to establish organisations of their own choosing

The Committee had noted that 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, and also the 1971 Regulations on the Rights of Factory, Works or Local Trade Union Committees, do not contemplate the possible existence of another trade

union organisation established by workers of the group represented by the trade union committee referred to in the legislation and that, by bestowing trade union functions solely on the trade union committee concerned, these provisions seem to preclude the possibility of setting up another organisation representing workers of the same category. The Committee considered that such a situation was incompatible with Article 2 of the Convention, which provides for the right of workers to establish organisations of their own choosing. It therefore considered that the Government should amend the legislation in force.

The government representative stated to the Conference Committee in 1977 that the interpretation of the Committee was a misunderstanding due, no doubt, to the translation from the Russian text. He stated that the text in question meant "any trade union committee", that is to say any committee that might exist in an undertaking. The legislation therefore extended trade union rights to any committee that might be set up. A newly set up trade union committee would enjoy all the rights recognised by the Labour Code and the 1971 Regulations.

The Committee takes note of this statement. It points out, however, that in its report for 1975 the Government stated that the legislation merely reinforced the unity of the Soviet trade union movement, a unity that was the result of an historic process. The law, the Government added, confirmed an existing state of affairs and there was no reason why it should not be amended if practice changed or if the workers themselves wished to set up other unions besides those already existing. Similarly, in its report for 1976, the Government stated 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, under which all the workers in one undertaking belonged to one trade union, was more favourable to the workers and that it saw no necessity for changing the legislation in force.

The Committee still considers, in these circumstances, that the Labour Code of the RSFSR, by attributing trade union functions solely to the trade union committee concerned, seems to rule out the possibility of establishing another organisation representing the workers of the same category. The Committee therefore considers it desirable that the legislation in force be amended in order to recognise clearly the right of workers to establish, should they so wish, an organisation enjoying the guarantees of the Convention outside the trade union committee.

Role of the Communist Party in trade unions

The Committee had made comments in its previous observations on section 126 of the Constitution of the USSR, which provided that the Communist Party was the leading core of all workers' organisations.

The Government refers in its report to the new Constitution of the USSR adopted on 7 October 1977. It also states that the Communist Party does not replace the organisations but that it carries on its policy through party members acting within these organisations.

Having examined the text of the new Constitution, the Committee notes that, under article 6, the Communist Party is "the leading and guiding force of Soviet society and the nucleus of its political system, of all state organisations and public organisations". The term "public organisations" used in this provision seems to cover workers' organisations. If so, the Committee can only observe that the law (in this case the Constitution of the State) establishes a link between the Communist Party and the workers' organisations, in which the leading

role falls as of right and permanently to the Party. Thus, even if the policy of the Party is carried out through workers' organisations in accordance with procedures laid down in their rules, the legal system does not seem to accord these organisations the full right to organise their activities and formulate their programmes, as provided in Article 3 of the Convention.

Other questions

With regard to other questions on which the Committee has commented on earlier occasions (including, in particular, the right to hold meetings without previous authorisation), the Committee remains prepared to consider the situation further in the light of any new factor that may be brought to its attention.

Uruguay (ratification: 1954)

The Committee notes the information communicated by the Government to the Conference Committee in 1978 as well as in its latest report, and also notes the reports of the Committee on Freedom of Association concerning the case of Uruguay (Case No. 763).

The Government supplied the text of a draft Bill on occupational associations. This document recognises to trade unions certain fundamental rights such as the right to organise without previous authorisation, and the right to form second and third degree organisations. However, several provisions in the Bill do not appear to be in conformity with the principles established by the Convention: the obligation imposed upon trade union leaders to make a declaration of "democratic faith" or to have worked for at least two years in a branch of activity that the union represents, the obligation of first degree unions to organise themselves on the plant level, the detailed regulation of several questions relating to the internal administration of trade unions. According to the draft Bill, the aims of the organisation must be purely occupational and must not refer to political activities; in view of the difficulty of clearly drawing a line between political questions and economic and social problems, this provision, by its general character, may lead to abuses. In the same vein there are several sections in the Bill according to which organisations and their members must respect the provisions of national legislation; according to Article 8 of the Convention, 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.

The Committee invites the Government to take the necessary measures to bring the draft Bill into full conformity with the Convention. Moreover, it trusts that the text will be adopted and applied in the very near future and that trade unions will again be able to benefit from a juridical existence that enables them legally to represent the workers.¹

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Australia,

¹ The Government is asked to supply full particulars to the Conference at its 65th Session and to report in detail for the period ending 30 June 1979.

Bangladesh, Bolivia, Canada, Congo, Cyprus, Cuba, Czechoslovakia, Ecuador, Egypt, Gabon, German Democratic Republic, Greece, Honduras, Hungary, Lesotho, Malta, Mexico, Nigeria, Norway, Pakistan, Panama, Peru, Poland, Romania, Senegal, Togo, Trinidad and Tobago, Tunisia, Upper Volta, USSR.

Convention No. 88: Employment Service, 1948

Dominican Republic (ratification: 1953)

The Committee notes that the Government is taking steps toward the creation of an advisory committee, including representatives of employers' and workers' organisations, for the national employment service, as required by Articles 4 and 5 of the Convention. It recalls that the establishment of such an advisory committee, as one of the immediate steps which could be taken toward revitalising the national employment service, was recommended in the final report of the inter-organisation mission set up under the World Employment Programme to study a programme to promote full employment in the country.

The Committee hopes that the Government will continue to take steps to give full effect to these and other Articles of the Convention, in the light in particular of the recommendations of the above-mentioned mission, and that detailed information on legislative and practical measures taken in this regard will be included in its reports.¹

Egypt (ratification: 1954)

Articles 4 and 5 of the Convention. The Committee has examined Presidential Order No. 560 (1963), which created the Supreme Advisory Committee for Employment, and Presidential Order No. 795 (1976), which created the Supreme Manpower and Vocational Training Council. It does not appear that either committee has hitherto exercised any responsibilities in regard to the employment service.

As the absence of a national advisory committee for the employment service has been the subject of comments since 1961, the Committee trusts that the Government will be able to indicate in its next report that responsibility for advising on the organisation and operation of the employment service has been entrusted to an appropriate national committee.²

Ireland (ratification: 1969)

The Committee notes with satisfaction that, following its previous comments and comments made by the Irish Congress of Trade Unions, the Government has established a Manpower Consultative Committee to which the principal organisations of employers and workers have been invited to nominate representatives in equal numbers, in conformity with Article 4 of the Convention. The Committee also notes

¹ The Government is asked to report in detail for the period ending 30 June 1979.

² The Government is asked to report in detail for the period ending 30 June 1980.

that consultation at the regional and local levels will be discussed by the Manpower Consultative Committee, which was to have begun meeting before the end of 1978. The Committee requests the Government to provide further information on the operation of the Manpower Consultative Committee, and to indicate the progress achieved in establishing consultative bodies at the regional and local levels.

Malta (ratification: 1965)

Articles 1 and 6(a) of the Convention. The Committee notes that for a two-year period starting on 1 May 1977 Maltese migrant workers returning to Malta may not register for employment with the national employment service. The Committee trusts that this restriction will be discontinued so as to permit all workers without distinction to register for employment, as required by Article 6, and so as to permit the employment service to fulfil its essential duty as defined in Article 1, namely, "the best possible organisation of the employment market as an integral part of the national programme for the achievement and maintenance of full employment and the development and use of productive resources".¹

Spain (ratification: 1960)

The Committee notes the receipt of a communication of 9 March 1978 from the National Federation of Independent Trade Unions of Officials of the Employment and Training Service (SEAF/PPO) of the Ministry of Labour stating that various provisions of this Convention and of Conventions Nos. 2 and 142 were not being fully applied. This communication stated in particular, as regards the employment service, that the collaboration of employers' and workers' organisations in the functioning of the employment service, as required by the Conventions, had not materialised; that officials of the SEAF/PPO - in particular fixed-term and short-term employees - did not enjoy the stability of employment and status as public officials required by Article 9(1) of this Convention; that measures to collect, analyse and disseminate information on the status of the employment market and to encourage the full use of the employment service facilities had not been taken; and that officials of the SEAF/PPO did not have available to them the coercive measures necessary to put a stop to fraud in the procurement of unemployment benefits.

In its comments on this communication, the Government has reported that it had not yet been able to incorporate representatives of employers and workers into the employment service structure because it had to await the outcome of trade union elections in the context of democratisation, but that it would issue regulations to provide for representation in the near future. Legislation already existed in most cases, but implementation was needed. The Committee hopes the Government will provide information on the measures taken in this regard.

In regard to the status of officials of the SEAF/PPO, the Government has reported that the regular staff are officials of the social security administration on the same basis as other public officials; and that legislative provisions taken before and after the receipt of the communication provide for workers engaged as temporary officials to acquire regular posts through selective examinations, thus

¹ The Government is asked to report in detail for the period ending 30 June 1979.

achieving the necessary status and stability of employment. The Committee requests the Government to provide information on the number and length of service of such temporary employees, and on the progress in the regularisation of their situation.

The Government also reported that it published a series of regular and ad hoc compilations and analyses of employment market data and had introduced a public information programme; that it had undertaken public information campaigns on the employment service in 1976 and on employment promotion in 1978, and that employment service officials regularly visited undertakings to prospect for vacancies and training needs; and that by Royal Decree No. 656/1978 of 30 March 1978, it introduced new measures to combat fraudulent claims for unemployment benefits.

The Committee notes that the Government has replied to the points raised by the Federation, referring to measures which had already existed, which were being taken, or which have been taken since the Federation sent its communication. It hopes the Government will provide information in its future reports on any further measures taken.¹

Tanzania (Tanganyika) (ratification: 1962)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

Article 3 of the Convention. The Committee notes with interest that the network of employment offices grew from 14 to 27 between 1969 and 1977, and that more are planned for the financial year 1977-78. It hopes that the Government will continue to provide information on the growth of the network of offices.

Articles 6 to 11. The Committee notes that the National Employment Service Bill, to which the Government referred in its report for 1970-71, is still being considered by the Government. It observes that no information is available on the current application of these Articles, and trusts that the Government will provide details on the way in which effect is given to them, together with a copy of the regulations currently governing the employment service.

Zaire (ratification: 1969)

The Committee notes that no progress has been made in expanding the network of employment offices. It hopes the Government will be able to take steps to develop the work of the employment service, so as to enable it to undertake all the functions set out in Articles 6, 7 and 8 of the Convention, and will supply information in particular on the following points:

Article 3 of the Convention. The Government is requested to indicate whether any further placement offices have been opened or are planned in addition to those in Kinshasa and Lubumbashi.

Article 4. The Government is requested to provide particulars of any consultations which have taken place in the National Labour

¹ The Government is asked to report in detail for the period ending 30 June 1980.

Council concerning the organisation and operation of the employment service. The Government is also requested to indicate how many provincial employment advisory committees have been set up under section 17 of Order No. 69/0021 of 10 August 1969 and provide particulars of their activities.

Point IV of the Report Form. The Government is requested to provide particulars of the number of applications for employment received, the number of vacancies notified, and the number of persons placed in employment by the placement offices. The Government is also requested to provide copies of the employment statistics collected through the regional employment offices and of any analyses of the employment market situation made by the National Employment Service.¹

*

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Colombia, Guinea-Bissau, Suriname.

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

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

Philippines (ratification: 1953)

The Committee has observed that the legislation was not in conformity with the Convention on the following points:

1. Section 128(a) (now section 130) of the Labour Code prohibits the employment of women in industrial undertakings between 10.00 p.m. and 6.00 a.m., a period of only eight hours, whereas, under Article 2 of the Convention, the prohibition of night work should cover a period of at least 11 consecutive hours.

2. Under section 129(e) (now section 131(e)) of the Code and section 5(e) of Rule VII of Book III of the rules and regulations issued under it, the prohibition of night work by women does not apply where the nature of the work requires the manual skill and dexterity of women workers and the work cannot be performed with equal efficiency by male workers or where the employment of women was already established practice in the undertakings concerned on the date when the rules and regulations came into force. These exceptions are not authorised by the Convention.

These questions were the subject of a technical memorandum sent by the Office to the Government in connection with the direct contacts established on the application of the Convention and were subsequently discussed by an ILO official with representatives of the national services concerned.

With regard to the first point, the Committee notes with interest the information supplied by the Government to the effect that, although in practice women normally have a rest period of more than 11

¹ The Government is asked to report in detail for the period ending 30 June 1980.

consecutive hours, the revision of the Code that is now being carried out might make it possible to introduce suitable amendments. It hopes that these amendments will be introduced in the near future so as to ensure that women working in industrial undertakings have in every case a night rest period of at least 11 consecutive hours.

With regard to the second point, the Committee notes the explanations of the Government to the effect that to repeal the provisions in question would run counter to the employment development programme of the Government. It is hoped that the alternative measures under consideration by the Government will lead to the full application of the provisions of the Convention on the point raised by the Committee, which asks the Government to provide information on these measures.

*
* *

In addition, requests regarding certain points are being addressed directly to the following States: Bolivia, Guinea-Bissau, Yugoslavia.

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

Guinea (ratification: 1966)

The Committee notes with regret that once again the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee 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.

Philippines (ratification: 1953)

In previous observations, 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 implementing rules and regulations, and that these contained no provision prohibiting night work by children.

In 1977, the Government requested that direct contacts be established in respect of this Convention, and the Office transmitted to the Government a technical memorandum concerning the measures required to give effect to the Convention, which was subsequently discussed in Manila by an ILO official with representatives of the national services concerned, who indicated that regulations to give effect to the Convention were envisaged.

In its report for 1976-77, which was received too late to be examined by the Committee at its last session, the Government refers to regulations promulgated under section 139(b) of the Labour Code by means of Policy Instruction No. 23 approved by the Secretary of Labor on 30 May 1977, a copy of which had been communicated to the Conference Committee in June 1977. The Committee notes with interest that these regulations prohibit the employment of young persons under 16 between 10 o'clock in the evening and 6 o'clock in the morning in accordance with Article 2, paragraph 2, of the Convention. It notes further the Government's statement that Policy Instruction No. 23 has been officially issued, and requests the Government to indicate the date on which the adoption of the regulations promulgated by it was announced in newspapers of general circulation in accordance with section 5 of the Labour Code, and to provide a copy of the published text of the regulations.

The Committee wishes to draw the Government's attention to the fact that these regulations do not yet ensure the application of the following provision of the Convention:

Article 2, paragraphs 1 and 3. The regulations prohibit the night work of young persons only between the hours of 10 o'clock in the evening and 6 o'clock in the morning, whereas under these provisions of the Convention the prohibition must cover a period of at least 12 consecutive hours. The Committee hopes the Government will take the necessary steps to bring the legislation into conformity with the Convention on this point.¹

*
* *

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

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

Panama (ratification: 1971)

Further to its earlier observation, the Committee trusts that the Government will shortly take the necessary measures to give effect to the Convention, possibly calling on the assistance of an ILO expert, as it expressed the intention of doing in its previous report.

Article 3, paragraph 2(d), and Article 5 of the Convention. With regard to the inspection system for supervising the application of the relevant provisions, see under Convention No. 53, Article 5.¹

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

Burundi (ratification: 1963)

The Committee notes with interest that a draft Presidential Decree aimed at giving effect to the Convention is being prepared with

¹ The Government is asked to report in detail for the period ending 30 June 1979.

the aid of an ILO expert. It hopes that the Government will shortly be able to indicate that this Decree has been adopted.¹

Egypt (ratification: 1960)

The Committee notes that the Government's report again states that the Convention is applied by the Labour Code (Act No. 91 of 1959). As the Committee has pointed out in comments dating from 1962, the fact that labour legislation is generally applicable to all workers, including those who are employed under contracts covered by the Convention, is not sufficient to ensure the Convention's application.

The Committee recalls that in its previous report the Government referred to a draft provision to be inserted in amendments to the Labour Code, which would lay down the general principle required for the application of the Convention (though, as the Committee pointed out, implementing regulations would still be necessary). However, the Government has not referred to this draft provision or the necessary implementing regulations in its latest report. In this connection the Committee recalls that the Government has been referring to such amendments since 1968.

The Committee has asked the Office to send to the Government a detailed note which will explain more fully the Convention's requirements. It hopes that in the light of these more detailed explanations the Government will be able to indicate in its next report that it has taken the measures necessary to apply the Convention.²

Guatemala (ratification: 1952)

The Committee notes with interest that the Government intends to undertake the amendments necessary to bring national legislation into conformity with the Convention's requirements, and that before determining the terms of the labour clauses to be inserted in public contracts, it will undertake consultations with the organisations of employers and workers concerned (Article 2(3) of the Convention). The Committee recalls, however, that it has been requesting amendments in the applicable legislation (Governmental Resolution of 5 October 1962) since 1966, and that in each of its reports since 1968 the Government had promised to take action on this question.

The Committee recalls that section 2(c) of the Resolution provides that the payment of wages shall be in the form and conditions agreed with the workers in individual or collective agreements. This is contrary to Article 2, paragraphs 1 and 2 of the Convention, which requires that conditions of labour under public contracts be not less favourable than those established in the trade or industry concerned, which would not permit individual agreements on conditions of labour unless these agreements met these standards.

¹ The Government is asked to report in detail for the period ending 30 June 1979.

² The Government is asked to report in detail for the period ending 30 June 1980.

The Committee hopes the Government will soon take the necessary measures to apply the Convention.¹

Guinea (ratification: 1966)

The Committee notes with regret that once again the Government's report has not been received. 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.

Mauritania (ratification: 1963)

The Committee notes with regret that once again the Government has not replied to its direct requests. It notes, however, that Decree No. 75.147 has replaced the legislation which formerly was intended to apply the Convention, but that, like the earlier legislation it provides in section 20 that the labour clauses to be inserted in public contracts shall be determined by ministerial or inter-ministerial order. The Committee therefore hopes that the Government will indicate the measures taken to determine the terms of the labour clauses to be inserted in public contracts and will supply copies of the relevant orders. It also hopes the Government will furnish the information previously requested on the application of Article 1, paragraph 3 (measures to ensure the application of the Convention to subcontractors and assignees), Article 2, paragraph 3 (consultations with organisations of employers and workers), and Articles 2, paragraph 4, and 4(a)(iii) (notification of parties concerned) of the Convention.¹

Mauritius (ratification: 1969)

The Committee notes that the Labour Clauses in Public Contracts Ordinance, No. 31 of 1964, has been repealed and that the Government has referred in its latest report to the Labour Act of 1975 as applying the Convention.

However, the Labour Act contains no provision (as did the Ordinance) implementing the basic requirement of the Convention: that labour clauses be inserted in public contracts ensuring to the workers concerned wages (including allowances), hours of work and other conditions of labour which are not less favourable than those established for work of the same character as provided in Article 2, paragraphs 1 and 2. While there are some special provisions concerning public contracts, they are much narrower than the previous legislation and do not fulfil the Convention's requirements on a number of points.

The Committee therefore requests the Government to take the necessary steps to apply the Convention once again (for instance, by the re-enactment of the 1964 Ordinance), and in particular Article 2 of the Convention (basic provision requiring labour clauses in public contracts), Article 1(3) (application of the Convention to

¹ The Government is asked to report in detail for the period ending 30 June 1980.

subcontractors and assignees), Article 4(a) (notification, definition of those responsible and posting notices), and Article 4(b)(ii) (labour inspection).¹

Panama (ratification: 1971)

The Committee notes that the Government has not yet taken the measures necessary for the application of the Convention.

The Committee recalls that this Convention applies to all contracts concluded by public authorities with private firms to carry out construction works, perform services or furnish supplies and equipment (Article 1(1)(c) of the Convention). It requires that clauses be inserted in all such contracts ensuring to the workers employed by private firms for the purpose of carrying out the contracts conditions of labour not less favourable than those established for work of the same character, by one of the methods listed in Article 2, paragraphs 1 and 2, of the Convention. These clauses are to be drawn up after consultation with the organisations of employers and workers concerned (Article 2(3)), and other steps are to be taken under the remaining Articles of the Convention.

The Committee regrets that the Government has not yet furnished the standard forms of agreement used for public contracts of various sorts covered by the Convention, nor the collective agreement in force for the construction industry, which were previously requested.

The Committee has requested the International Labour Office to communicate once more to the Government the detailed explanatory note on the Convention. In view of the explanations contained in this note, and in its previous comments, the Committee hopes the Government will be able to indicate in its next report the measures taken to provide for the Convention's application, and that it will communicate the information referred to above.¹

Philippines (ratification: 1953)

The Committee notes that no reply was received to its previous observation. The Government is requested to indicate what measures have been taken or are contemplated to assure the application of the Convention as regards public contracts for the supply of materials and services (Article 1 (1)(c)(ii) and (iii) of the Convention).¹

Rwanda (ratification: 1962)

The Committee recalls that in its previous observation it noted with interest the Government's intention to draw up regulations and a standard contract for tenders in order to meet the requirements of this Convention. However, in its latest report the Government has stated - as it had done previously - that the Convention is applied by the Labour Code of 1967.

As the Committee has already pointed out in its previous comments (in particular its direct requests of 1968 and 1971) the fact that general labour legislation applies without distinction to all workers does not free a government from the obligation under this Convention of

¹ The Government is asked to report in detail for the period ending 30 June 1980.

inserting appropriate labour clauses in public contracts covered by Article 1, paragraph 1, of the Convention. Normally, such general legislation respecting wages, hours of work and other conditions of employment merely establishes minimum standards which may be exceeded by collective agreements, arbitration awards or generally prevailing conditions of employment. In such cases, labour clauses of the kind referred to in Article 2 of the Convention are designed to ensure that the conditions of work of workers employed under public contracts are equal to the levels established in that trade or industry, and are not held to the minima required by law.

More detailed explanations of the Convention's requirements will be found in the explanatory note which is also being sent to the Government.

The Committee therefore once again requests the Government to take the necessary measures to ensure the application of the Convention, through legislation or otherwise.¹

Somalia (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:

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 notes with interest that the Government has prepared a draft decree which is intended to apply the provisions of the Convention, and requests it to indicate whether this decree has been adopted, and to provide information on the points being raised in the request being addressed directly to the Government.¹

Uruguay (ratification: 1954)

The Committee notes that the Government has again stated merely that the Ministry of Transport and Public Works does not conclude public contracts of the kind covered by Article 1, paragraph 1(c)(ii) and (iii) of the Convention (contracts for the manufacture, assembly, handling or shipment of materials, supplies or equipment, and contracts for the performance or supply of services).

The Committee must point out once again that the Ministry of Transport and Public Works is not the only central authority covered by the Convention, and that any central authority which concludes contracts for supplies to be manufactured, assembled, handled or shipped or for services to be performed, must include in these contracts labour clauses of the kind referred to in Article 2 of the

¹ The Government is asked to report in detail for the period ending 30 June 1979.

Convention. For instance, whenever any government authority orders materials or supplies made to its specifications, the contract for these supplies must include such clauses.

The Committee hopes the Working Party of the Ministry of Labour and Social Security, which is responsible for recommending any changes which may be appropriate to bring national law and practice into conformity with international labour Conventions, will consider the Committee's comments, along with the more detailed explanatory note on the Convention which the Committee has asked the International Labour Office to forward to the Government. It also hopes that any relevant legislation will be communicated and that, if necessary, measures will be taken to bring the national legislation into conformity with the Convention.¹

*
* *

In addition, requests regarding certain points are being addressed directly to the following States: Brazil, Central African Empire, Ghana, Morocco, Philippines, Suriname, Syrian Arab Republic, Turkey, Uganda, Zaïre.

Information supplied by Kenya and Spain in answer to a direct request has been noted by the Committee.

Convention No. 95: Protection of Wages, 1949

Afghanistan (ratification: 1957)

The Committee notes with interest the Government's statement that the enactment of new labour laws and regulations is receiving serious consideration, with a view to giving effect to all ratified Conventions. 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 which was to ensure legislative conformity with Convention No. 95. It accordingly hopes that the draft text will be taken into consideration in the preparation of the legislation now being envisaged and that appropriate provisions will soon be adopted to ensure the full application of the Convention.

Austria (ratification: 1951)

The Committee refers to its observation of 1976 concerning the comments made by the Austrian Congress of Chambers of Labour, as regards practical difficulties in ensuring the payment of remuneration due to workers in the event of bankruptcy (Article 11 of the Convention). It notes with interest that under the Insolvency (Guarantee of Remuneration) Act of 2 June 1977, payment of workers' claims in case of insolvency of their employers is to be guaranteed by an Insolvency Compensation Fund set up under the Federal Ministry of Social Administration.

The Committee further notes with interest that a Guaranteed Remuneration Bill, which also contains provisions concerning the

¹ The Government is asked to report in detail for the period ending 30 June 1979.

protection of wages, is under consideration. In this connection, the Committee notes the comments made by the Austrian Congress of Chambers of Labour (communicated by the Government's report) that national legislation is generally in harmony with the Convention and that the Guaranteed Remuneration Bill will enable the requirements of the Convention to be met in a manner consonant with the demands of social policy.

Costa Rica (ratification: 1960)

See under Convention No. 11.

Democratic Yemen (ratification: 1969)

Further to its previous comments, the Committee notes with satisfaction that sections 64 and 65 of the new Labour Law No. 14 of 1978 contain provisions giving effect to Articles 6 and 13 of the Convention.

Egypt (ratification: 1960)

Article 2 of the Convention. Further to its previous comments, the Committee notes the Government's statement that the draft new Labour Code has been submitted to Parliament. It accordingly hopes that the draft text will soon be adopted and will extend the provisions concerning the protection of wages to temporary workers (certain categories of whom are excluded from the application of parts of the Labour Code by sections 20(a) and 88(a) thereof).

Article 4. The Committee also expresses the hope that the necessary provisions will be adopted to regulate payment of remuneration in the form of allowances in kind in conformity with the requirements of this Article.

Greece (ratification: 1955)

Article 4 and Article 7, paragraph 2, of the Convention. The Committee notes with interest the Government's statement that the forthcoming adoption of a Bill will bring the relevant legislation into conformity with the above provisions of the Convention (protective measures relating to the payment of wages in kind and to prices in stores or services established by the employer). It hopes that the Bill will shortly be adopted.

Libyan Arab Jamahiriya (ratification: 1962)

The Government's report not having been received, the Committee must repeat its previous observation which read as follows:

Article 2 of the Convention. The Committee recalls that the legislation concerning the protection of wages does not apply to agricultural workers. It notes that, in reply to previous requests on the subject, the Government indicates once again that the draft law extending the application of the relevant provisions to agricultural workers is still under consideration. As this question has been pending for a number of years, the Committee hopes that the Government will take early steps to ensure that agricultural workers are adequately covered, as required by the Convention.

Malaysia (ratification: 1961)Peninsular Malaysia

With reference to its previous comments, the Committee notes with satisfaction that the Employment (Amendment) Act, 1976, contains provisions giving further effect to Article 4 (remuneration in kind) of the Convention.

Syrian Arab Republic (ratification: 1957)

Article 2 of the Convention. The Committee refers to its previous comments, and notes that the draft legislation which is to extend to temporary workers (at present excluded under section 88(a) of the Labour Code) the application of protection of wages provisions in Book II, Chapter II, of the Code has not yet been adopted. It hopes that the necessary action will be taken at an early date to ensure the full application of the Convention.

Turkey (ratification: 1961)

Articles 2 and 13 of the Convention. The Government states in its report that the Agricultural Labour Bill, which is to extend wage protection to workers in agriculture, and the bill amending the Labour Act, which will extend such protection to workers in small trade and handicraft occupations and also regulate the time and place of payment of wages, are still being prepared and will be submitted to Parliament at the earliest possible date. The Committee notes once more with regret that no progress has been made concerning these matters which have been the subject of comments since 1964. As the Government has mentioned for many years its intention to adopt the above legislation, the Committee trusts that the bills in question will be adopted in the very near future and will ensure the full application of the present Articles of the Convention.¹

*
* *

In addition, requests regarding certain points are being addressed directly to the following States: Central African Empire, Colombia, Cyprus, Dominican Republic, Gabon, Guyana, Iran, Italy, Libyan Arab Jamahiriya, Malaysia, Mauritius, Philippines, Poland, Sierra Leone, Somalia, Sudan, Suriname, Uganda, Upper Volta, Zaire.

Information supplied by Argentina, Ecuador and Romania in answer to a direct request has been noted by the Committee.

Convention No. 96: Fee-Charging Employment Agencies (Revised), 1949Pakistan (ratification: 1952)

The Committee notes that the Fee-Charging Employment Agencies (Regulation) Act 1976, has not yet been brought into force, but that

¹ The Government is asked to supply full particulars to the Conference at its 65th Session and to report in detail for the period ending 30 June 1979.

the Government plans to do so when rules for its application have been finalised. The Committee hopes the Government will take the necessary measures to implement the Act 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.

Turkey (ratification: 1952)

The Committee notes with satisfaction the adoption, by Decree No. 7/15271 of 31 March 1978, of regulations for employment intermediaries in agriculture, on which the Committee has requested measures for many years. These regulations apply Part III of the Convention to fee-charging employment agents in agriculture.

*
* * *

In addition, requests regarding certain points are being addressed directly to the following States: Bangladesh, Belgium, Pakistan, Turkey, Uruguay.

Convention No. 97: Migration for Employment (Revised), 1949

France (ratification: 1954)

In the comments which the General Confederation of Labour (CGT) presented on the application of this Convention, it pointed out that handicapped adults' benefit provided for in section 35 of Act No. 75-534 of 30 June 1975, is reserved for persons of French nationality or nationals of a country which has concluded a reciprocity agreement for granting benefits to handicapped adults. In its reply the Government stated that, in the absence of a reciprocity agreement, handicapped adults' benefit could not be granted to non-nationals under Convention No. 97 for the following reasons. The Government considers that, on the one hand, whilst the Convention is intended to apply to migrant workers and members of their families, in the absence of a definition of the latter term in the Convention, reference should be made to the criteria established by national law; and these criteria would not permit a person requesting handicapped adults' benefit to qualify as a member of a worker's family. In addition, it is the Government's opinion that handicapped adults' benefit is not a social security benefit within the meaning of the Convention, but should be considered as an assistance benefit.

Whilst the Committee observes that handicapped adults' benefit constitutes an autonomous right which accrues to the person receiving it, independently of the status of that person as a family member as it is of his status as a wage earner, the Committee considers that at this stage it would be more appropriate to examine this question in the framework of the Equality of Treatment (Social Security) Convention, 1962 (No. 118), which has also been ratified by France. It therefore refers to the comments addressed to the Government under that Convention.

Guatemala (ratification: 1952)

Article 8 of the Convention. In its previous comments, the Committee, referring to paragraph 31 of its general report for 1963 and to its general observation for 1970, requested the Government to take practical measures, in the absence of express legal provisions, to call the attention of all circles 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 cannot be returned to their country of origin or to the country from which they have emigrated because the worker is unable to follow his occupation by reason of illness contracted or injury sustained subsequent to his entry.

In its report, the Government again states that no case has been reported in which the authorities competent in respect of emigration have resorted to the provisions concerning the expulsion of workers whose stay has been judged to be undesirable for the country (section 78 of the Aliens Law (Decree No. 1781 of 25 January 1936)). The Committee notes this information. As it has already stressed several times, it must, however, recall the need, in the absence of provisions in national laws or regulations giving express effect to Article 8 of the Convention and in view of discretionary powers conferred on the Executive under the above-mentioned Aliens Law, for measures to be taken to draw the attention of all concerned to this provision of the Convention. In this connection, in its report for 1974-76 the Government has declared its intention of immediately undertaking appropriate consultations with a view to adopting the practical measures required. The Committee therefore hopes that the Government will not fail to indicate the measures adopted to ensure the widest publicity in the circles concerned (including workers, occupational organisations, the police and the courts) to the provisions of Article 8 of the Convention, which, according to the information supplied earlier, repeal any conflicting provisions in the national legislation.

*
* *
*

In addition, requests regarding certain points are being addressed directly to the following States: Belgium, Italy, New Zealand, Upper Volta, Uruguay, Yugoslavia, Zambia.

Information supplied by the United Kingdom in answer to a direct request has been noted by the Committee.

Convention No. 98: Right to Organise and Collective Bargaining, 1949Argentina (ratification: 1956)

The Committee notes the information supplied by the Government in its last report and that given to the Conference Committee in 1977. It has also studied the reports of the Committee on Freedom of Association on Case No. 842 concerning Argentina (see also the comments of the Committee of Experts under Convention No. 87).

The Committee had previously expressed the hope that the new trade union legislation that is being prepared will conform fully to the provisions of the Convention concerning protection against acts of anti-union discrimination (Article 1 of the Convention) and acts of

interference (Article 2). According to the statements made by the Government to the Committee on Freedom of Association, the amendments that may be introduced to the trade union legislation will take into consideration the obligations deriving from ratified Conventions. The Committee requests the Government to provide information on any change that may occur in respect of the application of the above-mentioned Articles of the Convention.

Moreover, it appears, from all the information available, that collective bargaining is still suspended. The adjustment of the level of wages to increases in the cost of living is carried out by decrees fixing the compulsory minimum rates and authorising increases within a margin of flexibility that can at present be as much as 75 per cent; the wage rates provided for in the collective agreements signed in 1975 have been readjusted by these decrees.

The Committee had pointed out that the suspension of collective bargaining pursuant to a policy of economic stabilisation should not exceed a reasonable length of time. Article 4 of the Convention provides that appropriate measures shall be taken to encourage and promote the full development and utilisation of machinery for the voluntary negotiation of collective agreements.

The Committee requests the Government to re-examine the situation in the light of this provision and to supply information on any developments in this respect.¹

Brazil (ratification: 1952)

The Committee notes the information supplied by the Government to the Conference Committee in 1977 and also in its reports.

1. In its previous observation, the Committee made comments on the application of the Convention to workers in public undertakings. The Government refers in this connection to section 566 of the Consolidated Labour Laws, which prohibits civil servants and officials of quasi-state institutions from joining trade unions, though it expressly recognises this right to workers employed in semi-public undertakings or in foundations set up or maintained by the public authorities.

The Committee considers that this provision results in the exclusion of certain categories of workers from the guarantees provided for by the Convention. It points out that the exception provided for by Article 6 of the Convention applies only to public servants engaged in the administration of the State. The Committee notes the statement by a government representative to the Conference Committee to the effect that a committee was to carry out a general re-examination of the Consolidated Labour Laws. It hopes that the Government will take this opportunity to consider the adoption of measures enabling workers who are not excluded from the scope of the Convention to benefit from the guarantees provided in it.

2. The Committee has also made comments on section 623 of the Consolidated Labour Laws, which provides that any clause in an agreement that directly or indirectly contravenes the guiding principle of the Government's economic and financial policy or relates to current

¹ The Government is asked to supply full particulars to the Conference at its 65th Session and to report in detail for the period ending 30 June 1979.

wage policy shall be null and void; and section 8 of Act No. 5584, which authorises the Government to enter an appeal, which has a suspensive effect, against court decisions on collective disputes where these decisions go beyond the index fixed in accordance with the wages policy. In its reports the Government states that it has no intention of restricting the right of collective bargaining but that higher interests require the observance of the anti-inflation legal provisions.

In this respect, the Committee considers that where, for the purposes of a policy of stabilisation, a government considers that wage rates cannot be fixed freely by collective bargaining such a restriction should be applied as an exceptional measure limited to the indispensable, should not continue beyond a reasonable period of time and should be accompanied by suitable guarantees to protect the standard of living of the workers.

The Committee requests the Government to provide information on any progress made in this connection.¹

Chad (ratification: 1960)

The Committee notes with regret that once again the Government has not supplied a report on the application of this Convention.

In its previous observation, 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 pointed out that such provisions may constitute obstacles to the development and promotion of free collective bargaining.

The Committee trusts 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 for and the frequency of these refusals.²

Costa Rica (ratification: 1960)

The Committee takes note of the statement contained in the Government's last report that the draft law concerning collective labour relations has not been approved by the Legislative Assembly. The Committee also notes that the procedure concerning this bill is held up at the executive and legislative levels.

In these circumstances, the Committee can only refer to its previous comments concerning protection against acts of employer interference in workers' organisations and protection against acts of anti-union discrimination.

The Committee requests the Government again to consider the adoption of measures to guarantee such protections as are provided for in Articles 1 and 2 of the Convention.

See also under Convention No. 11.²

¹ The Government is asked to supply full particulars to the Conference at its 65th Session.

² The Government is asked to report in detail for the period ending 30 June 1979.

Ecuador (ratification: 1954)

The Committee notes the information supplied by the Government in its report. It takes note of the text of the Labour Code of 1978 and notes that this text does not change the previous situation: the Code, in its 1978 version, does not contain an express provision prohibiting an employer from adopting measures restricting the worker's freedom of association at the moment of engagement. The Committee again asks the Government to include a specific provision on this point in its legislation.

Regarding the right to collective bargaining of aeronautical technical personnel engaged in commercial air transport, the Committee notes that the pertinent provisions in the area are still under study. The Committee requests the Government to supply full information on this subject.

Finland (ratification: 1951)

The Committee takes note of the information supplied by the Government to the Conference Committee in 1977 and in its last report.

The Committee notes in particular that the amendment of the Associations Act is under study in the Ministry of Justice. It also notes that a committee was set up 1977 to review the provisions on basic rights; the work of this committee should also help to consolidate the rights to organise and to associate.

The Committee requests the Government to continue to supply information on any progress made in revising the legislation.

Ghana (ratification: 1959)

See under Convention No. 87.

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.

Indonesia (ratification: 1957)

The Committee notes the information supplied by the Government in reply to its direct request.

In regard to protection against acts of anti-union discrimination, the Government refers to Act No. 21 of 1954. This Act prohibits certain kinds of discrimination, including anti-union discrimination. However, the Committee considers that section 1 of the Act only declares null and void each stipulation in a collective agreement which obliges an employer to accept or refuse to engage a worker because he belongs, or does not belong, to a trade union.

The Committee considers that this protection is extremely limited and does not satisfy the requirements of the Convention.

The Committee again requests the Government to specify how a worker is protected against voluntary acts of the employer aimed at

making his engagement subject to the condition that he does not join a trade union or ceases to be a member thereof and against acts aimed at dismissing a worker or causing prejudice to him because of his trade union affiliation or activities, according to the guarantees provided for in Article 1 of the Convention.

Regarding protection of workers' organisations against acts of interference by employers, the Government refers to Regulation No. PER.01/MEN/1975. The Committee notes that section 1(b) of this Regulation concerns the definition of a trade union, made up by and for workers.

The Committee requests the Government to indicate precisely how workers' organisations are protected in practice against acts of interference, for instance by means of measures tending to bring about the creation of workers' organisations or to financially, or through some other means, sustain them with the object of placing them under the control of an employer or an employers' organisation (Article 2 of the Convention).

The Committee has also pointed out that according to Regulation No. 49 of 1954 concerning the elaboration and conclusion of collective agreements, only registered trade unions can conclude agreements (section 1(3)). According to Regulation No. PER.01/MEN/1975 on registration of occupational organisations, only federations covering at least 20 provinces and uniting 15 trade unions can be registered. Such provisions are incompatible with Article 4 of the Convention which provides that measures must be taken to encourage and promote the development of collective bargaining between employers' and workers' organisations, with a view to regulating by this method conditions of employment. The Committee requests the Government to re-examine its legislation to bring it into conformity with the Convention. It also requests the Government to supply the text, cited in its report, of the Ministry of Labour Regulation on Transmigration and Co-operatives, No. 02/78.

The Committee requests the Government to communicate information on the application of the Convention to public undertakings.

Japan (ratification: 1953)

The Committee notes the Government's report, the comments submitted by the Japanese General Council of Trade Unions (SOHYO) and the reply of the Government thereto.

In its comments, the SOHYO states that local collective agreements in the public sector and particularly in the postal services, are not effective, and that the questions submitted to collective bargaining are very limited.

In its reply to these comments, the Government states that the 1976 agreement on collective bargaining is to be replaced by a new agreement, which may include amendments. Moreover, the rules established jointly with the trade unions in 1978 define the matters for negotiation. These agreements provide that the rules shall be constantly re-examined with a view to the improvement of procedures and the extension of the matters to be negotiated. The Government also states that negotiations are carried on in the framework of laws applying to the various specific categories of staff and that it is inevitable that they should be limited by this framework.

The Committee notes that, according to the Government's report, certain questions are still under study (for example, what action is to

be taken on negotiations that have been unsuccessful). The Committee requests the Government to provide the text of the above-mentioned agreements and to continue to provide information on the development of collective bargaining in the public sector.

Liberia (ratification: 1962)

The Committee notes the information communicated to the Conference Committee in 1978. It notes, however, that no report has been received.

The Committee notes that the Government sees no obstacle to the right to organise and bargain collectively of all employees in public undertakings who are not performing functions in autonomous or public institutions.

The Committee points out that the comments it has made for a number of years concern the recognition of the right to organise and bargain collectively of persons employed by the State who do not act as agents of the public authority and to workers in public undertakings or autonomous public institutions. The documentation supplied by the Government deals only with the solution of individual disputes by some officials, and does not touch upon either officials' right to organise or their right to bargain collectively.

The Committee's previous comments also referred to the protection of all workers against all acts of anti-trade union discrimination, both at the time of engagement and during the working relationship (Article 1(2) (a) and (b) of the Convention).

The Committee hopes that the new Labour Code, which has been under study for many years, will take account of the Committee's comments, and that it will be adopted in the near future.

Libyan Arab Jamahiriya (ratification: 1962)

The Committee notes that the Government's report has not been received. 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.

1. The Committee notes with regret that, according to the report, section 24 of the Workers' Unions Act (No. 107 of 1975), which replaces section 171 of the Labour Code to which the Committee's earlier comments referred, has not extended the protection against anti-union discrimination to workers at the recruitment stage (Article 1, paragraph 2(a), of the Convention). The Committee takes note of the Government's statement that this point will be examined when consideration is given to amending the new Act. It expresses the hope that this question will be re-examined in the near future.

2. The Committee has also noted that a new law, the Civil Service Act (No. 55 of 1976) applies to all employees of Government services. It requests the Government to specify whether this Act contains provisions giving effect to the Convention, and in particular whether it contains provisions against anti-union discrimination and on collective bargaining rights for categories of officials who are not agents of the State, such as post office clerks, office workers in the decentralised services and teachers.

3. As regards the group excluded from the coverage of

the Labour Code (such as seamen and agricultural workers), the Committee notes that the Government will take the Committee's comments into consideration. It requests the Government to send a copy of the regulations which indicate the categories of workers to which the Labour Code applies.

4. The Committee also pointed out that sections 63, 64, 65 and 67 of the Labour Code, concerning the validity requirements for collective agreements, were not in conformity with Article 4 of the Convention. It trusts that the Government will take steps to give full effect to Article 4 of the Convention.

The Committee requests the Government to send a copy of Act No. 107 of 1975 and of Act No. 55 of 1976.

Malaysia (ratification: 1961)

The Committee notes the information supplied by the Government in its report and that submitted to the Conference Committee in 1977.

The Committee must recall that its comments for many years have concerned sections 13 and 15 of the Industrial Relations Act, 1967 (revised in 1976). These provisions remove from the field of collective bargaining a number of questions related to the conditions of employment and the dismissal of workers and prevent the collective agreements of certain enterprises specified by the law or by the Minister from stipulating more favourable conditions than those set out in Part XII of the Employment Ordinance, 1955, unless these have been approved by the Minister.

The Committee considered that provisions restricting and controlling collective bargaining in this way cannot be considered compatible with the measures provided for by Article 4 of the Convention "to encourage and promote the full development and utilisation of machinery for voluntary negotiation ... with a view to the regulation of terms and conditions of employment by means of collective agreements".

According to the Government's latest report, a tripartite commission has completed its work on the employers' and workers' proposals for the amendment of the Industrial Relations Act, and the question should now be put before the National Joint Labour Advisory Council for further consultation.

The Committee hopes that the Government will take measures in the near future to amend the above-mentioned provisions and to bring its legislation into conformity with the Convention. The Committee requests the Government to communicate information on any development in this matter.

Malta (ratification: 1965)

See under Convention No. 87.

Nicaragua (ratification: 1967)

See under Convention No. 87.

Pakistan (ratification: 1952)

The Committee notes the information supplied by the Government to the Conference Committee in 1978 and in its last report.

1. The Committee has pointed out in its previous observations that the Wages Commission, set up for the banks and insurance companies under sections 38A et seq. of the Industrial Relations Ordinance, restricts collective bargaining in these sectors. The Government states that the question has been referred to a labour commission, which is examining the system and structure of industrial relations in the country.

The Committee again points out that the frequent or repeated use of arbitration procedures, which can be set in motion by the Government even without being requested by the parties, would constitute a violation of the principle established by Article 4 of the Convention, under which collective bargaining is to be promoted and encouraged. The Committee requests the Government to provide information on any developments in the matter.

2. With regard to the comments made by the Pakistan National Federation of Trade Unions, the Committee notes that acts of anti-union discrimination have been listed as unfair labour practices on the part of the employer (section 15 of Ordinance XXIII of 1969, the text of which has been supplied by the Government), and that they can lead to the imposition of penalties by a labour court, or, in certain cases, by the National Industrial Relations Commission.

Panama (ratification: 1966)

In its previous comments the Committee noted that section 2(2) of the Labour Code excludes, with certain exceptions, all public sector officials from its scope.

The Committee takes note of the information contained in the Government's last report according to which the draft service regulations for public sector officials are still under study. The Government's report does not provide any new information on the result of this study. The Committee hopes that the service regulations will be adopted in the near future and that they will recognise for workers in the public sector who are not engaged in the administration of the State the guarantees provided for in the Convention.

Paraguay (ratification: 1966)

The Committee notes that the Government's latest report contains no new information concerning the point raised by the Committee in its previous comments regarding exclusion of personnel in public undertakings from the application of the Labour Code (section 2).

In these circumstances, the Committee again urges the Government to communicate the text of the specific provisions in the service regulations applying to workers in public undertakings which protect them against acts of anti-union discrimination or employer interference and which deal with collective bargaining. It also requests the Government to adopt, in so far as such provisions are lacking, specific rules to assure the workers the protection provided for in the Convention.

Peru (ratification: 1964)

The Committee notes that the Government's report has not been received. 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:

The Committee notes the report drawn up by the Committee on Freedom of Association at its February 1978 Session on Case No. 884 relating to Peru (177th Report, paragraphs 279 to 312).

The Committee notes that, under section 13 of Legislative Decree No. 21866 of 7 June 1977, as amended by Legislative Decree No. 21899 of 2 August 1977, collective agreements, administrative labour orders and arbitration awards will only be able to determine a general increase in remuneration in accordance with the economic and financial assessment of the undertaking.

This provision, which seems to exclude from collective bargaining questions relating to conditions of employment, is a measure unfavourable to the development and utilisation of machinery for voluntary negotiation between employers and workers' organisations for the regulation of terms and conditions of employment (Article 4 of the Convention). The Committee therefore requests the Government to re-examine the legislation with a view to enabling employers and trade unions to negotiate freely on wages and conditions of employment.

Portugal (ratification: 1964)

The Committee has noted the information supplied by the Government in its report. It has noted the observations of the Portuguese Confederation of Industry communicated by the Government as well as the latter's answer according to which protection of employers' associations from acts of interference (Article 2 of the Convention) is assured by article 46 of the National Constitution concerning freedom of association. The Committee also notes that amendment of Legislative Decrees Nos. 215-B and 215-C concerning employers' associations is planned, and requests the Government to communicate further information on any developments in this regard.

Singapore (ratification: 1965)

Further to its previous observations, the Committee regrets to note that the Government's report contains no information on the questions raised in earlier comments.

The Committee had noted a number of times that several provisions imposed serious restrictions on collective bargaining in regard to bonuses and wage increases (section 46 of the Employment Act, Ch. 122 of the Laws of Singapore; sections 24 and 25 of the Industrial Relations Act, Ch. 124). After examining the practical application of this legislation, the Committee had asked the Government to review these provisions with a view to making them more flexible and possibly to replacing them by a system of guidelines resulting from voluntary agreement.

The Committee had also pointed out that various questions concerning promotion, transfer, initial engagement, retrenchment, dismissal or appointment to specific functions were excluded from collective bargaining (section 17(2) of the Industrial Relations Act).

The Committee recalls that under Article 4 of the Convention measures should be taken to promote the full development and use of machinery for voluntary collective bargaining with a view to the regulation of conditions of employment.

The Committee once again expresses the hope that the Government will review its legislation and will take the necessary measures to bring it into conformity with the Convention.

Sweden (ratification: 1950)

See under Convention No. 87.

Tanzania (ratification: 1962)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which reads as follows:

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.¹

Uruguay (ratification: 1954)

The Committee notes the latest report communicated by the Government, in particular the information it contains regarding the conclusion of collective agreements. However, it is of the opinion that genuine negotiation of collective agreements regarding conditions of employment, including salaries, cannot take place without the participation, as workers' representatives, of legally constituted trade unions. This question is examined in a more general manner in the comments that the Committee is making regarding the application by Uruguay of Convention No. 87.

In another connection, the Committee once more expresses the hope that the necessary measures will be taken to bring the national legislation in conformity with the provisions of the Convention concerning protection against acts of anti-union discrimination (Article 1) and acts of interference (Article 2). It asks the Government to communicate information on any development in this regard.

*
* *

In addition, requests regarding certain points are being addressed directly to the following States: Bahamas, Bangladesh, Bolivia, Cuba, Dominican Republic, Egypt, Ethiopia, Fiji, Gabon, German Democratic Republic, Jamaica, Kenya, Lesotho, Malta, Mauritius, Nigeria, Norway, Panama, Papua New Guinea, Sri Lanka, Sudan, Trinidad and Tobago, Uganda, Zaire.

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

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

Requests regarding certain points are being addressed directly to the following States: Costa Rica, Gabon, Guinea, Malawi.

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

¹ The Government is asked to supply full particulars to the Conference at its 65th Session.

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

Brazil (ratification: 1957)

See under Convention No. 52.

Cuba (ratification: 1954)

See under Convention No. 52.

Gabon (ratification: 1961)

See under Convention No. 52.

Peru (ratification: 1960)

See under Convention No. 52.

*
* *

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

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

Greece (ratification: 1955)

The Committee notes with interest from the information supplied by the Government to the 64th Session of the Conference, that the requirements of the Convention are met in respect of the amount of sickness and maternity benefits. The Committee also notes the new increases in pensions and hopes that the Government will continue to supply the necessary statistics in its future reports.

*
* *

In addition, requests regarding certain points are being addressed directly to the following States: Barbados, Ecuador, France, Mauritania, Turkey.

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

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

Bolivia (ratification: 1973)

The Committee notes with satisfaction the establishment by Legislative Decree No. 15697 of 2 August 1978 of the Seguro Social Campesino, which is intended to bring about gradually the protection of the whole agricultural population of the country. The Committee also

notes that during the first phase this scheme will administer medical assistance, including maternity care. The Committee hopes that measures may be taken shortly to ensure that women workers in this sector may also receive cash benefits, in accordance with the provisions of the Convention.

The Committee also requests the Government to indicate the regions in which the above-mentioned scheme has already been brought into force.

Ecuador (ratification: 1962)

The Committee takes note of the reply of the Government to its previous comments and of the text of the new Labour Code dated 30 June 1978.

1. Article 1 of the Convention (scope). The Committee notes with interest the provisions of the new Constitution concerning the extension of coverage by social security, in particular to agricultural workers. It requests the Government to provide in its next report information on progress achieved with a view to giving effect to this provision in practice and ensuring maternity protection for all women workers not yet coming under insurance, including women employed on agricultural work.

2. Article 3. (a) Paragraphs 2 and 3 (duration of leave). The Committee notes that the new Labour Code does no more than maintain the duration of maternity leave at eight weeks. Since the Convention provides that this leave shall be of at least 12 weeks, the Committee can only come back to the question, expressing the hope that the Government will do everything possible to ensure the extension of the present duration of leave so as to apply this basic provision of the Convention.

(b) Paragraph 4 (extension of pre-natal leave when confinement occurs after the presumed date). The Committee notes that the Labour Code has introduced no provision corresponding to that of the Convention. It notes, however, the statement by the Government in its report that such a provision might be introduced shortly. The Committee requests the Government to indicate in its next report any progress achieved in this connection.

3. The Committee also hopes that the Social Security Code, whose coming into effect is still suspended, may shortly be applied and that it will take account of the above-mentioned points and of those mentioned in a new direct request.

*
* *

In addition, requests regarding certain points are being addressed directly to the following States: Bolivia, Brazil, Ecuador, Hungary, Poland.

Convention No. 105: Abolition of Forced Labour, 1957

Chad (ratification: 1961)

The Committee notes with regret that for the fourth year in succession the report has not been received.

Article 1(d) of the Convention. In the comments that it has been addressing to the Government for some years, the Committee has noted that Ordinance No. 30/PR/CSM of 26 November 1975 has suspended all strikes until further notice throughout the whole country and that any person contravening this provision is deemed to be acting to the detriment of good order and treated accordingly. Furthermore, Act No. 15 of 13 November 1959 to punish acts of resistance, disobedience and breach of duty towards the administrative authorities prescribes that persons who refuse to comply shall be punished by imprisonment with the obligation to work. So far as these provisions make it possible to punish participation in any strike with penalties involving the obligation to work, they are contrary to the Convention. The Committee hopes that the Government will take the necessary measures to ensure the observance of the Convention in this respect.

Guinea (ratification: 1961)

The Committee notes that the Government's report has not been received. It has noted, however, the Government's statement in the Conference Committee in 1978.

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 stated to the Conference Committee in June 1978 that the question raised is purely formal, since the Decree has not been applied in practice.

The Committee hopes the Government will seize the occasion of a forthcoming amendment of the legislation to repeal formally the Decree in question, so as to ensure observance of the Convention in law and in practice.

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.

Haiti (ratification: 1958)

1. In observations made for a number of years, the Committee noted that each year since 1960 a Decree giving full powers to the President of the Republic has been issued suspending for a period of six to eight months a considerable number of constitutional guarantees which present necessary safeguards for the effective observance of the Convention.

According to information communicated by the Government to the Conference Committee in June 1978 and in its last report, this is due to the fact that the Legislative Chamber has become accustomed to entrusting the President with the task of seeing to the application of constitutional guarantees.

The Committee notes, however, that the Decree of 25 September 1978 renewing the full powers of the Chief of State, in order in particular to increase the well-being of the populations and defend the general interests of the Republic, does not ensure the application of constitutional guarantees but on the contrary suspends the legal guarantees provided in articles 17, 18, 20, 21, 31, 48, 112, 122 (second paragraph) and 125 (second paragraph) of the Constitution.

The Committee can only insist on the need for the Government to take the measures necessary to ensure observance of the Convention.

2. For several years, the Committee has pointed to the fact that provisions of the Legislative Decree of 19 November 1936 on communist activities, of the Penal Code, and of the Decree of 8 December 1960 concerning the obligation of workers to observe working hours prescribe penalties involving compulsory prison labour for the expression of political opinions and breaches of labour discipline, contrary to Article 1(a) and (c) of the Convention.

The Committee notes with interest the statement of a Government representative in the Conference Committee in 1978 that section 44 of the Labour Code of 1961, coming after the Decree of 1960 concerning the obligation to observe working hours, repeals all incompatible provisions and contains no penal sanctions for a worker's unjustified absence. It also notes that the committee to redraft the Penal Code has before it the Committee of Experts' comments, with a view to amending the provisions in question.

The Committee hopes that the necessary measures will be taken as regards the points raised above to ensure observance of the Convention.¹

Paraguay (ratification: 1967)

See under Convention No. 29.

Sudan (ratification: 1970)

With reference to its previous comments concerning the Punishment of Corruption Act, 1969 under which sentences involving compulsory prison labour could be imposed on certain persons for offences connected with the press or expression of opinion, contrary to Article 1(a) of the Convention, the Committee notes with satisfaction that this text has been repealed by the Miscellaneous Amendments Act No. 33 of 1974.

It also notes with satisfaction that the Apprenticeship Ordinance, 1908, under which sentences involving compulsory prison labour could be imposed on apprentices for breach of contract of apprenticeship, which it has mentioned in its previous comments relating to Article 1(c) of the Convention, has been repealed by the 1974 Apprenticeship and Vocational Training Act.

It is addressing a direct request to the Government on certain other points.

¹ The Government is asked to supply full particulars to the Conference at its 65th Session.

Syrian Arab Republic (ratification: 1958)

In its previous observations and direct requests, the Committee has referred to certain provisions of the Economic Penal Code, the Penal Code, the Agricultural Labour Code and the Press Act, under which terms of imprisonment with the obligation to work may be imposed for acts coming under Article 1(a), (c) and (d) of Convention No. 105.

The Committee notes with interest the information contained in the last report of the Government to the effect that the Prime Minister's office has been requested to instruct the Minister of Justice to draw up a legal text repealing the last sentence of section 51, paragraph 3, of the Penal Code and amending section 45 and other sections of the Code, so that no compulsory labour can be imposed in the cases mentioned in the first Article of this Convention.

The Committee hopes that the next report will mention any progress made in this connection.

Zambia (ratification: 1965)

The Committee notes with regret that for the fourth year in succession no report has been received.

In previous comments, the Committee had referred to various provisions of the Societies Act (read together with article 4 of the Constitution), the Preservation of Public Security Regulations, the Industrial Relations Act, 1971 and the merchant shipping legislation, under which penalties involving compulsory labour may be imposed in circumstances falling within Article 1(a), (c) and (d) of the Convention.

The Committee is again addressing a direct request to the Government on these various points. It hopes that information on the measures taken to ensure the observance of the Convention will be supplied at an early date.

*
* *
*

In addition, requests regarding certain points are being addressed directly to the following States: Benin, Chad, Guinea, Iceland, Jordan, Sudan, Zambia.

Convention No. 106: Weekly Rest (Commerce and Offices), 1957Cyprus (ratification: 1968)

With reference to its previous comments, the Committee notes that the draft Employment Law, which the Government has been referring to for some years, has been revised and sent back to the Labour Advisory Board for a fresh reading. It hopes that the Government will not fail to take the necessary steps so that this draft, which is to ensure the full application of the Convention, is adopted very shortly, and it asks the Government to communicate the text.¹

¹ The Government is asked to report in detail for the period ending 30 June 1980.

Egypt (ratification: 1958)

The Committee notes that the report contains no new information in reply to its previous observations. It again requests the Government, therefore, to indicate the measures adopted or under consideration:

- to guarantee a weekly rest period to persons employed on preparatory or complementary work or as caretakers, cleaners, etc., who are at present excluded by section 123 of the Labour Code from the right to a weekly rest period (Article 7 of the Convention); and
- to guarantee the granting of a compensatory rest period irrespective of any extra remuneration to persons who, in the cases set out in section 120 of the Labour Code, are occasionally employed on the weekly day of rest (Article 8 of the Convention).¹

Kuwait (ratification: 1961)

The Committee notes that the Labour Bill that the Government has been referring to for some years has not yet been adopted. It again expresses the hope that suitable measures will be taken shortly to give effect to the following provisions of the Convention.

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 a period of not more than six months and for workers in undertakings employing fewer than five workers in establishments covered by the Convention, since section 2 of the Labour Law (Private Sector) of 1964 excludes these classes of workers from its scope.

Article 8, paragraph 3. It is necessary for persons covered by the Convention, when they work on the weekly day of rest under section 15 of the Labour Law (Public Sector) of 1960 or section 35 of the Labour Law (Private Sector) of 1964, to be able in every case to take a compensatory rest period of 24 consecutive hours during the following seven days, irrespective of any compensatory wage.¹

Syrian Arab Republic (ratification: 1958)

Article 8, paragraph 3, of the Convention. The Government states that the Bill it has been referring to since 1966, which should guarantee a compensatory rest period to workers who have worked on the weekly day of rest by virtue of exceptions laid down in section 120 of the Labour Code, has not yet been issued. The Committee hopes that the necessary measures will be taken shortly to bring the national legislation into conformity with this provision of the Convention.¹

*
* *

In addition, requests regarding certain points are being addressed directly to the following States: Bangladesh, Bolivia, Colombia, Cuba, Denmark, Indonesia, Morocco, Suriname.

¹ The Government is asked to report in detail for the period ending 30 June 1980.

Information supplied by France, Gabon and Pakistan in answer to a direct request has been noted by the Committee.

Convention No. 107: Indigenous and Tribal Populations, 1957

The Committee has noted several cases in which governments have recently enacted legislation clarifying the status and situation of indigenous populations living in their countries, or have strengthened the powers of the competent central authorities to co-ordinate activities concerning these populations. In some cases, governments have indicated that they are envisaging such legislation.

In other cases, however, the governments concerned have not complied with their obligation under the Convention with regard to "developing co-ordinated and systematic action for the protection of the populations concerned and their progressive integration" (Article 2 of the Convention) or to "create or develop agencies to administer the programmes involved" (Article 27).

In the absence of such a central body, these governments have not been able to communicate the detailed information on the situation of the indigenous populations and the measures taken concerning them, which is necessary to enable the Committee to determine the degree to which the Convention is applied.

The Committee suggests that recent legislative and practical measures taken in several countries might serve as guidelines for the creation of the necessary bodies and for developing the required co-ordinated and systematic action in this field. This may be an appropriate subject for consultations with the International Labour Office, which could provide examples of measures taken in other countries.

Argentina (ratification: 1960)

The Committee refers to its general observation under this Convention concerning the need to establish central authorities for dealing with indigenous populations, which have the powers necessary to plan and co-ordinate action in this field.

In general, the Committee hopes the Government will be able to provide more detailed information on the situation in each of the provinces in which indigenous populations live, concerning the legislative and practical measures which have been taken in their regard. More particularly, it hopes information will be furnished on the number and location of indigenous reserves in each province, or on other arrangements to ensure that these populations enjoy the right to possession or ownership of lands.¹

Bolivia (ratification: 1962)

The Committee notes that no report was received for examination this year. It recalls that a very brief report was received in 1977 and that the last detailed report dates back to 1974.

¹ The Government is asked to report in detail for the period ending 30 June 1980.

In the direct request addressed to the Government in 1978, the Committee raised a number of questions with important implications for indigenous populations. Among them were the absence of any government agency with over-all responsibility for indigenous populations, which the Committee suggested might be an appropriate subject for consultations with the International Labour Office; the delegation of authority over forest-dwelling indigenous populations to religious missions in some areas, with no reported supervision by the Government; the proposed policy to encourage the large-scale settlement of white immigrants in areas presently inhabited by forest-dwelling indigenous populations; and the absence of government supervision of the conditions of recruitment and labour of these populations.

The Committee is again raising these matters in a direct request. It trusts that the Government will provide a comprehensive report for examination at the Committee's next session concerning the conditions of life and work of the indigenous populations, and the measures taken to ensure the application of the Convention.

Brazil (ratification: 1965)

The Committee has noted the detailed reports furnished by the Government in 1977 and 1978. It notes, however, that these reports do not reply to many of the points raised in the previous request, and hopes that the Government will base its next report both on the terms of the Convention and on the detailed request addressed to it again this year.

The Committee notes that isolated Indian groups are being exposed to accelerating contact with non-Indian society, which is affecting their health and cultures. It considers that as the pace of development of the Amazon region in particular increases, there are likely to be an increasing number of instances in which forest-dwelling indigenous groups are affected by the proximity of roads, settlements and industrial projects (e.g. timber-cutting and mineral extraction) to the lands which they occupy. The Committee also notes the continuing debate in the country over the speed with which and the manner in which the Indians should be integrated into the national society.

The Committee accordingly hopes that the Government, in planning activities for the development of the Amazon, will do everything possible to minimise the effect of these activities on the indigenous populations until they are prepared for increased contacts with the national society. In planning the direction of the integration policy for the Indians, the Committee hopes that consultations will be carried out with representatives of the Indians themselves as well as with anthropologists and with the National Indian Foundation.

In particular, the Committee hopes that the procedures under consideration for the emancipation of Indian communities from tutelage will provide for preliminary studies by anthropologists before decisions are made in each case, for an effective consultation with the community concerned, for the provision of technical and other assistance, and for measures to ensure their continued possession of the lands necessary for their development.¹

¹ The Government is asked to report in detail for the period ending 30 June 1980.

Costa Rica (ratification: 1959)

In addition to the request addressed directly to the Government, see the observation under Convention No. 11.

Mexico (ratification: 1959)

The Committee has noted with interest the continuing improvements in the protection of indigenous populations, particularly in regard to legal services, social security coverage, health care and education. It recalls that, following a suggestion by the Committee, the Government stated in a previous report that it had communicated copies of its reports on the application of the Convention to groups of indigenous populations for their information and comments. It notes with particular interest the Government's statement that the comments received from these groups on the application of the Convention have been a decisive factor in the establishment of the General Co-ordination of the National Plan for Depressed Areas and Marginal Groups (COPLAMAR), which will co-ordinate the development programmes being carried out by various bodies.

Paraguay (ratification 1969)

The Committee has examined the information communicated by the Government, from which it appears that over the last few years the Government has made some progress in improving its programmes for the benefit of indigenous peoples and in the co-ordination of these programmes. However, the Committee has also taken note of two resolutions adopted by the Inter-American Human Rights Commission at its May, 1977 Session, in which it is stated that Paraguay had not replied to a series of allegations of serious human rights abuses in connection with the Indians of the country. The Committee hopes the Government will furnish detailed information on the matters raised in these allegations, to the extent that they have a bearing on the application by Paraguay of the present Convention.

In addition, the Committee recalls that title to a number of indigenous settlements has been vested in religious missions and other bodies with a view to the administration of the Indians living in these areas. It would appear from the information so far received that the arrangements for co-ordination and supervision of the activities carried on in these settlements by these bodies do not always enable the Government to be informed in detail of how these areas are administered. The Committee therefore hopes that the Government will be able to increase its supervisory activities over all aspects of the administration of these areas, and that it will include in its reports more detailed information on the situation of the Indians living there.¹

*
* * *

In addition, requests regarding certain points are being addressed directly to the following States: Argentina, Bolivia, Brazil, Colombia, Costa Rica, Egypt, Mexico, Panama, Paraguay.

¹ The Government is requested to report in detail for the period ending 30 June 1980.

Convention No. 108: Seafarers' Identity Documents, 1958

Requests regarding certain points are being addressed directly to the following States: Barbados, Romania, Spain.

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

Convention No. 111: Discrimination (Employment and Occupation), 1958Afghanistan (ratification: 1969)

The Committee notes with interest the Government's statement that the enactment of new labour laws and regulations is receiving serious consideration, with a view to giving effect to all ratified Conventions. It accordingly hopes that appropriate provisions will soon be adopted to ensure the full application of the Convention.

With reference to its previous direct request, the Committee would appreciate receiving information on measures taken or contemplated to promote equal development of practical facilities for training, employment and productive activities in the various regions of the country inhabited by populations of different ethnic origins.

The Government is asked to indicate what has been the development of participation by women in vocational training and in employment at various levels (in the industrial, commercial and public service sectors) and what specific measures have been taken by it to promote equality of the sexes in this connection (independent of the question of equal pay, examined in connection with Convention No. 100).

Argentina (ratification: 1968)

The Committee notes the information provided by the Government in reply to its previous comments, particularly the decisions of the Supreme Court referred to in the report. It regrets, however, that the validity of Act No. 21274 respecting dismissal (*Ley de prescindibilidad*) has been extended again, up to 31 December 1978, and it hopes that the Government will shortly be able to state that all emergency provisions of this nature have ceased to be in force.

Bulgaria (ratification: 1961)

Further to its previous comments, the Committee notes with satisfaction from the report provided by the Government that, with a view to eliminating any provision that might be interpreted as establishing distinctions or preferences based on political opinions or activities, the new Ordinance on the placement and employment of young specialists, published on 15 April 1977 does not mention political opinion among the criteria to be taken into consideration, in contrast to the previous Ordinance.

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. Therefore it urges 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 of vocational training and employment; (c) posts from which women are excluded under article 9 of the Civil Service Regulations.¹

Chile (ratification: 1971)

With reference to its previous observation and to the information given by the Government to the Conference Committee in 1978 and that provided in its report, the Committee notes with interest that Legislative Decree No. 2200 of 15 May 1978 on the contract of employment and the protection of workers has reaffirmed the principle of no discrimination in employment on the various grounds covered by the Convention and that the constitutional provisions are being reviewed. The Committee points out that it has in particular stressed its concern regarding the present constitutional provisions that declare the dissemination of doctrines held to be contrary to the established régime to be illegal and detrimental to the constitutional order, in view of the effect that these provisions might have on the protection provided for by the Convention against discrimination on the basis of political opinion. It hopes that the new provisions will furnish a clearer guarantee of the application of the Convention in this respect.

Moreover, having noted that section 5 of Legislative Decree No. 2345 of 17 October 1978 enables the Government to terminate the functions of any person employed in the administration or public enterprises irrespective of any other requirement or legal provision, the Committee requests the Government to indicate what guarantees exist or will be introduced to ensure the observance of the Convention in the exercise of this power.

With regard to the present situation of persons dismissed under the emergency measures that were in force between September 1973 and March 1975, the Committee notes in particular that the Government has stated its willingness to examine in a spirit of equity the cases that could be reasonably alleged to constitute injustices of the past. It would be grateful if the Government would provide information on any measures taken to make this known at the national level and on any arrangements by means of which the persons concerned may apply for the re-examination of their case and the use made of these arrangements in practice.

Czechoslovakia (ratification: 1964)

The Committee notes that, after examination of a representation submitted by the International Confederation of Free Trade Unions in virtue of article 24 of the Constitution, the Governing Body, at its 208th Session (November 1978), did not consider to be satisfactory the reply of the Government concerning reasons for the dismissal of workers who had signed or supported a document criticising the policy of the Government, taken against them on the grounds that they had endangered

¹ The Government is asked to supply full particulars to the Conference at its 65th Session.

the security of the State or failed to meet the requirements of their employment or of labour discipline (sections 46 and 53 of the Labour Code). The Governing Body therefore decided, in virtue of article 25 of the Constitution, that the representation and the reply should be published together with the report of the committee it set up to consider the representation.¹

In the light of this examination of the matter, the Committee, referring to its previous observations, recalls that the measures authorised by the Convention in connection with the security of the State or the requirements of certain jobs should not be applied in such a way as to conflict with the basic protection provided by the Convention against discrimination in respect of employment on the grounds of political opinion. The Committee therefore asks the Government to indicate the measures taken or contemplated to ensure that all sanctions previously imposed for reasons incompatible with this protection be duly reconsidered in the light of the provisions of the Convention. The Committee also hopes that the Government will take all suitable measures to guarantee more effectively that the provisions of national laws in this field may not be applied for reasons that would be incompatible with the protection laid down by the Convention in respect of the elimination of discrimination on the basis of political opinion.²

Egypt (ratification: 1960)

The Committee notes with satisfaction the promulgation of Order No. 19 of 1978 modifying Order No. 64 of 1960 to prescribe the types of work on which it is unlawful to employ women and reducing, in the light of scientific progress and increasing participation of women in the labour market, the number of prohibited types of work.

The Committee hopes that the Government will also supply the information requested in 1978 concerning the results of the work of the committee established by Ministerial Order No. 761 of 1976 to review and amend all the laws concerning journalists, taking into account previous comments made on this subject in connection with the elimination of discrimination based on political opinion. In addition, the Committee would appreciate receiving information on the contents and effects of new principles adopted by referendum on 21 May 1978 concerning the exclusion of persons advocating certain opinions from certain posts, particularly in the public sector and in the information media, and on the measures taken to ensure the application of the Convention in this connection.

Federal Republic of Germany (ratification: 1961)

While thanking the Government for its detailed report, the Committee recalls that it has suspended its examination of the questions mentioned in its previous observation, since a representation on the same subject in virtue of article 24 of the Constitution has been presented to the Governing Body of the International Labour

¹ See Official Bulletin, Vol. LXI, 1978, Series A, No. 3 (Supplement).

² The Government is asked to supply full particulars to the Conference at its 65th Session and to report in detail for the period ending 30 June 1979.

Office. The Committee notes that at the time of its present session, the procedure relating to this representation is going on and it therefore makes no new comments on the matter.

Guinea (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:

The Committee notes with regret that the Government's report, which arrived too late to be examined in 1977, refers again to section 41 of the Constitution (concerning freedom of religion and the separation of State and Church), to section 2 of the Labour Code (concerning equality amongst workers without distinction on grounds of sex or nationality), and section 6 of the Public Service Statute (concerning equality amongst state employees without distinction on grounds of sex), but contains no new information in reply to its earlier comments concerning the elimination of discrimination in employment on the basis of political opinion. In this connection, the Government had previously stated, on the one hand, that access to employment in the public service and in private undertakings is obtained through specialised services set up by decision of the Party and carried out by the Government under the supervision of the Party, and on the other hand, the principles of the Party against discrimination include equality without any distinction on the basis of race, colour, sex, religion, region or nationality. In the light of this supervision by the Party and the fact that these principles do not include political opinion, the Committee again requests the Government to indicate what steps have been taken or are contemplated to ensure also the elimination of any discrimination in employment, within the meaning of the Convention, based on political opinion.

India (ratification: 1960)

The Committee thanks the Government for the detailed information supplied in reply to its previous comments. It notes with interest that a commission consisting of a chairman and four members including the Commissioner for Scheduled Castes and Scheduled Tribes, has been set up on 27 July 1978 to investigate all matters relating to the safeguards provided under the Constitution for these communities and to report to the President. The Committee notes also that, to solve difficulties experienced in finding suitably qualified candidates belonging to the Scheduled Castes/Tribes for filling posts in the services where technical, special or professional qualifications are required, further measures have been taken which include age relaxation and relaxation of standards, suitability and "experience" qualifications in the case of direct recruitment; fee concessions and travelling allowances for interviews; concessions in the posts filled by promotion, including relaxation of standards in departmental examinations. The Indian Institutes of Management also provide relaxation to Scheduled Castes/Tribes candidates in all stages of the selection procedure and conduct remedial courses for weaker students. The Committee would be glad if the Government would continue to supply information on further action taken and results achieved in connection with the matters mentioned above.

It appears from the report that several State Governments and Union Territories have constituted advisory committees under section 6

of the Equal Remuneration Act, 1976; the Central Government and certain State Governments/Union Territories have also appointed authorities for hearing and deciding claims and complaints under section 7 of the Act and the State Governments/Union Territories who have not done so have been reminded to take suitable action soon. The Committee hopes that the Government would be able to provide in its next report information on further results achieved in this respect.

Finally, having noted that a comprehensive programme of special legislative and administrative measures, known as the "National Plan of Action for Women" was formulated in 1977 with a view to providing safeguards for women against economic and social injustices, disabilities and discriminations, and that a blue-print of it has been circulated to State Governments, concerned departments, etc. The Committee would greatly appreciate information on measures taken or envisaged to ensure the effective implementation of the above-mentioned Plan of Action.

Israel (ratification: 1959)

The Committee refers to its previous comments and notes with interest from the Government's report that the Legislative Assembly has approved an amendment to the Employment Service Act to the effect that a breach of section 42 (prohibiting discrimination) constitutes an offence. It also notes that a bill on equality of opportunity for men and women in employment and vocational training has been submitted to the Assembly, and a re-examination of the regulations which prohibit women from undertaking certain work has been begun by the Government. The Committee will be interested to know what results from these actions, and it hopes that all other appropriate legislative or administrative measures will be taken as regards equality of opportunity and treatment for all categories of persons covered by the Convention. Moreover, the Committee hopes the next report will contain more detailed information on the practical measures taken and the results obtained within the action programmes which, according to the previous report, were undertaken to promote opportunities for access to and advancement in employment for citizens regardless of their different religions and ethnic origins and of their sex.

As regards the situation of Arab workers of the occupied territories, referred to in the previous observation, the Committee notes that it has been followed by measures taken by the Director-General as indicated in his Report to the 64th Session of the Conference; it has been informed that the Director-General has recently sent a second mission to Israel and the occupied Arab territories, and that the mission's report is to be presented to the Conference. In these circumstances, the Committee refrains from further comment on the situation.

Italy (ratification: 1963)

The Committee notes with satisfaction the adoption in December 1977 of the Act on equality of treatment of women and men in employment which applies to both public and private sectors and outlaws discrimination on the grounds of sex, marital and family status and pregnancy as regards recruitment, type of work, advertising, vocational guidance and training, promotion and career progression, and remuneration. The Act further provides that women can choose whether to retire at age 55 (former statutory retirement age for women) or whether to continue to work until age 60 like their male colleagues; that rights to leave of absence to look after a child less than a year

old or to take care of a sick child may be exercised also by the father and spells out the penalties for non-compliance and the forms of redress open to those complaining of discrimination. The Committee would greatly appreciate receiving information on the practical application of the above Act.

Liberia (ratification: 1959)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

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, 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.

Madagascar (ratification: 1961)

Further to its previous comments, the Committee notes with satisfaction that section 5(2) of Decree No. 61-225 of 19 May 1961 has been repealed by Decree No. 78-225 of 24 July 1978. The former Decree laid down rules for labour inspectors which limited female inspectors to 10 per cent of the real total of inspectors on account of the special conditions of physical aptitude required for certain jobs. The Committee would be grateful if the Government would indicate in its next report whether section 8 of the General Civil Service Rules, which allows restriction of the employment of female personnel to 10 per cent in responsible posts, has also been repealed.

Malta (ratification: 1968)

The Committee thanks the Government for the information supplied in reply to its previous comments. It notes in particular with satisfaction that section 26A of the Conditions of Employment (Regulation) Act, 1952, as amended, which provided that where there occurs a vacancy in any employment previously occupied by a man, the vacancy shall be filled only by a man, has been repealed by Act No. XXVII adopted on 4 December 1978.

The Committee notes with interest that in the teaching and nursing professions where a considerable number of women are employed the proviso not to retain married women has been withdrawn. However, for a relatively small number of female clerks presently employed in the public service the requirement to resign their positions upon

marriage is still in force. The Committee trusts that the Government will be able to indicate in its next report that the legislation and practice have been brought into line with the Convention also in respect of female clerks employed in the public service.

Norway (ratification: 1960)

The Committee notes with satisfaction, the adoption on 9 June 1978 of Act No. 45 on Equal Status Between the Sexes which provides, inter alia, that it is unlawful to discriminate between men and women in matters of recruitment, promotion, pay, termination of employment, education, training, association, etc., specifying, however, that it will be possible to give priority to one sex if it will help in the long term to regulate any imbalance between the sexes in the trade or profession in question; to enforce the Act, an Equal Status Ombudsman and an Equal Status Appeals Board are to be appointed. The Committee would greatly appreciate information on the practical application of this Act.

The Committee notes with interest the comments from the Norwegian Confederation of Trade Unions concerning the Working Environment Act and the Equal Pay Agreement between the Norwegian Employers' Confederation and the Confederation of Trade Unions in Norway for the implementation of the equality principle. Noting further that the Norwegian Labour Party and the Confederation of Trade Unions in Norway have appointed a committee whose task is to submit proposals for a solution to the problem of low pay which, as indicated by the Government, is of special importance for women since they are over-represented in the low-pay groups, the Committee will greatly appreciate information on any further developments in this respect.

Portugal (ratification: 1959)

Further to its previous comments, the Committee notes with satisfaction, from the information provided in the Government's report, that under Legislative Decree No. 485/77 adopted on 17 November 1977 "... the Government undertakes to assume its Constitutional responsibility to promote improvement of conditions for women in Portuguese society and eliminate any discrimination on the grounds of sex still subsisting in laws, and social life ..."; and that the Commission on the Status of Women is placed on a formal footing and expected to make proposals for the creation of machinery necessary for the application of the new legislation. The Committee would be glad if the Government would supply in its future reports information on the activities of the Commission, in particular as regards the creation of adequate conditions with a view to promoting in practice a more equitable participation of women in the field of employment at all levels.

*
* *

In addition, requests regarding certain points are being addressed directly to the following States: Austria, Bangladesh, Barbados, Benin, Brazil, Bulgaria, Chad, Ethiopia, Finland, Gabon, German Democratic Republic, Ghana, Guyana, Honduras, Hungary, Iceland, Iraq, Ivory Coast, Jamaica, Jordan, Kuwait, Libyan Arab Jamahiriya, Mali, Mauritania, Mexico, Mongolia, Morocco, Nepal, Netherlands, Niger, Pakistan, Peru, Philippines, Poland, Romania, Sierra Leone, Somalia, Sudan, Spain, Switzerland, Trinidad and Tobago, Turkey, USSR, Venezuela, Yemen, Yugoslavia.

Information supplied by Ecuador, Paraguay and Senegal in answer to a direct request has been noted by the Committee.

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

Guinea (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:

Referring to its earlier direct requests, the Committee regrets to note from the report for the period 1974-76 that the Government has not considered it indispensable to issue the draft Order to give effect to the Convention, since the Convention is widely disseminated and strictly applied in accordance with sections 150, 151 and 177 to 180 of the Labour Code.

The Committee observes that the above-mentioned provisions of the Labour Code fix a general minimum age of 14 years and provide for the possibility of prescribing a higher age for certain jobs by issuing Orders, but that no provision of this kind seems to have been adopted for employment on board fishing vessels.

In these circumstances, the Committee hopes that the Government will take the necessary measures to give effect to the provisions of the Convention, which prescribe a minimum age of 15 years for work on board fishing vessels.

Liberia (ratification: 1960)

The Committee notes with regret that for three consecutive years the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee 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.

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

Guinea (ratification: 1960)

The Committee notes with regret that for two consecutive years the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

Article 3, paragraph 1, and Article 5 of the Convention. In its report for 1971-73, the Government stated that a draft order to regulate the conditions of engagement of fishermen would shortly come before the Labour Advisory Committee before being submitted for signature to the Minister for the Public Service and Labour. The Committee trusts that this order will be adopted in the near future so as to ensure the application of all the provisions of the Convention, including Article 3, paragraph 1, and Article 5, concerning which appropriate clauses were to be included in the draft.

Liberia (ratification: 1960)

The Committee notes with regret that for three consecutive years the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee 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.

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

Guinea (ratification: 1960)

Articles 4, 10 and 11 of the Convention. See under Convention No. 113 respecting the adoption of the draft Order to regulate the conditions of engagement of fishermen.

The Committee recalls again the information supplied previously by the Government to the effect that the above-mentioned draft Order would give effect to these Articles of the present Convention.

Liberia (ratification: 1960)

See under Convention No. 113.

Mauritania (ratification: 1963)

Article 3, paragraph 1, of the Convention. See the observation concerning Convention No. 22, Article 3, paragraph 1.

*
* * *

In addition, requests regarding certain points are being addressed directly to the following States: Cyprus, Panama, Peru, Uruguay.

Convention No. 115: Radiation Protection, 1960

Ecuador (ratification: 1970)

The Committee notes that no regulations have yet been issued under the Health Code to apply the detailed provisions of the Convention. It notes however that the Occupational Safety and Health Regulations issued by the Ecuadorian Social Security Institute by Resolution No. 172 of 29 September 1975 contain general provisions on the protection of workers against radiation, and provide for the fixing of maximum permissible doses. It must nonetheless stress once again that the present legislation is not adequate for the application of the Convention and that specific measures will be necessary to give effect to Articles 3 to 9, paragraph 1, and Articles 11, 13 and 14 of the Convention. The Committee hopes that appropriate measures will be taken in the near future and will ensure the complete application of the Convention. It also asks the Government to indicate the particulars of the medical examinations provided for under s. 25 of the Regulations and the periodicity thereof (Article 12).

India (ratification: 1975)

The Committee notes with satisfaction that Notification GSR.756 dated 15 May 1976 prohibits the employment of young persons below the age of 18 years as radiation workers, thus giving effect to Article 7, paragraph 1(b), of the Convention.

*
* *

In addition, requests regarding certain points are being addressed directly to the following States: Barbados, Ghana, Guinea, Guyana, India, Iraq, Italy, Switzerland.

Convention No. 117: Social Policy (Basic Aims and Standards), 1962

Costa Rica (ratification: 1966)

See under Convention No. 11.

Guinea (ratification: 1966)

The Committee notes that for the fourth year in succession the report of the Government has not been received. It hopes that a report will be provided for examination by the Committee at its next session and that it will contain information on the following points:

Article 7 of the Convention. The Committee notes that only expatriate European workers benefit by the measures taken to allow the partial transfer of earnings to their home area. It hopes that the

Government will indicate in its future reports any measures taken to extend these benefits to other classes of migrant workers than those coming from Europe.

Article 10. The Committee would be grateful if the Government would provide data on the minimum wage rates in force in the industrial sector and state whether these rates have been fixed in consultation with the employers' and workers' organisations, through the Labour Advisory Board or in some other way.

Article 13. The Committee hopes that provisions will shortly be adopted to regulate forms of savings and protect wage earners against usury.

Article 15. The Committee hopes that measures will shortly be taken to fix a school-leaving age in conformity with that required by the Convention.

*
* *
*

In addition, requests regarding certain points are being addressed directly to the following States: Brazil, Central African Empire, Ghana, Jamaica, Panama, Paraguay, Sudan, Syrian Arab Republic, Tunisia, Zaïre.

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

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

France (ratification: 1974)

Article 3, paragraph 1, of the Convention - branch (d) (invalidity benefit). The Committee notes that, under section 35 of Act No. 75-534 of 30 June 1975 laying down a policy in favour of handicapped persons, the allowance for handicapped adults is paid to foreigners resident in the national territory only when they are nationals of a country which has entered into a reciprocity agreement with France respecting the grant of this allowance.

The Committee also notes the comments on the application of this provision made by the General Confederation of Labour (CGT) on 26 January 1977 in relation to Convention No. 97 and the Government's reply to these comments made to the Conference Committee in 1978 and in its communication of 6 July 1978.

The Committee finds that the granting of this allowance constitutes a personal right of the beneficiary, unrelated to any discretionary assessment of needs, and that the allowance is granted and financed as a family allowance under section 37 of the above-mentioned Act. It is thus a benefit of the type covered by Article 2, paragraph 6(a), of the Convention (benefits other than those the granting of which depends either on direct financial participation by the persons protected or their employer, or on a qualifying period of occupational activity). The right to this allowance should therefore be guaranteed to nationals of any of the States that have accepted the obligations of the Convention in respect of the invalidity benefit branch who are resident in France (without prejudice, if necessary to the right of the

Government to resort to Article 4, paragraph 2(b), of the Convention in respect of condition of residence). It is therefore unnecessary to conclude a special agreement for the purpose, as the Convention should be considered to establish a system of automatic reciprocity similar to that of the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19), which has been ratified by France. The Committee recalls in this connection the precedent established by the French Supreme Court (Cour de Cassation) in its order of 24 February 1934.

The Committee requests the Government to indicate the measures contemplated to give full effect to the Convention on this point, either by treating the Convention as a reciprocity agreement with the States concerned (at present, Brazil, Ecuador, Iraq, Italy, Jordan, Kenya, Libyan Arab Jamahiriya, Madagascar, Mauritania, Mexico, Netherlands, Syrian Arab Republic, Tunisia, Turkey and Zaïre) and giving it the necessary publicity, or by expressly amending national legislation.

Guinea (ratification: 1967)

The Committee notes with regret that for the second year in succession the Government has not supplied a report. The report supplied for the year 1977 did not contain any reply to the comments made. In the circumstances, the Committee is obliged to reiterate its previous comments hoping that the next report will contain full information and indicate the measures taken on the following points:

Article 4(1) of the Convention. The Government stated in its report for 1970-71 that the term "international conventions" used in section 113 of the Social Security Code was interpreted as referring to Convention No. 118 and that measures would be taken to deal with cases of residence or transfer of residence abroad. The Committee would again ask the Government to state in its next report whether, on that assumption, it has taken steps to ensure that foreign workers who are citizens of a State Member for which the Convention is in force, and their survivors, receive benefits in the form of a pension in the same way as nationals.

Article 5. In its first report the Government stated that old-age and survivors' benefits, death grants and employment injury pensions were paid in cases of residence abroad, but in its report for the period 1970-71 it stated that such payments were subject to the conclusion of agreements with friendly countries. The Committee noted that only one draft agreement of this kind had been planned with Senegal, Mali and Mauritania within the framework of the Organisation of Senegal River States, but that this project was in abeyance. The Committee would stress that, according to the Convention, the payment of the benefits in question must be fully guaranteed in the case of residence abroad, irrespective of the country of residence and even when no agreement has been entered into, both to citizens of Guinea and to citizens of any other State Member which has accepted the obligations of the Convention in respect of the branch in question; agreements with States of residence were justified only as a means of determining, where necessary, the methods of payment. As the legislation in Guinea does not appear to contain any restriction as to the territories in which such benefits may be paid (except for the restriction applying only to the non-nationals mentioned under Article 4 above), the Committee would ask the Government to take the necessary steps to apply the Convention in practice in this respect.

Article 6. Since section 38 of the Social Security Code

provides that family allowances are payable only in respect of children residing in Guinea, the Committee would once again ask the Government to state what measures it proposes to take, by bilateral or multilateral agreement with the States concerned or otherwise, to guarantee the payment of family allowances to all workers covered by Guinean legislation in so far as they are nationals of Guinea or of another State Member which has accepted the obligations of the Convention concerning family allowances, in respect of the children of those workers who are resident in any of those States.

Articles 7 and 8. The Government stated, in its report for 1970-71, that steps would be taken by the Government, as soon as the need arose, to participate with other Members for which the Convention was in force in a system for the maintenance of acquired rights and rights in course of acquisition. The Committee noted that a draft agreement, which was in abeyance, had been drawn up with Senegal, Mali and Mauritania. It would ask the Government to indicate in its future reports any measures that may be taken to implement these Articles of the Convention.

Suriname (ratification: 1976)

Articles 4 and 5 of the Convention - branch (g) (employment injury benefits). The Committee notes the information supplied by the Government in reply to its earlier comments. It recalls that section 6, paragraph 8, of Decree No. 145 of 10 September 1947, as amended and supplemented by Ordinance No. 164(d) of 24 November 1975, provides that the right to cash benefits shall be forfeited if the beneficiary, whatever his nationality, leaves the country without the consent of the employer before the end of the three-year period following the accident, during which the degree of disablement can be reviewed. The Committee is bound to observe once more that this provision is contrary to the Convention, under which employment injury pensions (cash benefits for disability presumed to be permanent) must continue to be paid without restriction even if the beneficiary, whether a national or a subject of a State that has accepted the obligations of the Convention for this branch, transfers his residence outside the territory. The Committee again expresses the hope that the restriction on the payment of cash benefits abroad may be abolished, at least from the time when the disability is considered to be permanent, even if its degree may still have to be reviewed (but without prejudice to any arrangements made, for example, under Article 11 of the Convention, for the checking of the injured person's condition when resident abroad).

*
* *

In addition, requests regarding certain points are being addressed directly to the following States: Barbados, France, Libyan Arab Jamahiriya, Turkey.

Convention No. 119: Guarding of Machinery, 1963

Congo (ratification: 1964)

The Committee notes that information will be supplied as soon as an order is adopted to define the machinery and parts of machinery to which section 135 of the Labour Code applies. The Committee stresses that without such a determination Article 2 of the Convention,

prohibiting the sale, hire, transfer in any other manner and exhibition of dangerous machinery without appropriate guards, remains not applied. It reiterates its firm hope 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.

Guatemala (ratification: 1964)

The Committee notes that consultations are still being held with a view to drawing up provisions to give effect to Part II of the Convention. The Committee recalls that since 1968 it has drawn attention to the need for adoption of provisions prohibiting the sale, hire, transfer in any other manner and exhibition of dangerous machinery without appropriate guards.

The Committee hopes that rules to apply this part of the Convention will be adopted at an early date.

Guinea (ratification: 1966)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

Further to previous comments, the Committee notes with regret from the Government's report that no change has taken place in the national laws and regulations concerning the application of the following provisions of the Convention: Article 2, paragraph 2 (prohibition of the transfer of dangerous machinery in any manner other than sale or hire - e.g. transfer in the form of loan), Article 11 (prohibition of the use of the machinery by a worker without the guards provided being in position and of the removal or making inoperative of safety guards) and Article 17 (measures to be taken to apply the Convention in the maritime and agricultural sectors).

The Committee hopes that the Government will shortly take measures to give effect to the above-mentioned requirements of the Convention.

Jordan (ratification: 1964)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

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 organisations of employers and workers concerned and, as appropriate, manufacturers' organisations).

Kuwait (ratification: 1964)

The Committee notes that the Bill to amend the Labour Act which, together with implementing regulations to be issued under it, is to give effect to the Convention, and which was first mentioned in the Government's report for 1975-76, has still not been adopted, but that a national committee is being set up to study draft regulations with a view to their adoption. It recalls that at present no provisions exist in the national legislation relating to the sale, hire, transfer in any other manner or exhibition of inadequately guarded machinery and that there are no specific provisions concerning the use of such machinery.

The Committee notes the Government's statement that machinery is imported into Kuwait from industrialised countries and that the manufacturers and vendors fail to supply adequate guards. By ratifying the Convention however, the Government has undertaken to ensure that no inadequately guarded machinery (whether new or second-hand) is sold, hired, transferred in any other manner, exhibited or used in Kuwait. The Committee trusts therefore that appropriate provisions will be adopted at an early date to give effect to the requirements of the Convention in all branches of economic activity.

Niger (ratification: 1964)

The Committee notes that no measures have yet been taken to give effect to Articles 2 to 4 of the Convention (prohibition of the sale, hire, transfer and exhibition of machinery without appropriate guards), Article 10 (information and instructions to be given to workers) and Article 11 (prohibiting the use of machinery without the guards being in position and operative). It notes further that the legislation on the guarding of machinery (General Order No. 5253 of 19 July 1954) does not appear to apply to machinery in agriculture as required by Article 17.

The Committee also notes that a PIACT mission visited the country in December 1977 in order to study needs in the occupational safety and health field, that the Government still intends to replace existing provisions in this field by a single comprehensive text, and that it hopes to receive ILO assistance to this end.

The Committee can only once again express the hope that measures will be introduced shortly to give effect to the provisions of the Convention mentioned above.

Sierra Leone (ratification: 1964)

The Committee notes that draft Rules under the Factories Act, 1974 are to be submitted shortly to the Minister of Labour for approval and that they incorporate provisions concerning the sale, hire, transfer in any other manner and exhibition of machinery (Part II of the Convention), in addition to the use of machinery (Part III

thereof). According to the Report they will apply to all areas of economic activity including road and rail vehicles, agricultural machinery, mines and shipping (Articles 1 and 17 of the Convention).

The Committee hopes that the Rules will be adopted soon and will give full effect both to the substantive requirements of the Convention and the provisions concerning the sectors of activity to be protected.¹

Spain (ratification: 1971)

In its 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, 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 that the new General Regulations on Industrial Safety and Health, which will contain provisions to give effect to these Articles, will be adopted shortly. It asks the Government to provide a copy of the text of the Regulations as soon as they are adopted.

Turkey (ratification: 1977)

The Committee notes with interest that circular No. 1978/ZO dated 12 July 1978 has been issued by the Prime Minister requiring the Ministry of Industry and Technology to take measures to prevent, inter alia, the sale, hire, transfer or exhibition of machinery not conforming to appropriate standards of safety. It hopes that these measures will include legally binding rules to apply the provisions of Part II of the Convention (the prohibition of the sale, hire, transfer in any other manner and exhibition of unguarded machinery, including the introduction of appropriate penalties). It again expresses the hope that regulations will also be adopted to give effect to the Convention in the agricultural sector and in sea and air transport and to require the employer to bring national laws or regulations relating to the guarding of machinery to the notice of workers and to instruct them in the precautions to be observed in the use of machinery in accordance with Article 10, paragraph 1.

Zaire (ratification: 1967)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

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 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

¹ The Government is asked to report in detail for the period ending 30 June 1979.

views on the subject. The Committee trusts that the necessary legislation will be adopted in the near future.

*
* *

In addition, requests regarding certain points are being addressed directly to the following States: Guatemala, Malaysia, Morocco.

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

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

Guinea (ratification: 1966)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

In comments addressed to the Government since 1970, the Committee has drawn attention to the following discrepancies between the national legislation and the Convention:

Article 6, paragraph 2, of the Convention. The Labour Code does not lay down any penalties for the infringement of the provisions concerning safety and hygiene of workplaces contained in section 168 of the Code or in the regulations issued pursuant to section 173.

Article 14. Section 16 of Order No. 5253 of 19 July 1954 as well as section 181 of the Labour Code require seats to be supplied for women workers only, whereas this provision of the Convention covers workers irrespective of sex.

Article 18. The national legislation does not contain provisions to ensure that noise and vibrations likely to have a harmful effect on workers are reduced as far as possible.

The Government stated in its report for 1971-73 that the necessary measures to give effect to the above-mentioned requirements of the Convention would be taken. Since then no further information has been provided. The Committee hopes that the measures previously announced will be adopted in the near future.

Jordan (ratification: 1964)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

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.

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.

Paraguay (ratification: 1967)

In earlier comments, the Committee had 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 are at the final stages of consideration by the Executive. 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.

Switzerland (ratification: 1960)

The Committee notes that, although Ordinance No. 3 under the Labour Act, concerning hygiene and accident prevention in industrial establishments, does not formally apply to trading and office establishments, it is in fact referred to in interpreting section 6 of the Labour Act which places on employers a general obligation to make the necessary arrangements to protect workers' life and health, and is thus in fact applied so as to ensure that the Convention is respected in practice.

The Committee further notes that the Accidents Insurance Bill, referred to in the previous report, is now before Parliament and will ensure the application of the Convention as regards the prevention of accidents as such, and in particular of Articles 17 and 18. As to measures of hygiene, the Committee notes that, once the Accidents Insurance Bill has been enacted, it is proposed to amend the above-mentioned Ordinance No. 3 and to make it applicable in some measure to non-industrial establishments. The Committee accordingly reiterates its hope that the proposed legislative provisions will be adopted soon and that, in accordance with Article 4 of the Convention, they will ensure the application in law as well as in practice of the general principles (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 legislation in question will provide for the enforcement of these requirements by means of inspection and penalties, in accordance with Article 6 of the Convention.

*
* * *

In addition, requests regarding certain points are being addressed directly to the following States: France, Indonesia, Paraguay, Venezuela.

Convention No. 121: Employment Injury Benefits, 1964**Guinea (ratification: 1967)**

The Committee notes with regret that for the second year in succession the Government has supplied no report. The report supplied in 1977, moreover, contains no reply to the earlier comments of the Committee. In these circumstances, the Committee can only repeat its comments in the hope that the next report will contain full information and state the measures taken on the following points:

Article 4 of the Convention. The Government had indicated that the new Social Security Code would cover all workers employed in the Republic of Guinea without exception, including "persons holding permanent jobs in a government administrative office or in its subsidiary services or in national public establishments", who are not at present covered by the social insurance scheme and therefore not entitled to compensation for employment injuries. The Committee hopes that the new Code will be adopted soon and, in the meantime, it would ask the Government to state whether the group of workers in question is covered by any special compensation scheme.

Article 8. The Government had stated that the new Social Security Code will contain the complete list of occupational diseases appearing in the schedule to Convention No. 121. The Committee hopes that the new Code will, in particular, cover the following points, to which it draws attention:

- (a) items 2, 3, 4, 5, 6, 7, 9, 12, 13 and 14 of Schedule I to the Convention should be included in the list in the national legislation (these items refer respectively to diseases caused by beryllium (glucinium), phosphorus, chromium, manganese, arsenic, mercury, carbon bisulphide and the toxic compounds of each of these substances, and also diseases caused by the nitro- and amino-toxic derivatives of benzene or its homologues, diseases caused by ionising radiations and primary epitheliomatous cancer of the skin caused by tar, pitch, bitumen, mineral oil, anthracene or the compounds, products or residues of these substances);
- (b) the list in the national legislation should not refer merely to silicosis (as is done in point 8 of section 136 of the Social Security Code at present in force), but should be supplemented so as to include other pneumoconioses caused by sclerogenous mineral dusts (anthraco-silicosis, asbestosis) and silico-tuberculosis, provided that silicosis is an essential factor in causing the resultant incapacity or death (see item 1 of Schedule I to the Convention);
- (c) the list in the national legislation (point 5 of the section mentioned above), which refers only to poisoning by carbon tetrachloride, should be drafted in general terms, as is done in the Convention (item 10 of Schedule I), so as to cover all diseases caused by the toxic halogen derivatives of hydrocarbons of the aliphatic series);
- (d) the list in the national legislation (point 6 of the section mentioned above), which refers to anthrax infection, should be supplemented so as to indicate the work that involves a presumption of the occupational origin of the disease, as shown in the right-hand column of item 15 of Schedule I to the Convention, taking account, however, of the obligations arising out of Convention No. 18. (See also in this connection the observation under Convention No. 18).

Article 15, paragraph 1. The comments made in the observation concerning Convention No. 17, Article 5, apply also to this provision.

Article 18, paragraph 1. Section 108 of the Social Security Code provides for the granting of a pension to the "surviving spouse". The Government is requested to state whether this term includes a widower, at least as long as he is disabled and dependent, as specified in the Convention.

Articles 19 and 20 (in conjunction with Articles 13, 14 and 18). The Committee has noted that the Social Security Fund has been asked to supply information on the application of these Articles and the following Articles of the Convention. The Committee asks the Government, in its future reports, to provide all the information required by the report form, including statistical information, to show that the amount of benefit paid in cases of temporary incapacity, permanent incapacity and the death of the breadwinner, as laid down in Schedule II to the Convention, is assured, family allowances paid before, or possibly during, the contingency being taken into consideration. The Government is requested to state whether Article 19 or Article 20 of the Convention is taken as the basis for deciding whether the required amount has been reached.

Article 21. The Government is requested to supply the information required by the report form and state whether the rates of pensions have been reviewed during the period covered by each report.

Article 22, paragraph 2. The Government is requested to state whether steps have been taken, where benefits have been suspended, to ensure that part of these benefits can be paid to the dependants of the person covered in the cases and within the limits prescribed by national law.

Article 23. The Government is requested to state what right of appeal exists if benefits are refused in disputes other than those concerning the assessment of incapacity, which are governed by section 84 of the Social Security Code.

Article 25. The Government is requested to state what responsibility the Government takes for guaranteeing the payment of benefits in practice.

Furthermore, the Committee, with reference to point V of the report form, asks the Government to indicate how the Convention is applied in practice (as shown, for example, by extracts from the administrative reports of the National Social Security Fund).

Zaire (ratification: 1965)

1. With reference to its earlier comments, the Committee notes with satisfaction, from the information supplied by the Government in its report (received in March 1978), that Ordinance No. 75-099 of 1 March 1975 establishes the procedure for nominating the members and the manner of functioning of the National Social Security Committee and the Regional Committees and also the appeal procedure for insured persons or their dependants, in accordance with the provisions of Article 23 of the Convention. The Committee hopes that the members may be nominated shortly so that the Committees may begin to operate in practice.

2. The Committee also notes with interest that the Government considers taking measures to amend the list of occupational diseases appended to Ordinance No. 66-370 of 29 June 1966 by adding diseases

caused by the toxic halogen derivatives of hydrocarbons of the aliphatic series and those caused by benzene or its toxic homologues, in accordance with Article 8 of the Convention. The Committee requests the Government to indicate any progress made in this connection.

*
* * *

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

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

Convention No. 122: Employment Policy, 1964

Costa Rica (ratification: 1966)

See under Convention No. 11.

Guinea (ratification: 1966)

The Committee notes with regret that for the third consecutive year the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

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 has noted the observations on the application of the Convention communicated by the Irish Congress of Trade Unions.

A detailed report of the Government has now been received, accompanied by considerable documentation, replying to these observations. The Committee has decided to examine these matters at its next session.

*
* * *

In addition, requests regarding certain points are being addressed directly to the following States: Australia, Belgium, Brazil, Byelorussian SSR, Canada, Chile, Cuba, Cyprus, Czechoslovakia, Denmark, Ecuador, Federal Republic of Germany, Finland, France, German Democratic Republic, Guinea, Hungary, Iraq, Italy, Jordan, Libyan Arab Jamahiriya, Mauritania, Mongolia, Netherlands, New Zealand, Panama, Paraguay, Peru, Philippines, Poland, Romania, Spain, Sudan, Suriname, Sweden, Thailand, Tunisia, Uganda, Ukrainian SSR, USSR, United Kingdom, Yugoslavia.

Convention No. 123: Minimum Age (Underground Work), 1965Rwanda (ratification: 1970)

The Committee refers to its previous observation, in which it took note of Ministerial Circular No. 221/2243/10/473/325 of 29 December 1970 respecting the minimum age of 18 years for admission to underground work in mines, which had been sent to employers and labour inspectors with the request that the provisions of the Convention be complied with. The Committee again expresses the hope that the draft order to prescribe this age in pursuance of section 124 of the Labour Code will be adopted shortly and that it will lay down suitable penalties to ensure observance of the prescribed minimum age, in accordance with Article 4, paragraph 1, of the Convention, and the keeping of the records and lists provided for by paragraphs 4 and 5 of the same Article and their being made available to the workers' representatives.

The Government is asked to report any progress made in this connection.

*
* *

In addition, requests regarding certain points are being addressed directly to the following States: Malaysia, Nigeria.

**Convention No. 124: Medical Examination of Young Persons (Underground Work)
1965**Uganda (ratification: 1967)

The Committee notes with satisfaction that the Employment Decree, 1975, which came into force on 1 July 1977, and the Employment Regulations, 1977, give effect to the basic provisions of the Convention by requiring an initial and periodic medical examination of workers under 21 years of age employed underground in mines. Certain outstanding points are being dealt with in a request addressed directly to the Government.

*
* *

In addition, requests regarding certain points are being addressed directly to the following States: Byelorussian SSR, Gabon, Jordan, Mexico, Tunisia, Uganda, Ukrainian SSR, USSR.

Convention No. 125: Fishermen's Competency Certificates, 1966Trinidad and Tobago (ratification: 1972)

With reference to its previous comments, the Committee takes note with interest of the Caribbean Fisheries Training and Development Institute Act No. 59 of 1975. It requests the Government to provide information in its next report on the points raised in a direct request.

*
* *

In addition, a request regarding certain points is being addressed directly to Trinidad and Tobago.

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

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

Convention No. 127: Maximum Weight, 1967

Chile (ratification: 1972)

The Committee notes that, while sections 111-113 of Legislative Decree No. 2200 dated 1 May 1978 limit the maximum weight of sacks to be carried by one person, there appears to be no provision on the manual transport of loads in general as defined in Article 7(a) and (b) of the Convention and that consequently still only partial effect is given to Articles 1, 2, 3, 4 and 6 of the Convention.

Article 5. The Committee notes also that there still appears to be no provision to apply this Article, which stipulates that adequate training must be ensured for workers assigned to manual transport of loads.

Article 6. Section 112 of Legislative Decree 2200 provides for the use of technical devices when the weight of sacks exceeds the maxima laid down in section 111, whereas according to this Article technical devices must be used as much as possible in order to limit or facilitate the manual transport of all loads.

Article 7. According to sections 24 and 25 of the Legislative Decree young persons and women must not be admitted to work which exceeds their force or which may be dangerous for their health, safety or physical conditions. The Committee asks the Government to indicate the measures taken or contemplated to ensure that the assignment of women and young workers to manual transport of loads other than light loads is limited and that the maximum weight of loads carried by them is substantially less than that permitted for adult male workers.

Article 8. The Committee asks the Government to indicate how the consultation with the most representative organisations of employers and workers concerned was ensured in adopting the appropriate provisions of Legislative Decree 2200.

The Committee hopes that measures will soon be taken to ensure the full application of the above-mentioned provisions of the Convention.¹

*
* *
*

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

¹ The Government is asked to report in detail for the period ending 30 June 1979.

Convention No. 128: Invalidity, Old-Age and Survivors' Benefits, 1967Cyprus (ratification: 1968)

With reference to its previous comments, the Committee notes with satisfaction, from the report of the Government, that Act No. 68 of 1976, which came into force in 1977, has reintroduced the social insurance benefits that were suspended in March 1975 and restored the amount of the widow's pension to a level corresponding to that of the Convention. The Committee also notes with interest improvements made in the rates of all benefits by Act No. 81 of 1977.

Uruguay (ratification: 1975)

With reference to its earlier observations the Committee has noted the detailed information supplied by the Government in its report for the period ending 30 June 1978 and the information concerning the application of the following provisions of the Convention: Article 13, paragraph 1(b) (measures for the placement of the handicapped); Article 30 (maintenance of rights in course of acquisition); Article 32, paragraph 3 (payment of part of the benefits to dependants in certain cases); and readjustments in the pensions served by the Social Welfare Bank during the period covered by the report. The Committee is, however, obliged once again to request the Government to communicate in its next report the statistical data requested in the report form for the Convention to enable it to appreciate more fully the extent to which effect is given to the Convention as regards the amount of pensions. The Committee is returning to this question and to certain other points in a new direct request.

*
* *
*

In addition, requests regarding certain points are being addressed directly to the following States: Barbados, Finland, Uruguay.

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

Requests regarding certain points are being addressed directly to the following States: Colombia, Denmark, France, Malawi, Upper Volta.

Convention No. 130: Medical Care and Sickness Benefits, 1969Norway (ratification: 1972)

Article 33 of the Convention (in conjunction with Articles 21 and 22). With reference to its previous comments, the Committee notes with satisfaction that under the Act of 10 June 1977, which came into force on 1 July 1978, the rate of sickness benefit has been increased so as to give full effect to these provisions of the Convention.

*
* *
*

In addition, requests regarding certain points are being addressed directly to the following States: Czechoslovakia, Federal Republic of Germany, Finland, Uruguay.

Convention No. 131: Minimum Wage Fixing, 1970

Requests regarding certain points are being addressed directly to the following States: Australia, Egypt, Iraq, Nepal, Sri Lanka.

Convention No. 132: Holidays with Pay (Revised), 1970

Uruguay (ratification: 1977)

The Committee has received a communication sent by the workers' delegates of joint committees of several tobacco undertakings in Montevideo and by the International Union of Food and Allied Workers' Associations stating that Decree No. 497/978 of 23 August 1978, which provides that Saturdays should be counted in the period of annual leave, constitutes a violation of the Convention. They consider that "customary holidays" (in the sense of Article 6, paragraph 1, of the Convention) include weekly days of rest, and that therefore for the workers in the tobacco industry who only work five days a week from Monday to Friday, Saturdays should not be counted in the days of annual holidays provided for in Act No. 12590 of 23 December 1958 (Sundays, in addition, have been declared public holidays by law).

According to the legislation in force, public holidays are not counted in annual holidays. In its comments, the Government reproduces the arguments made in the preamble to the above-mentioned Decree No. 497/978, which in essence state that public holidays are determined by general public standards. The parties to an individual or collective labour agreement may declare that a particular day of the week shall not be a working day, but in no case may such a day be transformed into a public holiday by the wish of these parties.

The Committee is called upon to decide whether the national legislation and practice are in conformity with the obligations arising from the ratification of the Convention. It notes that, when it ratified the Convention, the Government specified, as required by Article 3, paragraph 2, of the Convention, that the length of the holiday was 20 working days. The question here is whether only days during which the workers actually work should be considered as working days (the number of which may therefore vary according to the sector of activity or even among different undertakings in the same sector), or whether - in order to ensure a minimum annual holiday for all the workers in the country - the Government may decide what days shall be considered as working days for the purposes of calculating holidays. The Committee is of the latter opinion. It considers that the solution adopted by the Government in this case seems to be in conformity with the spirit of the Convention which, in fixing the minimum annual holiday at "three working weeks", used this notion instead of referring to working days, precisely so that "the basic minimum period of rest would be the same, even though its translation into working days might vary" (International Labour Conference, 54th Session (1970), Report

IV(2), p. 21). Nevertheless, the Committee considers that nothing in the Convention would prevent the parties from excluding Saturday from the calculation of the period of the annual holiday in an individual labour contract or collective agreement.

*
* *
*

In addition, requests regarding certain points are being addressed directly to the following States: Iraq, Ireland, Spain, Upper Volta.

Convention No. 134: Prevention of Accidents (Seafarers), 1970

Mexico (ratification: 1974)

The Committee notes with satisfaction that the General Occupational Safety and Health Regulations, 1978, contain provisions of general application relating to occupational safety which give effect to Article 4, paragraph 3(a), (c), (e), (f) and (i), Articles 5 and 6, paragraphs 1, 2 and 4, of the Convention. The outstanding matters are dealt with in a request addressed directly to the Government.

*
* *
*

In addition, requests regarding certain points are being addressed directly to the following States: Finland, Mexico, Nigeria, Romania, Spain.

Convention No. 135: Workers' Representatives, 1971

Federal Republic of Germany (ratification: 1973)

With reference to its previous observations, the Committee has noted the comments of the Confederation of German Employers' Associations and of the German Confederation of Trade Unions, and it notes the reply of the Government to those of the latter.

1. The Committee has previously pointed out that in affording protection and facilities, by legislative means, to elected representatives, the Government has chosen one of the methods specified in Article 4 of the Convention of determining these representatives. It has also pointed out that this Article mentions other means, including collective agreements. The Committee has expressed the opinion that governments may have recourse to legislation in order to determine the type of representatives who shall be entitled to the protection and facilities provided for in the Convention, but that the possibility of concluding collective agreements for the same purposes should remain open to trade unions and employers or their organisations: the law of the land should not prevent nor should it be so applied as to prevent collective bargaining as provided for by the instrument.

The Government has stated that it has no further obligation under the Convention. In its opinion, the national provisions on freedom of

association do not prevent collective bargaining or collective agreements in this field. The legislation is not so applied as to prevent the conclusion of collective agreements ensuring protection and facilities for trade union representatives. The judgement given on 5 August 1976 by a labour court of first instance has expressly confirmed the legality of such collective agreements and the German Confederation of Trade Unions has referred to a favourable trend in the situation.

The Confederation of German Employers' Associations, in its comments, states that the Convention does not require that the protection and facilities provided for shall be afforded both to the union representatives and to the workers' representatives in the undertaking. The instrument, it maintains, has even less to say on the question whether there is still a place for collective agreements when the legislative body has adopted provisions on one of these two classes of representatives. Once the legislation is in conformity with the Convention, the decision to adopt further measures is left to the law of the land. In support of this contention, the Confederation refers to statements made while the instrument was being drafted to the effect that, by establishing this distinction between two types of representatives, the instrument was taking account of historical developments in the various countries.

Further, the Confederation stresses that many provisions in the national laws protect the interests of trade unions and their representatives and explains at length that the claims of trade union organisations to give legal status to trade union representatives in the undertaking through collective agreements has no basis in national law.

If national law affords to the elected representatives of workers in the undertaking the protection and facilities provided for in the Convention, this must not, the Committee wishes to repeat, impede the conclusion of collective agreements affording protection and facilities to trade union representatives in the undertaking. The Committee points out that, under Article 5 of the Convention, where there exist in the same undertaking both trade union representatives and elected representatives, appropriate measures must be taken, whenever necessary, to ensure that the existence of elected representatives is not used to undermine the position of the trade unions concerned or their representatives.

2. The German Confederation of Trade Unions reports that a charitable orthopaedic establishment, which has some 900 workers and is managed by the Evangelical Church, prohibits all trade union activity among its workers. This has been said to be wrong by the Federal Labour Court but an appeal has been lodged with the Federal Constitutional Court against the decision, invoking certain provisions of the Constitution that grant the Church (on which this charitable body depends) the right to autonomy. The Confederation maintains that a general prohibition against trade union activity in the undertaking (unions are prohibited from entering the establishment to carry out their functions of giving information) is incompatible with the Conventions of the ILO in this field. The Confederation states that in the case in question there are no elected representatives of the workers either, since the Act respecting the organisation of undertakings does not apply to establishments of this kind; only the trade unions can thus ensure the defence of the interests of the staff.

The Government has provided a copy both of the judgement given by the Federal Labour Court and of the appeal lodged with the Federal Constitutional Court. It feels unable to make a statement on the affair as long as it is sub judice.

The Committee considers that the Convention presupposes that no obstacle can be placed in the way of the appointment of workers' representatives in an undertaking (whatever its status). The instrument provides that these representatives must enjoy facilities and be given protection against any act prejudicial to them as a result of their status or their actions in that capacity.

The Committee notes the information supplied by the German Confederation of Trade Unions on the decision given by the Federal Labour Court and asks the Government to communicate in due course the decision of the Federal Constitutional Court on the appeal that has been lodged in the matter.

Spain (ratification: 1972)

The Committee takes note of Royal Decree No. 3149 of 6 December 1977 relating to the election of workers' representatives in the undertaking. This provides for a new system of workers' representation in the undertaking, which expressly reserves the rights of trade unions. In addition it provides for the adoption of new laws on the subject and provides that, until it is adopted, the functions and guarantees of the workers' delegates as well as those of members of the works committee will be those recognised under the previous legislation.

On another matter the Committee notes that the Federation of State Banking, Exchange, Credit and Savings Undertakings (UGT) has presented observations in general terms on the difficulties encountered in the application of the provisions of the Convention.

The Committee invites the Government to supply information on any legislative amendment adopted or proposed, as well as on the application in practice of the provisions of the Convention.

*
* *

In addition, requests regarding certain points are being addressed directly to the following States: Finland, Gabon, Romania, Senegal, Sri Lanka, Syrian Arab Republic, Upper Volta.

Convention No. 136: Benzene, 1971

Spain (ratification: 1973)

The Committee notes with satisfaction that the joint Resolution of the General Departments of Labour and of Industrial and Technological Promotion, dated 15 February 1977, requires that processes involving the use of benzene or products containing benzene shall be carried out in an enclosed system or by other equally safe methods of work, fixes the maximum concentration of benzene in the air of places of employment at 80 mg per cubic metre and prohibits the employment of pregnant and nursing women in work involving exposure to benzene or products containing benzene, thus giving effect to Articles 4, 6, paragraph 2, and 11, paragraph 1, of the Convention.

Zambia (ratification: 1973)

The Committee notes with satisfaction that the Factories (Benzene) Regulations 1978 have been adopted to give effect to the

Convention. Certain questions of detail are being pursued in a direct request.

*
* *

In addition, requests regarding certain points are being addressed directly to the following States: Cuba, Federal Republic of Germany, Finland, France, Iraq, Ivory Coast, Kuwait, Morocco, Zambia.

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

Convention No. 137: Dock Work, 1973

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

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

Convention No. 138: Minimum Age, 1973

Requests regarding certain points are being addressed directly to the following States: Cuba, Federal Republic of Germany, Finland, Netherlands, Zambia.

Convention No. 139: Occupational Cancer, 1974

Under Article 1, paragraph 3, of the Convention, ratifying States are called on, in determining periodically the carcinogenic substances and agents to which occupational exposure shall be prohibited or made subject to authorisation or control, to give consideration to the latest information contained in codes of practice or guides which may be established by the International Labour Office as well as to information from other competent bodies.

The Committee therefore wishes to draw Governments' attention to the publication by the International Labour Office in 1978 of No. 39 in the Occupational Safety and Health Series, on "Occupational Cancer Prevention and Control". It hopes that, as appropriate, Governments will give consideration to this publication, and in particular to the indicative lists of carcinogenic substances and agents, in making the periodic determination required under paragraph 1 of Article 1.

*
* *

Requests regarding certain points are being addressed directly to the following States: Federal Republic of Germany, Switzerland.

Convention No. 140: Paid Educational Leave, 1974

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

Information supplied by Cuba, France, Hungary and Sweden in answer to a direct request has been noted by the Committee.

Convention No. 142: Human Resources Development, 1975

A request regarding certain points is being addressed directly to Hungary.

**Appendix I. Receipt of Detailed Reports on Ratified Conventions
(States Members) as at 28 March 1979**

(Article 22 of the Constitution)

Reports received: 1,289 Reports not received: 412 Total: 1,701

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Afghanistan	0	—	9	4, 13, 14, 41, 45, 95, 100, 106, 111	9
Algeria	17	11, 14, 24, 44, 56, 71, 77, 78, 87, 94, 95, 97, 98, 100, 101, 111, 122	0	—	17
Angola	0	—	19	4, 6, 12, 14, 17, 18, 29, 45, 81, 88, 89, 98, 100, 104, 105, 106, 107, 108, 111	19
Argentina	18	8, 11, 14, 21, 22, 23, 32, 52, 68, 71, 77, 78, 87, 95, 98, 100, 107, 111	0	—	18
Australia	11	8, 11, 21, 22, 87, 98, 100, 111, 122, 131, 137	0	—	11
Austria	14	11, 21, 24, 25, 26, 87, 94, 95, 98, 100, 101, 111, 122, 124	0	—	14
Bahamas	0	—	16	11, 12, 14, 17, 22, 29, 42, 65, 81, 88, 94, 95, 97, 98, 105, 117	16
Bangladesh	9	11, 14, 21, 22, 87, 98, 106, 107, 111	0	—	9
Barbados	19	11, 22, 50, 86, 87, 90, 94, 95, 97, 98, 100, 101, 102, 108, 111, 115, 118, 122, 128	0	—	19
Belgium	18	8, 11, 14, 21, 22, 23, 55, 56, 87, 94, 95, 97, 98, 100, 101, 114, 115, 122	0	—	18
Benin	12	6, 11, 13, 14, 29, 85, 87, 95, 98, 100, 105, 111	0	—	12
Bolivia	11	1, 14, 20, 26, 30, 77, 87, 98, 100, 103, 106	2	78, 107	13

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Brazil	19	11, 14, 21, 22, 52, 94, 95, 97, 98, 100, 101, 105, 106, 107, 111, 115, 117, 122, 124	0	—	19
Bulgaria	22	8, 11, 14, 21, 22, 23, 24, 25, 44, 52, 55, 56, 71, 77, 78, 87, 94, 95, 100, 106, 111, 124	1	98	23
Burma	6	11, 14, 21, 22, 52, 87	0	—	6
Burundi	3	14, 94, 105	4	11, 52, 59, 101	7
Byelorussian SSR	14	11, 14, 52, 77, 78, 87, 95, 98, 100, 106, 111, 115, 122, 124	0	—	14
United Rep. of Cameroon	14	11, 14, 77, 78, 87, 94, 95, 97, 98, 100, 122, 131, 132, 135	0	—	14
Canada	7	8, 14, 22, 87, 100, 111, 122	0	—	7
Central African Empire	5	3, 17, 67, 87, 104	15	2, 4, 6, 11, 14, 52, 88, 94, 95, 98, 100, 101, 105, 111, 117	20
Chad	0	—	18	4, 5, 6, 11, 13, 14, 26, 29, 33, 41, 52, 81, 87, 95, 98, 100, 105, 111	18
Chile	11	1, 8, 11, 14, 22, 24, 25, 32, 100, 111, 122	0	—	11
Colombia	23	3, 8, 9, 11, 14, 17, 21, 22, 23, 24, 25, 52, 62, 87, 95, 98, 100, 101, 106, 107, 111, 129, 136	0	—	23
Congo	5	11, 14, 87, 95, 119	0	—	5
Costa Rica	17	26, 87, 92, 95, 98, 99, 100, 106, 107, 111, 113, 114, 117, 120, 122, 127, 138	4	11, 94, 102, 130	21
Cuba	25	8, 11, 14, 21, 22, 23, 29, 52, 67, 77, 78, 87, 94, 95, 97, 98, 100, 101, 106, 107, 111, 122, 131, 136, 140	0	—	25

OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Cyprus	12	11, 44, 87, 94, 95, 97, 98, 106, 111, 114, 122, 124	0	—	12
Czechoslovakia	14	11, 14, 21, 24, 25, 52, 87, 98, 100, 111, 115, 122, 130, 140	0	—	14
Democratic Yemen	3	94, 95, 98	0	—	3
Denmark	14	8, 11, 14, 21, 52, 62, 87, 94, 98, 100, 106, 111, 115, 122	0	—	14
Dominican Republic	13	52, 77, 81, 87, 88, 95, 98, 100, 104, 105, 106, 107, 111	0	—	13
Ecuador	19	11, 24, 29, 77, 78, 86, 87, 95, 98, 100, 101, 103, 106, 107, 111, 115, 117, 122, 124	1	102	20
Egypt	18	1, 11, 14, 17, 18, 52, 87, 88, 94, 95, 98, 100, 101, 104, 106, 111, 115, 131	1	107	19
El Salvador	0	—	2	105, 107	2
Ethiopia	4	11, 87, 98, 111	0	—	4
Fiji	4	8, 11, 84, 98	0	—	4
Finland	20	8, 11, 14, 21, 22, 52, 87, 94, 98, 100, 111, 122, 124, 128, 130, 134, 135, 136, 137, 138	0	—	20
France	36	8, 11, 14, 22, 23, 24, 35, 44, 45, 52, 55, 56, 71, 77, 78, 82, 84, 85, 87, 94, 95, 98, 100, 101, 102, 106, 108, 114, 115, 118, 120, 122, 124, 131, 136, 140	1	97	37
Gabon	11	11, 14, 19, 52, 87, 95, 98, 100, 101, 106, 124	1	111	12
German Democratic Republic	9	11, 23, 87, 95, 98, 100, 111, 115, 122	0	—	9
Fed. Rep. of Germany	27	8, 11, 22, 23, 24, 25, 56, 73, 87, 92, 97, 98, 100, 111, 113, 114, 115, 120, 122, 126, 130, 132, 134, 136, 138, 139, 140	0	—	27

REPORT OF THE COMMITTEE OF EXPERTS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Ghana	0	—	17	1, 8, 11, 14, 22, 23, 30, 87, 94, 96, 98, 100, 106, 107, 111, 115, 117	17
Greece	9	8, 11, 14, 52, 55, 87, 95, 98, 100	0	—	9
Guatemala	17	30, 62, 77, 78, 79, 87, 94, 95, 97, 98, 100, 101, 105, 106, 111, 114, 119	0	—	17
Guinea	0	—	35	5, 10, 11, 13, 14, 16, 17, 18, 29, 33, 45, 62, 81, 87, 89, 90, 94, 95, 98, 99, 100, 105, 111, 112, 113, 114, 115, 117, 118, 119, 120, 121, 122, 139, 140	35
Guinea-Bissau	0	—	10	6, 14, 81, 98, 100, 105, 106, 107, 108, 111	10
Guyana	10	11, 82, 87, 94, 95, 97, 98, 100, 111, 115	0	—	10
Haiti	4	24, 25, 98, 100	7	14, 77, 78, 105, 106, 107, 111	11
Honduras	8	14, 78, 87, 95, 98, 100, 106, 111	0	—	8
Hungary	18	14, 21, 24, 52, 77, 78, 87, 95, 98, 100, 101, 111, 115, 122, 124, 136, 140, 142	0	—	18
Iceland	0	—	5	11, 87, 98, 100, 111	5
India	9	5, 11, 14, 21, 22, 100, 107, 111, 115	0	—	9
Indonesia	4	29, 98, 100, 106	0	—	4
Iran	6	14, 95, 100, 106, 111, 122	0	—	6
Iraq	8	1, 23, 30, 77, 95, 98, 100, 122	11	8, 14, 22, 29, 78, 106, 111, 115, 131, 132, 136	19

OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Ireland	15	8, 11, 14, 21, 22, 23, 32, 44, 62, 87, 88, 98, 100, 122, 132	0	—	15
Israel	15	14, 52, 77, 78, 87, 94, 95, 97, 98, 100, 101, 106, 111, 117, 122	0	—	15
Italy	26	8, 11, 14, 22, 23, 32, 44, 52, 55, 71, 77, 78, 87, 94, 95, 97, 98, 100, 101, 106, 111, 114, 115, 117, 122, 124	0	—	26
Ivory Coast	8	11, 14, 52, 87, 95, 98, 100, 111	0	—	8
Jamaica	4	8, 11, 87, 94	6	97, 98, 100, 111, 117, 122	10
Japan	9	8, 21, 22, 87, 98, 100, 102, 115, 119	0	—	9
Jordan	0	—	12	29, 81, 98, 100, 105, 111, 117, 119, 120, 122, 123, 124	12
Democratic Kampuchea . .	0	—	4	4, 6, 29, 122	4
Kenya	6	11, 14, 94, 97, 98, 105	0	—	6
Kuwait	8	1, 30, 52, 87, 106, 111, 119, 136	1	117	9
Lao Republic	0	—	4	4, 6, 13, 29	4
Lebanon	0	—	6	1, 14, 15, 17, 19, 52	6
Liberia	0	—	12	22, 23, 29, 55, 58, 87, 92, 98, 111, 112, 113, 114	12
Libyan Arab Jamahiriya .	0	—	14	3, 14, 52, 95, 98, 100, 102, 103, 111, 118, 121, 122, 128, 130	14
Luxembourg	11	8, 11, 14, 21, 24, 25, 77, 78, 87, 98, 100	2	22, 23	13
Madagascar	12	11, 14, 29, 87, 95, 100, 111, 117, 119, 122, 124, 132	0	—	12

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Malawi	0	—	17	11, 12, 45, 50, 64, 65, 81, 86, 89, 97, 98, 99, 100, 104, 107, 111, 129	17
Malaysia	4	95, 98, 119, 123	0	—	4
Peninsular Malaysia . .	1	11	0	—	1
Sabah	2	94, 97	0	—	2
Sarawak	3	11, 14, 94	0	—	3
Mali	8	11, 14, 52, 87, 95, 98, 100, 111	0	—	8
Malta	10	8, 11, 22, 29, 87, 95, 98, 105, 108, 111	0	—	10
Mauritania	0	—	16	11, 14, 22, 23, 29, 52, 53, 62, 84, 87, 94, 95, 101, 111, 114, 122	16
Mauritius	8	8, 11, 14, 84, 94, 95, 97, 98	0	—	8
Mexico	21	8, 11, 13, 14, 21, 22, 23, 32, 49, 52, 55, 87, 95, 100, 102, 106, 107, 111, 124, 131, 134	0	—	21
Mongolia	5	87, 98, 100, 111, 122	0	—	5
Morocco	13	11, 14, 22, 30, 52, 55, 94, 98, 101, 106, 111, 119, 136	0	—	13
Mozambique	5	1, 11, 14, 17, 18	0	—	5
Nepal	2	100, 111	0	—	2
Netherlands	25	8, 11, 14, 21, 22, 23, 24, 25, 44, 71, 87, 94, 95, 97, 100, 101, 106, 111, 115, 124, 126, 131, 137, 138, 140	1	122	26
New Zealand	12	11, 14, 21, 22, 44, 50, 52, 64, 68, 92, 101, 122	3	82, 84, 97	15
Nicaragua	13	8, 11, 14, 17, 21, 22, 23, 24, 25, 87, 98, 100, 111	6	45, 77, 78, 95, 127, 131	19
Niger	9	11, 14, 87, 95, 98, 100, 111, 117, 119	0	—	9

OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Nigeria	10	8, 11, 87, 94, 95, 97, 98, 100, 123, 134	0	—	10
Norway	25	8, 11, 14, 21, 22, 24, 25, 44, 56, 71, 87, 95, 97, 98, 100, 111, 115, 122, 130, 132, 134, 135, 137, 141, 142	0	—	25
Pakistan	10	11, 14, 21, 22, 87, 96, 98, 106, 107, 111	0	—	10
Panama	34	8, 11, 13, 21, 22, 23, 27, 30, 42, 52, 53, 55, 56, 68, 71, 77, 78, 87, 92, 94, 95, 98, 100, 107, 111, 112, 113, 114, 117, 119, 122, 123, 124, 127	0	—	34
Papua New Guinea	0	—	5	8, 11, 22, 98, 122	5
Paraguay	18	11, 14, 52, 77, 78, 87, 95, 98, 100, 101, 106, 107, 111, 115, 117, 120, 122, 124	0	—	18
Peru	16	8, 11, 22, 24, 25, 29, 55, 56, 58, 62, 68, 71, 100, 107, 114, 122	15	1, 14, 20, 23, 32, 44, 52, 67, 77, 78, 87, 98, 101, 111, 139	31
Philippines	9	23, 77, 87, 94, 95, 98, 100, 111, 122	0	—	9
Poland	19	8, 11, 14, 22, 23, 24, 25, 77, 78, 87, 95, 98, 100, 101, 103, 111, 115, 122, 124	0	—	19
Portugal	8	11, 14, 98, 100, 106, 107, 111, 135	0	—	8
Qatar	0	—	2	81, 111	2
Romania	13	8, 11, 14, 24, 87, 95, 98, 100, 108, 111, 117, 122, 135	0	—	13
Rwanda	3	11, 14, 94	0	—	3
Senegal	12	11, 14, 52, 87, 95, 98, 100, 101, 111, 117, 122, 135	0	—	12
Seychelles	0	—	3	8, 11, 87	3
Sierra Leone	10	8, 22, 87, 94, 95, 98, 100, 101, 111, 119	0	—	10

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Singapore	7	5, 8, 11, 22, 32, 94, 98	0	—	7
Somalia	0	—	6	22, 23, 84, 94, 95, 111	6
Former British Somaliland	1	64	1	50	2
Spain	29	8, 11, 14, 22, 23, 24, 25, 44, 55, 56, 68, 77, 78, 94, 95, 97, 100, 101, 106, 111, 114, 115, 117, 119, 122, 124, 132, 134, 136	0	—	29
Sri Lanka	4	8, 11, 98, 135	0	—	4
Sudan	7	81, 95, 98, 100, 111, 117, 122	0	—	7
Suriname	8	11, 14, 87, 94, 95, 101, 106, 122	0	—	8
Swaziland	0	—	5	11, 14, 87, 95, 98	5
Sweden	17	8, 11, 14, 21, 87, 98, 100, 101, 111, 115, 122, 130, 134, 137, 140, 141, 142	0	—	17
Switzerland	11	8, 11, 14, 23, 44, 87, 100, 111, 115, 120, 139	0	—	11
Syrian Arab Republic . . .	21	1, 11, 14, 29, 30, 52, 87, 94, 95, 98, 100, 101, 105, 106, 107, 111, 115, 117, 123, 124, 131	0	—	21
Tanzania	0	—	9	11, 12, 50, 64, 65, 86, 94, 95, 98	9
Tanganyika	0	—	4	45, 81, 88, 101,	4
Zanzibar	0	—	2	85, 97	2
Thailand	3	29, 105, 122	1	14	4
Togo	4	11, 14, 84, 87	5	4, 6, 41, 85, 95	9
Trinidad and Tobago . . .	0	—	4	87, 97, 98, 111	4
Tunisia	23	8, 11, 14, 22, 23, 29, 52, 55, 77, 87, 88, 95, 98, 99, 100, 105, 106, 107, 111, 114, 117, 122, 124	0	—	23
Turkey	11	11, 14, 94, 95, 96, 98, 100, 111, 115, 118, 119	0	—	11

OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Uganda	6	11, 94, 95, 98, 122, 124	0	—	6
Ukrainian SSR	15	11, 14, 23, 52, 77, 78, 87, 95, 98, 100, 106, 111, 115, 122, 124	0	—	15
USSR	15	11, 14, 23, 52, 77, 78, 87, 95, 98, 100, 106, 111, 115, 122, 124	0	—	15
United Kingdom	21	8, 11, 22, 24, 25, 44, 56, 82, 84, 87, 94, 95, 97, 98, 100, 101, 114, 115, 122, 124, 140	1	45	22
Upper Volta	9	11, 14, 87, 95, 97, 98, 100, 111, 132	0	—	9
Uruguay	22	2, 8, 11, 14, 21, 22, 23, 24, 25, 77, 78, 87, 94, 95, 96, 97, 98, 106, 110, 114, 128, 130	0	—	22
Venezuela	8	11, 14, 21, 22, 29, 98, 111, 120	0	—	8
Viet Nam	0	—	18	5, 6, 13, 14, 26, 27, 29, 45, 52, 81, 89, 98, 111, 117, 120, 122, 123, 124	18
Yemen	0	—	10	14, 29, 81, 87, 98, 100, 111, 131, 132, 135	10
Yugoslavia	2	29, 111	19	8, 11, 14, 22, 23, 24, 25, 32, 56, 87, 97, 98, 100, 106, 114, 126, 129, 132, 136	21
Zaire	0	—	10	11, 14, 29, 84, 94, 95, 98, 100, 117, 119	10
Zambia	9	11, 97, 99, 100, 117, 124, 131, 136, 138	2	29, 105	11
<i>Other States</i>					
Albania ¹	0	—	16	5, 6, 10, 11, 16, 21, 29, 52, 58, 59, 77, 78, 87, 98, 100, 112	16

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Lesotho ¹	0	—	8	11, 14, 29, 45, 64, 65, 87, 98	8
Nauru	0	—	1	21	1
Rep. of South Africa ¹ . . .	0	—	7	2, 19, 26, 42, 45, 63, 89	7
United States ¹	1	55	0	—	1
Western Samoa	0	—	1	14	1

¹ Albania, Lesotho, the Republic of South Africa and the United States have withdrawn from the ILO, but these States continue to be bound by the Conventions which they have ratified (article I, paragraph 5, of the Constitution).

Appendix II. Statistical Table of Reports on Ratified Conventions as at 28 March 1979

(Article 22 of the Constitution)

Period	Reports requested	Reports received at the date requested		Reports received in time for the session of the Committee		Reports received in time for the session of the Conference	
		Number	Percentage	Number	Percentage	Number	Percentage
1931-1932	447	—	—	406	90.8	423	94.6
1932-1933	522	—	—	435	83.3	453	86.7
1933-1934	601	—	—	508	84.5	544	90.5
1934-1935	630	—	—	584	92.7	620	98.4
1935-1936	662	—	—	577	87.2	604	91.2
1936-1937	702	—	—	580	82.6	634	90.3
1937-1938	748	—	—	616	82.4	635	84.9
1938-1939	766	—	—	588	76.8	—	—
1943-1944	583	—	—	251	43.1	314	53.9
1944-1945	725	—	—	351	48.4	523	72.2
1945-1946	731	—	—	370	50.6	578	79.1
1946-1947	763	—	—	581	76.1	666	87.3
1947-1948	799	—	—	521	65.2	648	81.1
1948-1949	806	134 ¹	16.6	666	82.6	695	86.2
1949-1950	831	253	30.4	597	71.8	666	80.1
1950-1951	907	288	31.7	705	77.7	761	83.9
1951-1952	981	268	27.3	743	75.7	826	84.2
1952-1953	1 026	212	20.6	840	81.8	917	89.3
1953-1954	1 175	268	22.8	1 077	91.7	1 119	95.2
1954-1955	1 234	283	22.9	1 063	86.1	1 170	94.8
1955-1956	1 333	332	24.9	1 234	92.5	1 283	96.2
1956-1957	1 418	210	14.7	1 295	91.3	1 349	95.1
1957-1958	1 558	340	21.8	1 484	95.2	1 509	96.8
1958-1959	995 ²	200	20.4	864	86.8	902	90.6
1958-1960	1 100	256	23.2	838	76.1	963	87.4
1959-1961	1 362	243	18.1	1 090	80.0	1 142	83.8
1960-1962	1 309	200	15.5	1 059	80.9	1 121	85.6
1961-1963	1 624	280	17.2	1 314	80.9	1 430	88.0
1962-1964	1 495	213	14.2	1 268	84.8	1 356	90.7
1963-1965	1 700	282	16.6	1 444	84.9	1 527	89.8
1964-1966	1 562	245	16.3	1 330	85.1	1 395	89.3
1965-1967	1 833	323	17.4	1 551	84.5	1 643	89.6
1966-1968	1 647	281	17.1	1 409	85.5	1 470	89.1
1967-1969	1 821	249	13.4	1 498	82.4	1 601	87.9
1968-1970	1 898	360	18.9	1 463	77.0	1 549	81.6
1969-1971	1 992	237	11.8	1 504	75.5	1 707	85.6
1970-1972	2 025	297	14.6	1 572	77.6	1 753	86.5
1971-1973	2 048	300	14.6	1 521	74.3	1 691	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	1 914	87.0
-1977	1 529 ³	215	14.0	1 120	73.2	1 328	87.0
-1978	1 701	251	14.7	1 289	75.7	—	—

¹ First year for which this figure is available.

² As a result of a decision by the Governing Body, detailed reports were requested as from 1958-59 until 1976 only on certain ratified Conventions.

³ As a result of a decision by the Governing Body (November 1976) detailed reports are now requested, according to certain criteria, at yearly, two-yearly or four-yearly intervals.

II. Observations on the Application of Conventions in Non-Metropolitan Territories (Article 22 and Article 35, Paragraphs 6 and 8, of the Constitution)

A. GENERAL OBSERVATIONS

France

The Committee notes with regret that most reports due in respect of the application of Conventions in New Caledonia, and thirteen first reports (Conventions Nos. 2, 10, 44, 53, 63, 69, 73, 77, 78, 88, 96, 99 and 122) which have been due for three years in respect of St. Pierre and Miquelon, have not been received. The Committee hopes that the reports in question will be available for examination by the Committee at its next session.

Netherlands

The Committee notes with regret that the reports due in respect of the application of Conventions in the Netherlands Antilles have not been received. It hopes that the reports in question will be available for examination by the Committee at its next session.

New Zealand

The Committee notes with regret that the reports due in respect of the application of Conventions in Niue Island (for the second consecutive year) and Tokelau Islands have not been received. It hopes that the reports in question will be available for examination by the Committee at its next session.

United Kingdom

1. 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.

2. The Committee notes also with regret that the reports due in respect of the application of Conventions in the Falkland Islands

(Malvinas), Jersey and St. Vincent have not been received. It hopes that the reports in question will be available for examination by the Committee at its next session.

*
* *
*

In addition, a request regarding certain points is being addressed directly to France (St. Pierre and Miquelón).

B. INDIVIDUAL OBSERVATIONS

Convention No. 3: Maternity Protection, 1919

France

French Polynesia

The Committee has examined the report of the Government for the period 1 July 1975 to 30 June 1977 and notes with satisfaction that, in virtue of Decision No. 74-22 of 14 February 1974, medical care in the event of maternity and the half-wage granted during the total period of 14 weeks leave are the responsibility of the Social Insurance Fund, in accordance with the provisions of Article 3 of the Convention. The Committee requests the Government to supply the text of this Decision, which was not enclosed with the report.

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

United Kingdom

Belize

The Committee has pointed out that the provisions of section 157 of the United Kingdom Merchant Shipping Act 1894, taken in conjunction with section 1 of the United Kingdom Merchant Shipping (International Labour Conventions) Act 1925, both Acts having been made applicable to this territory, constitute a bar to the right of a seaman to unemployment indemnity in case of shipwreck where it is proved that he has not exerted himself to the utmost to save the ship, cargo and stores, and are therefore not in conformity with the Convention, which does not provide for such a bar. The Committee has requested the Government to take the necessary measures to ensure the full application of the Convention on this point.

In its latest report, the Government again states that these comments will be taken into account and that consultations with a view to amending the above-mentioned legislation in conformity with the Convention are still in progress. It refers, however, to legislative measures to be taken in this connection by the United Kingdom and adds that as soon as they have been taken they will be deemed to be applicable to the territory of Belize, in virtue of section 75 of the Harbours and Merchant Shipping Ordinance, Chapter 149 of the Laws of Belize.

The Committee notes this information and hopes that the above-mentioned measures will be adopted very shortly (see also under Convention No. 8: United Kingdom).

British Virgin Islands

The Committee has pointed out that the provisions of section 157 of the United Kingdom Merchant Shipping Act 1894, taken in conjunction with section 1 of the United Kingdom Merchant Shipping (International Labour Conventions) Act 1925, both Acts having been made applicable to this territory, constitute a bar to a seaman's claim to unemployment indemnity in the event of shipwreck where it is proved that he has not exerted himself to the utmost to save the ship, cargo and stores, and are therefore not in conformity with the Convention, which does not provide for such a bar. The Committee has requested the Government to take the necessary measures to ensure the full application of the Convention on this point.

In reply to these comments, the Government again states that no action can be taken so long as the corresponding British Act has not been amended. The Committee trusts that the necessary amendments will be adopted in the near future (see also under Convention No. 8: United Kingdom).

Falkland Islands (Malvinas)

Article 2 of the Convention. In reply to the previous comments of the Committee concerning the forfeiture of the right to unemployment indemnity where it is proved that the seaman has not exerted himself to the utmost to save the ship, cargo and stores (section 157 of the United Kingdom Merchant Shipping Act 1894, read together with section 1 of the United Kingdom Merchant Shipping (International Labour Conventions) Act 1925, whose scope has been extended to this territory), the Government stated in its report for 1974-76 that a complete revision of the legislation of the territory was in progress and that the opportunity would be taken of calling the attention of the Law Revision Commissioner to the defects in the merchant shipping law with a view to their rectification.

Since the Government has supplied no report for the period 1977-78, the Committee can only express the hope that the legislation will be amended very shortly so as to ensure the full application of the Convention on this point and that the next report will indicate the progress made in this connection.

Gibraltar

Article 2 of the Convention. In reply to its previous comments concerning the bar to claims to unemployment indemnity in case of shipwreck, where it is proved that the seaman has not exerted himself to the utmost to save the ship, cargo and stores during the shipwreck or foundering, the Government states in its report for the period 1976-78 that the proposed repeal of section 45(1) of the Merchant Shipping Ordinance is to be effected in conjunction with other changes that are to be made in the Ordinance in line with amendments to the United Kingdom Merchant Shipping Acts. The Committee notes this statement and hopes that the measure under consideration will be adopted very shortly so as to bring the national laws into full conformity with this basic provision of the Convention (see also under Convention No. 8: United Kingdom).

Hong Kong

The Committee has pointed out that the provisions of section 157 of the United Kingdom Merchant Shipping Act 1894, taken in conjunction with section 1 of the United Kingdom Merchant Shipping (International Labour Conventions) Act 1925, both Acts having been made applicable to this territory, constitute a bar to a seaman's claim to unemployment indemnity in case of shipwreck where it is proved that he has not exerted himself to the utmost to save the ship, cargo and stores, and are therefore not in conformity with the Convention, which does not provide for such a bar. The Committee has requested the Government to take the necessary measures to ensure the full application of the Convention on this point.

In reply to these comments, the Government states again that no action can be taken so long as the corresponding British Act has not been amended. The Committee trusts that the necessary amendments will be adopted in the near future (see also under Convention No. 8: United Kingdom).

Montserrat

The Committee has pointed out that the provisions of section 157 of the United Kingdom Merchant Shipping Act 1894, taken in conjunction with section 1 of the United Kingdom Merchant Shipping (International Labour Conventions) Act 1925, both Acts having been made applicable to this territory, constitute a bar to a seaman's claim to unemployment indemnity in case of shipwreck where it is proved that he has not exerted himself to the utmost to save the ship, cargo and stores, and are therefore not in conformity with the Convention, which does not provide for such a bar. The Committee has requested the Government to take the necessary measures to ensure the full application of the Convention on this point.

In reply to these comments, the Government states again that no action can be taken so long as the corresponding British Act has not been amended. The Committee trusts that the necessary amendments will be adopted in the near future (see also under Convention No. 8: United Kingdom).

St. Helena

Article 2 of the Convention. In reply to the previous comments of the Committee concerning the forfeiture of the right to unemployment indemnity in case of loss or foundering of the ship where it is proved that the seaman has not exerted himself to the utmost to save the ship, cargo and stores (section 157 of the United Kingdom Merchant Shipping Act 1894, read together with section 1 of the United Kingdom Merchant Shipping (International Labour Conventions) Act 1925, whose scope has been extended to this territory), the Government states again, in its report for 1976-78, that it is not practicable to amend the legislation of the territory until an appropriate amendment has been introduced to the legislation of the United Kingdom. The Committee hopes that suitable measures will be taken in the near future to ensure the full application of the Convention on this point.

St. Kitts-Nevis-Anguilla

The Committee has pointed out that the provisions of section 157 of the United Kingdom Merchant Shipping Act 1894, taken in conjunction with section 1 of the United Kingdom Merchant Shipping (International Labour Conventions) Act 1925, both Acts having been made applicable to this territory, constitute a bar to a seaman's claim to unemployment

indemnity in case of shipwreck where it is proved that he has not exerted himself to the utmost to save the ship, cargo and stores, and are therefore not in conformity with the Convention, which does not provide for this bar. The Committee has requested the Government to take the necessary steps to ensure the full application of the Convention on this point.

In reply to these comments, the Government again states that no action can be taken so long as the corresponding British Act has not been amended. The Committee trusts that the necessary amendments will be adopted in the near future (see also under Convention No. 8: United Kingdom).

St. Vincent

Article 2 of the Convention. In reply to the previous comments of the Committee concerning the forfeiture of the right to unemployment indemnity in case of loss or foundering of the ship where it is proved that the seaman has not exerted himself to the utmost to save the ship, cargo and stores (section 157 of the United Kingdom Merchant Shipping Act 1894, read together with section 1 of the United Kingdom Merchant Shipping (International Labour Conventions) Act 1925, whose scope has been extended to this territory), the Government stated in its report for 1973-75 that consideration would be given to the possibility of amending the legislation of the territory in accordance with the amendments introduced to the legislation of the United Kingdom.

Since the Government has supplied no report for the period 1976-78, the Committee can only express the hope that the necessary legislative measures will be taken in the near future in order to ensure the full application of the Convention on this point and that the next report will indicate the progress made in this connection.

*
* *

In addition, a request regarding certain points is being addressed directly to Denmark (Faeroe Islands).

Convention No. 9: Placing of Seamen, 1920

A request regarding certain points is being addressed directly to France (French Polynesia).

Information supplied by France (Overseas Departments (French Guiana, Guadeloupe, Martinique, Reunion, St. Pierre and Miquelon); New Caledonia) in answer to a direct request has been noted by the Committee.

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

A request regarding certain points is being addressed directly to France (St. Pierre and Miquelon).

Information supplied by the United Kingdom (Antigua) in answer to a direct request has been noted by the Committee.

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

The Committee notes with satisfaction that, by virtue of section 17 of the Employment Ordinance, as amended by Ordinance No. 71 of 1976, workers enjoy in every period of seven days a period of rest comprising at least one day.

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

A request regarding certain points is being addressed directly to the United Kingdom (Belize).

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

Requests regarding certain points are being addressed directly to the following States: France (New Caledonia), United Kingdom (Bermuda, St. Kitts-Nevis-Anguilla, St. Vincent).

Information supplied by France (French Polynesia) 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, New Caledonia), United Kingdom (Bermuda, St. Vincent).

Information supplied by the United Kingdom (Antigua, St. Kitts-Nevis-Anguilla) in answer to a direct request has been noted by the Committee.

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

Overseas Departments (French Guiana, Guadeloupe, Martinique, Réunion, St. Pierre and Miquelon)

Article 9, paragraph 1, of the Convention. See under Convention No. 22, France.

French Polynesia

Article 9, paragraph 1, of the Convention. See under Convention No. 22, France.

New Caledonia

Article 9, paragraph 1, of the Convention. See under Convention No. 22, France.

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

Article 4 of the Convention. With reference to its previous comments, the Committee notes with satisfaction that the pharmaceutical service has been extended with effect from 1 November 1977 to include a range of appliances.

*
* *

In addition, requests regarding certain points are being addressed directly to the following States: France (French Polynesia, New Caledonia), United Kingdom (Guernsey).

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

Article 4 of the Convention. See under Convention No. 24.

*
* *

In addition, a request regarding certain points is being addressed directly to the United Kingdom (Guernsey).

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

Requests regarding certain points are being addressed directly to France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion).

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, St. Pierre and Miquelon); French Polynesia, New Caledonia).

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

Requests regarding certain points are being addressed directly to France (French Polynesia, New Caledonia, St. Pierre and Miquelon).

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

Requests regarding certain points are being addressed directly to France (French Polynesia, New Caledonia, St. Pierre and Miquelon).

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

Requests regarding certain points are being addressed directly to France (French Polynesia, New Caledonia, St. Pierre and Miquelon).

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

Overseas Departments (French Guiana, Guadeloupe, Martinique, Réunion)

See under France, Convention No. 42.

*
* *

In addition, requests regarding certain points are being addressed directly to the following States: France (French Polynesia, New Caledonia), United Kingdom (Gilbert Islands).

Convention No. 44: Unemployment Provision, 1934

Requests regarding certain points are being addressed directly to France (French Polynesia, New Caledonia).

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

A request regarding certain points is being addressed directly to France (French Polynesia).

Convention No. 52: Holidays with Pay, 1936

A request regarding certain points is being addressed directly to France (New Caledonia).

Convention No. 53: Officers' Competency Certificates, 1936

Requests regarding certain points are being addressed directly to France (French Polynesia, New Caldeonia).

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

Information supplied by France (French Polynesia) in answer to a direct request has been noted by the Committee.

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

Article 3, paragraphs 1 and 2, of the Convention. See under Convention No. 24: the comments concerning Article 4 are also applicable to Convention No. 56.

*
* * *

In addition, requests regarding certain points are being addressed directly to the following States: France (New Caledonia), United Kingdom (Guernsey).

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

Further to its previous comments, the Committee notes with satisfaction that the Children (Amendment) Ordinance 1978, gives full effect to the provisions of the Convention.

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

Article 1 of the Convention. With reference to its previous comments, the Committee notes with satisfaction that section 5 of the Factories and Industrial Undertakings (Amendment) Ordinance, 1977, which amends Regulation 4 of the Factories and Industrial Undertakings

Regulations, 1975, prohibits the employment of children in undertakings that are not carried on by way of trade or for the purposes of gain, in accordance with this Article of the Convention.

*
* *
*

In addition, requests regarding certain points are being addressed directly to the United Kingdom (Antigua, Bermuda, Gilbert Islands, Hong Kong, Montserrat, St. Vincent).

Information supplied by the United Kingdom (British Virgin Islands, Gibraltar and St. Kitts-Nevis-Anguilla) 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 France (French Polynesia, New Caledonia).

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

A request regarding certain points is being addressed directly to France (New Caledonia).

Convention No. 71: Seafarers' Pensions, 1946

A request regarding certain points is being addressed directly to France (New Caledonia).

Information supplied by France (French Polynesia) in answer to a direct request has been noted by the Committee.

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

Requests regarding certain points are being addressed directly to France (French Polynesia, New Caledonia).

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

Requests regarding certain points are being addressed directly to France (French Polynesia, New Caledonia).

Convention No. 81: Labour Inspection, 1947France

Overseas departments (French Guiana, Guadeloupe, Martinique, Réunion)

See under Convention No. 81, France, observation concerning Articles 20 and 21.

*
* *
*

Requests regarding certain points are being addressed directly to France (French Polynesia, New Caledonia).

Convention No. 82: Social Policy (Non-Metropolitan Territories), 1947United KingdomSt. Vincent

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

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.

*
* *
*

In addition, requests regarding certain points are being addressed directly to the United Kingdom (Antigua, Bermuda).

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: France (General direct request), United Kingdom (General direct request, Antigua, Gilbert Islands, St. Vincent).

Information supplied by the United Kingdom (Bermuda) in answer to a direct request has been noted by the Committee.

Convention No. 88: Employment Service, 1948

A request regarding certain points is being addressed directly to France (New Caledonia).

Information supplied by France (French Polynesia) in answer to a direct request has been noted by the Committee.

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

Requests regarding certain points are being addressed directly to the following States: France (French Polynesia, New Caledonia), Netherlands (Netherlands Antilles), United Kingdom (British Virgin Islands, Guernsey, Hong Kong, Jersey, St. Kitts-Nevis-Anguilla).

Convention No. 95: Protection of Wages, 1949

United Kingdom

St. Vincent

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

Articles 2, 5, 6, 10, 12 and 15 of the Convention. The Committee notes the Government's statement that it plans to revise the present labour legislation, with assistance from aid agencies, and that it will take into account the requirements of these Articles of the Convention, on which comments have been made since 1960. The Committee hopes that these measures will be taken in the near future and will ensure full legislative conformity with the Convention.

*
* *

In addition, requests regarding certain points are being addressed directly to the United Kingdom (Hong Kong, Jersey, Montserrat).

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

Requests regarding certain points are being addressed directly to the following States: France (general direct request, French Polynesia, New Caledonia, St. Pierre and Miquelon), United Kingdom (general direct request, Hong Kong).

Information supplied by the United Kingdom (Antigua) in answer to a direct request has been noted by the Committee.

Convention No. 105: Abolition of Forced Labour, 1957United Kingdom

Southern Rhodesia (Zimbabwe)

See under General Observations.

*
* *

In addition, requests regarding certain points are being addressed directly to the following States: Denmark (Faeroe Islands), France (French Polynesia, New Caledonia, St. Pierre and Miquelon).

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

A request regarding certain points is being addressed directly to the Netherlands (Netherlands Antilles).

Information supplied by France (Overseas Departments: French Guinea, Guadeloupe, Martinique, Réunion) in answer to a direct request has been noted by the Committee.

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, St. Pierre and Miquelon); French Polynesia, New Caledonia.)

Convention No. 122: Employment Policy, 1964

Requests regarding certain points are being addressed directly to the following States: Australia (Norfolk Islands), Denmark (Greenland), France (French Polynesia, New Caledonia), Netherlands (Netherlands Antilles), United Kingdom (Guernsey, Isle of Man).

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

Requests regarding certain points are being addressed directly to France (French Polynesia, New Caledonia).

**Convention No. 124: Medical Examination of Young Persons (Underground Work)
1965**

A request regarding certain points is being addressed directly to France (New Caledonia).

Convention No. 125: Fishermen's Competency Certificates, 1966

Requests regarding certain points are being addressed directly to France (Overseas Departments (French Guiana, Guadeloupe, Martinique, Réunion, St. Pierre and Miquelon); French Polynesia).

Convention No. 135: Workers' Representatives, 1971

A request regarding certain points is being addressed directly to the United Kingdom (Gibraltar).

Convention No. 136: Benzene, 1971

Requests regarding certain points are being addressed directly to France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion).

Convention No. 140: Paid Educational Leave, 1974

A request regarding certain points is being addressed directly to the United Kingdom (St. Kitts-Nevis-Anguilla).

**Appendix. Receipt of Detailed Reports on Ratified Conventions
(Non-Metropolitan Territories) as at 28 March 1979**

(Articles 22 and 35 of the Constitution)

Reports received: 389 Reports not received: 198 Total: 587

Countries and Territories	Reports received		Reports not received		Population ¹ (thousands)
	Total	Conventions Nos.	Total	Conventions Nos.	
<i>Australia</i>	5		0		
Norfolk Islands	5	11, 47, 87, 98, 122	0	—	1.6
<i>Denmark</i>	12		0		
Faeroe Islands	7	8, 11, 14, 52, 87, 98, 106	0	—	40
Greenland	5	11, 14, 87, 106, 122	0	—	50
<i>France</i>	205		117		
<i>Overseas Departments :</i>					
Guadeloupe	32	8, 9, 11, 14, 15, 16, 22, 23, 35, 36, 37, 38, 43, 45, 49, 52, 55, 56, 71, 87, 94, 95, 98, 100, 101, 106, 108, 112, 113, 114, 120, 125	8	24, 27, 32, 84, 115, 123, 124, 136	360
Guyana	31	8, 9, 14, 15, 16, 22, 23, 35, 36, 37, 38, 43, 45, 49, 52, 55, 56, 71, 87, 94, 95, 98, 100, 101, 106, 108, 112, 113, 114, 120, 125	8	24, 27, 32, 84, 115, 123, 124, 136	60
Martinique	32	8, 9, 11, 14, 15, 16, 22, 23, 35, 36, 37, 38, 43, 45, 49, 52, 55, 56, 71, 87, 94, 95, 98, 100, 101, 106, 108, 112, 113, 114, 120, 125	8	24, 27, 32, 84, 115, 123, 124, 136	370
Reunion	31	8, 9, 11, 14, 15, 16, 22, 23, 35, 36, 37, 38, 43, 45, 49, 52, 55, 56, 71, 87, 94, 95, 98, 100, 101, 108, 112, 113, 114, 120, 125	8	24, 27, 32, 84, 115, 123, 124, 136	510
St. Pierre and Miquelon .	42	3, 9, 11, 12, 14, 15, 16, 17, 18, 19, 22, 23, 24, 35, 36, 37, 38, 43, 45, 49, 52, 55, 56, 58, 71, 81, 87, 89, 91, 94, 95, 98, 100, 101, 106, 108, 115, 120, 123, 124, 125, 126	23	2, 5, 6, 10, 13, 26, 29, 33, 42, 44, 53, 63, 69, 73, 77, 78, 82, 84, 88, 96, 99, 105, 122	6

For footnotes see end of table.

NON-METROPOLITAN TERRITORIES

Countries and Territories	Reports received		Reports not received		Population ¹ (thousands)
	Total	Conventions Nos.	Total	Conventions Nos.	
<i>Overseas Territories :</i>					
French Polynesia	35	9, 10, 11, 14, 15, 16, 23, 35, 36, 37, 38, 43, 49, 52, 56, 58, 73, 78, 81, 82, 84, 87, 91, 94, 95, 98, 99, 100, 101, 106, 122, 123, 124, 125, 126	14	19, 22, 24, 44, 53, 55, 63, 69, 71, 77, 96, 105, 115, 120	130
New Caledonia	1	9	48	10, 11, 14, 15, 17, 22, 23, 24, 35, 36, 37, 38, 42, 43, 44, 45, 49, 52, 53, 55, 56, 58, 63, 69, 71, 77, 78, 81, 82, 84, 87, 88, 89, 91, 94, 95, 96, 98, 99, 100, 101, 105, 106, 115, 120, 122, 123, 124	130
<i>Netherlands</i>	0		12		
Netherlands Antilles . . .	0	—	12	8, 11, 14, 22, 23, 25, 87, 94, 95, 101, 106, 122	240
<i>New Zealand</i>	7		16		
Cook Islands	7	29, 50, 64, 65, 99, 104, 105	4	11, 14, 82, 84	20
Niue	0	—	11	11, 14, 29, 50, 64, 65, 82, 84, 99, 104, 105	5
Tokelau Islands	0	—	1	82	2
<i>United Kingdom</i>	160		53		
Antigua	11	11, 14, 58, 59, 82, 84, 87, 94, 97, 98, 101	0	—	70
Belize	15	8, 11, 15, 22, 58, 59, 82, 84, 87, 94, 95, 97, 98, 101, 115	0	—	140
Bermuda	12	11, 15, 17, 22, 58, 59, 82, 84, 87, 94, 98, 115	0	—	60
British Virgin Islands . .	11	8, 11, 14, 58, 59, 82, 84, 87, 94, 97, 98	0	—	10
Brunei	9	8, 11, 15, 58, 82, 84, 94, 95, 98	0	—	180
Falkland Islands (Malvinas)	0	—	10	8, 11, 14, 22, 58, 59, 82, 84, 87, 98	2

Countries and Territories	Reports received		Reports not received		Population ¹ (thousands)
	Total	Conventions Nos.	Total	Conventions Nos.	
Gibraltar	14	8, 11, 15, 22, 44, 58, 59, 82, 84, 87, 94, 95, 98, 135	0	—	30
Gilbert Islands	8	11, 58, 59, 82, 84, 87, 94, 98	0	—	70
Guernsey	14	8, 11, 22, 24, 25, 44, 56, 87, 94, 97, 98, 114, 115, 122	0	—	53
Hong Kong	16	8, 11, 14, 15, 22, 58, 59, 82, 84, 87, 94, 95, 98, 101, 115, 124	0	—	4,380
Jersey	0	—	14	8, 11, 22, 24, 25, 44, 56, 87, 94, 95, 97, 98, 115, 140	69
Isle of Man	14	8, 11, 22, 24, 25, 44, 56, 87, 94, 95, 97, 98, 101, 122	0	—	60
Montserrat	12	8, 11, 14, 15, 58, 59, 82, 84, 87, 95, 97, 98	0	—	10
St. Kitts-Nevis-Anguilla .	14	8, 11, 14, 22, 58, 59, 82, 84, 87, 94, 97, 98, 101, 140	0	—	70
St. Helena	10	8, 11, 14, 15, 58, 59, 82, 84, 87, 98	0	—	5
St. Vincent	0	—	16	8, 11, 14, 15, 17, 19, 58, 59, 82, 84, 87, 94, 95, 97, 98, 101	110
Southern Rhodesia . . .	0	—	13	3, 14, 17, 19, 29, 45, 50, 59, 81, 82, 84, 86, 105	6,420
<i>Other States :</i>					
<i>United States</i>	3		0		
Guam	1	55	0	—	100
Puerto Rico	1	55	0	—	3,210
Virgin Islands	1	55	0	—	90

¹ Source: United Nations: *Demographic Year Book*, 1976.

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 refers to its previous observation and hopes that the Government will soon indicate whether the Recommendations adopted from the 53rd to 58th Sessions of the Conference have been submitted to the competent authorities. The Committee further hopes that the Government will shortly submit the instruments adopted at the 52nd, 59th, 60th, 61st, 62nd and 63rd Sessions and will supply, in regard to all the above-mentioned instruments, the information and documents called for in the Memorandum adopted by the Governing Body.

Brazil

The Committee notes the statement by the Government that the necessary documentation is being prepared to submit all the remaining instruments to the Congress. It therefore trusts that the Government will shortly be able to state that the numerous Conventions and Recommendations that appear in the last column of the table in Appendix I to the present section have been submitted to the Congress and that, in respect of these instruments, it will provide the information and the documents called for in the Memorandum adopted by Governing Body (Points II and III of the questionnaire).

Bulgaria

The Committee notes the information and documents concerning the submission to the Council of State of the instruments adopted at the 61st and 63rd Sessions of the Conference. It again expresses the hope that the Government will be able to 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 62nd and 63rd Sessions of the Conference have been submitted to the Presidium of the Supreme Soviet of the Byelorussian SSR.

With regard to the comments that it has been making for some years on the submission of Conventions and Recommendations to the Supreme Soviet itself as legislative body, and the transmission to the ILO of the information and documents called for in the Memorandum adopted by the Governing Body, the Committee refers to its observations of 1976 and 1977 and hopes that the Government will shortly be able to indicate the results of the re-examination of these questions by the authorities concerned.

Central African Empire

The Committee notes the submission to the competent authorities of the instruments adopted at the 62nd Session of the Conference. It also notes that the instruments adopted at the 49th, 50th, 52nd, 60th, 61st and 63rd Sessions were to be submitted to the Prime Minister after the Legislative Commission has expressed its opinion. The Committee hopes that the Government will shortly be able to state that the submission of these instruments has been carried out and that it will provide, in respect of them, the information and documents required in the Memorandum adopted by the Government Body.

The Committee also requests the Government to provide a copy of the document by means of which the instruments adopted at the 53rd, 59th and 62nd Sessions of the Conference have been submitted.

Chad

In the absence of a reply to its previous observations, the Committee hopes that the Government will soon be able to state that the instruments adopted at the 55th to 63rd Sessions of the Conference have been submitted to the competent authorities and that it will provide the information and documents required in the Memorandum adopted by the Governing Body (points II and III of the questionnaire) in respect not only of these instruments but also of those adopted from the 50th to the 54th Sessions, which have already been submitted.

Colombia

The Committee has noted the information given by the Government to the Conference Committee in 1978 to the effect that instruments adopted from the 58th to the 61st Sessions of the Conference were to be submitted to Congress during the term of the legislature beginning in July 1978. In the absence of any further information on the subject, the Committee hopes that the Government will shortly indicate whether the submission of these instruments, and of the instruments adopted at the 62nd and 63rd Sessions of the Conference, has taken place. Referring to its previous observation, the Committee also hopes that the Government will soon be able to supply the information and documents called for in the Memorandum adopted by the Governing Body in respect of a number of instruments adopted from the 40th to the 60th Session of the Conference which were submitted to Congress during its regular sessions of 1973 and 1974, according to the information communicated by the Government to the Conference Committee in 1977.

Costa Rica

The Committee regrets to note that the Government has not replied to its previous direct requests. It again expresses the hope that the Government will soon communicate the information on the proposals made and the decisions that may be taken on the instruments adopted at the 60th Session of the Conference, which have already been submitted.

It also hopes that the Government will state whether the Recommendations adopted at the 54th and 55th Sessions and the instruments adopted at the 61st, 62nd and 63rd Sessions have been submitted to the competent authorities, and that in respect of them, it will provide the information and documents called for in the Memorandum adopted by the Governing Body.

El Salvador

The Committee notes that the instruments adopted at the 60th and 61st Sessions of the Conference have been submitted to the competent authorities. With reference to its earlier comments, the Committee notes that the Government has still not supplied, in respect of the instruments adopted at the 52nd, 55th, 56th and 59th Sessions of the Conference, already submitted to the Legislative Assembly, the information and documents called for in the Memorandum adopted by the Governing Body (indication concerning the propositions that have been made and any decisions taken and copies of the documents by means of which the instruments have been submitted). The Committee hopes that the Government will be able soon to communicate such information and documents in respect of the above-mentioned instruments and that it will also indicate whether the instruments adopted at the 62nd and 63rd Sessions have been submitted to the competent authorities.

Ethiopia

The Committee notes that no information has been supplied for several years concerning the submission to the competent authorities of the instruments adopted by the Conference. The Committee hopes that the Government will shortly be able to state that Recommendation No. 136, adopted at the 54th Session of the Conference, and the instruments adopted at the 58th, 59th, 60th, 61st, 62nd and 63rd 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.

Gabon

With reference to its previous observation, the Committee notes with interest the information supplied by the Government to the effect that various instruments adopted from the 51st Session of the Conference on and already submitted to the Council of Ministers have now been submitted to the National Assembly. It hopes that the Government will provide copies of the documents by means of which the instruments in question have been submitted to the National Assembly and also information on any decision taken in connection with them, as required by the Memorandum adopted by the Governing Body (points II(c) and III of the questionnaire).

Ghana

The Committee regrets to note the absence of any reply to its previous direct requests. It hopes that the Government will shortly state whether the instruments adopted at the 60th, 61st, 62nd and 63rd Sessions of the Conference have been submitted to the competent authorities and that it will provide in respect of them the information and documents called for in the Memorandum adopted by the Governing Body.

With reference to its previous comments, the Committee also hopes that the Government will provide information on any new proposals made or measures taken in respect of the instruments adopted from the 50th to 59th Sessions, which have already been submitted to the competent authorities.

Guatemala

Further to its previous comments, the Committee has noted with satisfaction the information and documents supplied by the Government with respect to the submission to Congress of all the instruments adopted from the 53rd to the 63rd Sessions of the Conference, following direct contacts between the national services concerned and a representative of the Director-General of the ILO.

Guyana

The Committee refers to the information provided by the Government in 1978 according to which efforts were being made to submit to Parliament as quickly as possible the instruments adopted from the 54th to the 62nd Sessions of the Conference and that they had already been examined by the Cabinet. In the absence of further information, the Committee hopes that the Government will shortly be in a position to indicate that these instruments, and also those adopted at the 63rd Session, have been submitted and that it will provide the information and documents called for in the Memorandum adopted by the Governing Body.

Haiti

With reference to its previous comments, the Committee takes note with satisfaction of the information and documents provided by the Government on the submission to the Legislative Chamber of the instruments adopted by the Conference from the 54th to 63rd Sessions following direct contacts between the national services concerned and a representative of the Director-General of the ILO.

The Committee hopes that the Government will shortly be able to state that all the remaining instruments, adopted at various Sessions between the 32nd and the 53rd, have been submitted to the Legislative Chamber and that it will provide in respect of them the information and documents called for in the Memorandum adopted by the Governing Body.

Hungary

The Committee notes the information and documents supplied by the Government on the submission to the Presidential Council of the instruments adopted at the 63rd Session of the Conference. With reference to its previous observations, the Committee again expresses the hope that the instruments adopted by the Conference may also be submitted to Parliament as the authority invested by the Constitution of Hungary with full legislative powers. The Committee notes in this connection the information supplied by the Government to the Conference Committee in 1978 to the effect that the authorities are still examining the question with a view to finding an adequate solution.

The Committee hopes that the Government will shortly be able to communicate the results of their examination.

Indonesia

The Committee has noted the information and documents supplied by the Government concerning the submission to Parliament of the instruments adopted at the 61st and 62nd Sessions of the Conference. It would be grateful if the Government would indicate whether the submission of the instruments adopted at the 63rd Session has also taken place.

Referring to its earlier observations, the Committee trusts that the Government will shortly supply the information requested concerning its proposals and the decisions of the competent authorities on the instruments adopted from the 52nd to the 56th Session of the Conference, which have already been submitted to Parliament.

Iraq

Further to its previous observation, the Committee has noted the information communicated by the Government to the Conference Committee in 1978 to the effect that arrangements for the submission of the remaining instruments to the competent authorities had almost been completed. Although several of the Conventions adopted from the 58th to the 61st Sessions of the Conference have recently been ratified, the Government has as yet supplied no other information. The Committee hopes that the Government will shortly be able to state that the numerous instruments listed in the last column of the table in Appendix I to this section of the report have been submitted to the competent authority, 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).

Jordan

Further to its earlier observations, the Committee has noted the statement made by a Government representative to the Conference Committee in 1978 to the effect that a legislative assembly had been established on 20 April 1978. The Committee has also noted with interest that the Government has requested direct direct contacts with the ILO with a view to meeting its obligation under the ILO Constitution, to supply reports and information. The Committee accordingly hopes that the Government will shortly be in a position to state that the numerous instruments adopted since the 39th Session of the Conference which are listed in the last column of the table in Appendix I to this section of the report have been submitted to the legislative assembly, and that it will supply in this connection the information and documents called for in the Memorandum adopted by the Governing Body.

Democratic Kampuchea

The Committee notes the absence of any information concerning the submission to the competent authorities of the instruments adopted by the Conference.

Lao Republic

Since no information has been supplied by the Government, the Committee hopes that the Government will soon be able to state whether the instruments adopted from the 48th to the 63rd 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.

Lebanon

The Committee has noted from the information supplied by the Government that the submission of the instruments adopted at the 61st,

62nd and 63rd Sessions of the Conference has been delayed because the translation of these instruments was not yet available. The Committee hopes that the submission of the instruments still listed in the last column of the table in Appendix I to this section will be possible shortly, 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 has noted the statement made by a Government representative to the Conference Committee in 1978 to the effect that the instruments adopted from the 31st to the 63rd Session of the Conference had been submitted to the President, who had referred them to the Ministry of Justice for scrutiny before submitting them to the national legislature. The Committee recalls that according to information supplied earlier, the instruments adopted from the 31st to the 60th Session had been submitted to the President for transmission to the national legislature in 1976. The Committee hopes that the Government will shortly be able to supply in respect of all the instruments in question (except Convention No. 133, recently ratified) the document whereby they were submitted to the legislature, indicating the proposals made and any decisions taken in respect of these instruments, as requested in points II(c) and III of the questionnaire at the end of the Memorandum adopted by the Governing Body.

Madagascar

Further to its previous observation, the Committee has noted with satisfaction from the information and documents supplied by the Government that all the instruments adopted from the 56th to the 63rd Session of the Conference have been submitted to the Supreme Revolutionary Council.

Malawi

With reference to its previous observations, the Committee notes the statement by the Government representative to the Conference Committee in 1978, to the effect that the comments of the supervisory bodies of the ILO have been communicated to the competent department.

In the absence of any new information on the matter, the Committee points out once more that, under article 19, paragraphs 5 and 6, of the Constitution of the ILO, Conventions and Recommendations adopted by the Conference must be submitted to the authority or authorities within whose competence the matter lies, 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 competent authority for the enactment of legislation for the purposes of article 19 of the Constitution of the ILO. The Committee accordingly expresses again the hope that the Government will submit the Conventions and Recommendations to the National Assembly.

The Committee also hopes that the Government will shortly indicate whether the instruments adopted at the 55th, 58th, 60th, 61st, 62nd and 63rd Sessions of the Conference have been submitted to the competent authorities and communicate the information and the documents called for in the Memorandum adopted by the Governing Body.

Malaysia

The Committee noted in 1978 that, following an administrative reorganisation, measures would be taken, starting that year, with a view to the submission by stages to Parliament of all the outstanding Conventions and Recommendations. In the absence of any further information, the Committee trusts that the Government will shortly be able to state that all the instruments adopted from the 58th to the 63rd Sessions of the Conference have been submitted to Parliament and that it will provide the information and documents called for in the Memorandum adopted by the Governing Body.

Malta

The Committee notes from the information supplied by the Government, that memorandums are being prepared for discussion by the Cabinet so that Policy Statements may be approved by the latter with a view to placing on the Table of the House of Representatives the Conventions and Recommendations adopted from the 55th Session of the Conference. The Committee further notes that, because of the backlog of instruments, it is proposed to proceed first with instruments with no application to Malta, followed by those which could be ratified, possibly with some modification to the legislation. It hopes that the Government will be able soon to indicate that submission of instruments to Parliament has actually taken place and that it will supply, in this connection, the information and documents called for in the Memorandum adopted by the Governing Body.

Mauritania

Further to its earlier observations, the Committee has noted from the statement made by a Government representative to the Conference Committee in 1978 and the information subsequently supplied by the Government that, since the difficulties due to the insufficient number of officials no longer existed, all the instruments adopted from the 47th to the 60th Session of the Conference were soon to be submitted to the competent authority, and that the instruments adopted at the 63rd Session were to be examined with a view to their submission. The Committee hopes that the Government will shortly be able to state that the submission of the aforementioned instruments, as well as of the instruments adopted at the 61st and 62nd Sessions of the Conference, has taken place, and that it will supply in this connection the information and documents called for in the Memorandum adopted by the Governing Body.

Mauritius

Further to its previous observation, the Committee notes from the information communicated by the Government to the Conference Committee in 1978 that all the outstanding instruments adopted from the 53rd to the 63rd Session of the Conference have been referred to the National Advisory Board for consideration with a view to their submission to Parliament, priority being given to the instruments adopted at the 62nd and 63rd Sessions. The Committee hopes that the Government will shortly be able to state that the aforementioned instruments 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 notes that no information has been supplied in response to its previous observation concerning the submission of the instruments adopted from the 58th to the 61st Session of the Conference. It again requests the Government to provide particulars as to the authorities regarded as competent and the action taken by them, and to supply copies of the documents whereby the aforementioned instruments were submitted, in accordance with paragraphs 5(c) and 6(c) of article 19 of the Constitution of the ILO and the Memorandum adopted by the Governing Body (points I and II(b) and (c) and III of the questionnaire). The Committee would further be grateful if the Government would indicate whether the submission of the instruments adopted at the 62nd and 63rd Sessions of the Conference has taken place.

Nepal

The Committee has noted the information supplied by the Government concerning the submission to the competent authorities of the instruments adopted at the 62nd and 63rd Sessions of the Conference. It has also noted with interest the statement made by a Government representative to the Conference Committee in 1978 to the effect that all the instruments would be submitted to Parliament in conformity with the procedure in force in the country. The Committee accordingly hopes that the Government will shortly be able to state that the instruments adopted from the 51st to the 61st Sessions of the Conference 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.

Niger

Further to its earlier observations, the Committee has noted the information communicated by the Government to the Conference Committee in 1978 to the effect that the competent services were making an in-depth review of the instruments adopted at the 51st, 56th, 58th, 60th and 61st Sessions of the Conference with a view to their submission to the competent authorities. The Committee hopes that the Government will shortly be able to indicate that the aforementioned instruments, as well as those adopted at the 59th, 62nd and 63rd 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.

Pakistan

With reference to its previous observations, the Committee has noted, from the information communicated by the Government to the Conference Committee in 1978, that the question of submission of instruments adopted by the Conference to the National Assembly and of the supply of information as requested in the Memorandum drawn up by the Governing Body, was still under active consideration. It further notes with interest the information subsequently communicated by the Government in reply to various points of the questionnaire in the above Memorandum, and relating to the submission of the instruments adopted at the 60th and 61st Sessions of the Conference.

The Committee hopes that, as a result of the Government's examination of the matter, the latter will submit the Conventions and

Recommendations adopted by the Conference to the National Assembly which, under the Constitution of Pakistan, is the body vested with legislative powers.

Peru

The Committee regrets to note that the Government has supplied no information on submission to the competent authorities since 1974. The Committee trusts that the Government will soon state that the numerous instruments still listed in the last column of the table in Appendix I to the present section of the report 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).

Sri Lanka

Referring to its previous observation, the Committee notes that the instruments adopted at the 59th and 60th Sessions of the Conference have been submitted to the competent authorities and that steps are being taken to submit the instruments adopted at the 61st and 62nd Sessions. The Committee hopes that the Government will shortly be able to state that the latter instruments, as well as those adopted at the 63rd Session, have been submitted, and that it will supply in this connection the information and documents called for in the Memorandum adopted by the Governing Body. The Committee hopes that the Government will also supply information on the proposals made and on any decisions taken in respect of the instruments adopted from the 55th to the 58th Sessions, which had previously been submitted to the National State Assembly.

Tanzania

The Committee has noted the statement made by a Government representative to the Conference Committee in 1978 to the effect that the document for the submission of the instruments adopted from the 54th to the 59th Sessions of the Conference could not yet be submitted to Parliament because of the need to translate it into Swahili, and that it was being redrafted to take account of the instruments adopted at the 60th and 61st Sessions. The Committee notes with regret that no submission of instruments has taken place for several years. It hopes that the Government will shortly be in a position to state that these instruments, as well as those adopted at the 62nd and 63rd Sessions, have been submitted to Parliament, and that it will supply the information and documents called for in the Memorandum adopted by the Governing Body in respect of the aforementioned instruments and in respect of the instruments adopted from the 47th to the 53rd Sessions.

Ukrainian SSR

The Committee notes from the information supplied by the Government that the instruments adopted at the 62nd and 63rd Sessions of the Conference have been submitted to the Presidium 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 refers to its observations of 1976 and 1977 and hopes that the Government will soon be able to indicate the results of the re-examination of these questions by the authorities concerned.

USSR

The Committee notes the information provided by the Government to the effect that the instruments adopted at the 62nd and 63rd Sessions of the Conference have been submitted to the Presidium 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 also be submitted to the Supreme Soviet itself as the legislative body and that the information and documents concerning submission might be communicated to the ILO in accordance with the Memorandum adopted by the Governing Body.

In 1975, the Government representative to the Conference Committee mentioned a new examination of the question. The Committee notes that the Government representative to the Conference Committee in 1978 stated that the suggestion that the deputies of the Supreme Soviet might be made aware of the activities of the ILO was still under study and expressed the hope that a positive solution would be found in connection with the legislative work that was under way following the adoption of the new Constitution of the USSR.

The Committee hopes that the Government will shortly be able to provide information on the decisions taken in the matter and also on the communication of the information and documents called for in the Memorandum adopted by the Governing Body.

Mr. Tunkin, member of the Committee, considered that the Committee, in its comments concerning the discharge by member States of their obligation regarding submission to the competent authorities of Conventions and Recommendations adopted by the International Labour Conference, placed undue emphasis on the problem, especially as regards the USSR and some other countries. According to the Constitution of the USSR of 1977, and the law on the "Procedure of Conclusion, Implementation and Denunciation of the International Treaties of the USSR" of 1978, the Presidium of the Supreme Soviet of the USSR, to whom the ILO documents were presented, was the competent authority within the meaning of article 19 of the ILO Constitution, because it was an organ empowered to take all appropriate action in connection with the Conventions and Recommendations adopted by the International Labour Conference.

United Arab Emirates

Further to its previous observation, the Committee notes with interest that the instruments adopted from the 58th to the 63rd Session of the Conference have been submitted to the Council of Ministers. It would be grateful if the Government would supply in this connection the information and documents called for in the Memorandum adopted by the Governing Body (points II(b) and (c) and III of the questionnaire), especially as concerns the Government's proposals as to the action to be taken on these instruments and any decisions taken in this respect.

Uruguay

The Committee notes that the instruments adopted at the 62nd Session of the Conference (except Recommendation No. 153) and Convention No. 149, adopted at the 63rd Session, have been submitted to the Council of State. Since the Government has already stated that various Conventions adopted at the 58th, 59th and 60th Sessions of the Conference were the subject of consultations, the Committee hopes that it will shortly be able to state that all the instruments still appearing in the last column of the table in Appendix I to the present section of the report have been submitted to the competent authorities and that it will provide in respect of them the information and documents called for in the Memorandum adopted by the Governing Body.

Viet Nam

The Committee notes the absence of any information concerning the submission to the competent authorities of the instruments adopted by the Conference.

Yemen

The Committee notes with regret that no information has been received in answer to its previous observation. It trusts that the instruments adopted from the 50th to the 56th Session of the Conference (excepting the Conventions ratified) and those adopted from the 60th to the 63rd Session will shortly be submitted to the competent legislative authority, and that the Government will supply in respect of these instruments and those adopted at the 49th, 58th and 59th Sessions, already submitted, the information and documents called for in the Memorandum adopted by the Governing Body.

Yugoslavia

The Committee again notes with regret that since 1974 no information has been provided concerning the submission of Conventions and Recommendations to the competent authorities. It hopes that the Government will be able to indicate in the near future that the instruments adopted at the 55th and 58th to 63rd Sessions of the Conference (with the exception of Convention No. 139, which has been ratified) 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.

Zaire

The Committee regrets to note that there has been no reply to its previous observations. It trusts that the Government will in the near future supply the document by means of which the instruments adopted at the 54th, 55th, 56th and 59th Sessions of the Conference have been submitted to the President of the Republic, and that it will also supply, in respect 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. Furthermore, it requests the Government to state whether the instruments adopted at the 58th and from the 60th to the 63rd Sessions have been submitted.

The Committee points out however, that under section 30 of the national Constitution, the President of the Republic has full powers

and presides over the Legislative Council, section 37 of the Constitution provides that he "shall exercise the legislative power with the assistance of the Legislative Council" and section 59 provides that "the initiative in legislation rests jointly" with the President and "with each member of the Legislative Council". The Committee therefore again expresses the hope that the instruments submitted to the President may also be laid before the Legislative Council.

*
* *

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Angola, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Belgium, Bolivia, Burma, Burundi, United Republic of Cameroon, Canada, Chile, Congo, Cuba, Cyprus, Czechoslovakia, Democratic Yemen, Denmark, Dominican Republic, Fiji, France, German Democratic Republic, Federal Republic of Germany, Greece, Guinea, Guinea-Bissau, Iceland, Iran, Ireland, Israel, Italy, Ivory Coast, Jamaica, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Malaysia, Mali, Mexico, Morocco, Mozambique, Nicaragua, Nigeria, Pakistan, Philippines, Poland, Portugal, Qatar, Romania, Saudi Arabia, Seychelles, Sierra Leone, Singapore, Somalia, Spain, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Upper Volta, Venezuela, Zambia.

Appendix I. Information Supplied by Governments with Regard to the Obligation to Submit Conventions and Recommendations to the Competent Authorities

(31st to 63rd Sessions of the International Labour Conference, 1948-77) ¹

Note: The number of the Convention or Recommendation is given in parentheses, preceded by the letter "C" or "R" as the case may be, when only some of the texts adopted at any one session have been submitted. Ratified Conventions are considered as having been submitted.

Account has been taken of the date of admission or readmission of States Members to the ILO for determining the sessions of the Conference whose texts are taken into consideration.

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Afghanistan	31 to 51, 53 (C 129, 130), 54 (C 131, 132), 55 (C 133, 134), 56 (C 135, 136), and 58 (C 137, 138)	52, 53 (R 133, 134), 54 (R 135, 136), 55 (R 137, 138, 139, 140, 141, 142), 56 (R 143, 144), 58 (R 145, 146), 59, 60, 61, 62 and 63
Algeria	47 to 62	63
Angola	—	61, 62 and 63
Argentina	31 to 63	—
Australia	31 to 63	—
Austria	31 to 62	63
Bahamas	—	61, 62 and 63
Bahrein	—	63
Bangladesh	58 to 60	61, 62 and 63
Barbados	51 to 63	—
Belgium	31 to 62	63
Benin	45 to 63	—
Bolivia	31 to 59, 60 (C 141, 142, 143; R 149, 150), 61 and 62	60 (R 151) and 63
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, 136; 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 (R 143), 58, 59, 60, 61, 62 and 63
Bulgaria	31 to 63	—

¹ The Conference did not adopt any Conventions or Recommendations at its 57th Session (1972).

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)
Burma	31 to 60	61, 62 and 63
Burundi	47 to 61 and 62 (R 153, 154)	62 (C 145, 146, 147; R 155) and 63
Byelorussian SSR	37 to 63	—
Cameroon	44 to 63	—
Canada	31 to 60	61, 62 and 63
Central African Empire	45 to 48, 51, 53 to 59 and 62	49, 50, 52, 60, 61 and 63
Chad	45 to 54	55, 56, 58, 59, 60, 61, 62 and 63
Chile	31 to 62	63
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, 60, 61, 62 and 63
Congo	45 to 61	62 and 63
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), 61, 62 and 63
Cuba	31 to 60 and 62 (C 145; R 154)	61, 62 (C 146, 147; R 153, 155) and 63
Cyprus	45 to 62	63
Czechoslovakia	31 to 62	63
Democratic Kampuchea	53, 54, 56	55, 58, 59, 60, 61, 62 and 63
Democratic Yemen	53 to 61	62 and 63
Denmark	31 to 61 and 63	62
Dominican Republic	31 to 61	62 and 63
Ecuador	31 to 63	—
Egypt	31 to 63	—
El Salvador	31 to 61	62 and 63
Ethiopia	31 to 53, 54 (C 131, 132; R 135), 55 and 56	54 (R 136), 58, 59, 60, 61, 62 and 63
Fiji	59 and 60	61, 62 and 63

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)
Finland	31 to 63	—
France	31 to 63	—
Gabon	45 to 50, 51 (C 127, 128; R 128, 53, 54 (C 131, 132; R 135), 56 (C 135; R 143), 58 (C 138; R 146), 60, 61, 62 (C 147; R 155) and 63	51 (R 129, 130, 131), 52, 54 (R 136), 55, 56 (C 136; R 144), 58 (C 137; R 145), 59 and 62 (C 145, 146; R 153, 154)
German Democratic Republic	59 to 63	—
Germany (Federal Republic)	34 to 61 and 62 (C 147; (R 155)	62 (C 145, 146; R 153, 154) and 63
Ghana	40 to 59	60, 61, 62 and 63
Greece	31 to 44, 45, 46 (C 118), 47 to 56, 58 (C 138; R 146), 59, 60 (C 141, 142; R 149, 150) and 61	46 (C 117; R 116, 117), 58 (C 137; R 145), 60 (C 143; R 151), 62 and 63
Guatemala	31 to 63	—
Guinea	43 to 56, 59 and 60 (C 142, 143; R 150, 151)	58, 60 (C 141; R 149), 61, 62 and 63
Guinea-Bissau	—	63
Guyana	50 to 53	54, 55, 56, 58, 59, 60, 61, 62 and 63
Haiti	31, 32 (C 91; 98; R 84, 85, 86, 87), 34 (C 99, 100), 35 (C 102, 103), 38 (C 104), 40 to 44, 45 (C 116), 46 to 49 and 54 to 63	32, (C 92, 93, 94, 95, 96, 97), 33, 34 (R 89, 90, 91, 92), 35 (C 101; R 93, 94, 95), 36, 37, 38 (R 99, 100), 39, 45 (R 115), 50, 51, 52 and 53
Honduras	39 to 63	—
Hungary	31 to 61 and 63	62
Iceland	31 to 60	61, 62 and 63
India	31 to 63	—
Indonesia	33 to 62	63
Iran	31 to 61	62 and 63
Iraq	31, 32 (C 92, 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, 58 (C 137; R 145), 59, 60 (C 142; R 150) and 61	32, (C 91, 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 (C 138; R 146), 60 (C 141, 143; R 149, 151), 62 and 63
Ireland	31 to 59	60, 61, 62 and 63

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Israel	32 to 61	62 and 63
Italy	31 to 59 and 63 (C 148; R 156)	60, 61, 62 and 63 (C 149; R 157)
Ivory Coast	45 to 61 and 63	62
Jamaica	47 to 53, 54 (C 131; R 135), 55 to 60	54 (C 132; R 136), 61, 62 and 63
Japan	35 to 63	—
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, 60, 61, 62 and 63
Kenya	48 to 63	—
Kuwait	45 to 63	—
Lao Republic	—	48, 49, 50, 51, 52, 53, 54, 55, 56, 58, 59, 60, 61, 62 and 63
Lebanon	31 (C 88, 89, 90; R 83) 32 (C 95, 98; R 85), 34, (C 100; R 90), 35 (C 102, 103), 40 (C 105, 106; R 103), 42 (C 111; R 111), 44 (C 115), 45 (C 116), 46 (C 117, 118), 47 (C 119), 48 (C 120, 121, 122; R 120, 122), 49 (C 123, 124), 50 (C 125, 126), 51 (C 127, 128; R 128), 53 (C 129, 130) and 54 (C 131; R 135)	31 (C 87), 32 (C 91, 92, 93, 94, 96, 97; R 84, 86, 87), 33, 34 (C 99; R 89, 91, 92), 35 (C 101; R 93, 94, 95), 36, 37, 38, 39, 40 (C 107; R 104), 41, 42 (C 110; R 110), 43, 44 (R 113, 114), 45 (R 115), 46 (R 116, 117), 47 (R 118, 119), 48 (R 121), 49 (R 123, 124, 125), 50 (R 126, 127), 51 (R 129, 130, 131), 52, 53 (R 133, 134), 54 (C 132; R 136), 55, 56, 58, 59, 60, 61, 62 and 63
Liberia	31 (C 87), 32 (C 92, 98), 38 (C 104), 40 (C 105), 42, 43 (C 112, 113, 114), 48, 49, 50, 55 C 133; R 140, 141) and 56	31 (C 88, 89, 90; R 83), 32 (C 91, 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 (C 134; R 137, 138, 139, 142), 58, 59, 60, 61, 62 and 63
Libyan Arab Jamahiriya	35 to 63	—
Luxembourg	31 to 62	63
Madagascar	45 to 54, 56 to 63	55
Malawi	49 to 54 and 56	55, 58, 59, 60, 61, 62 and 63
Malaysia	41 to 56	58, 59, 60, 61, 62 and 63

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)
Mali	44 to 62	63
Malta	49 to 54	55, 56, 58, 59, 60, 61, 62 and 63
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, 60, 61, 62 and 63
Mauritius	53 to 58, 59 (C 139; R 147) and 61	59 (C 140; R 148), 60, 62 and 63
Mexico	31 to 61	62 and 63
Mongolia	53 to 61	62 and 63
Morocco	39 to 62	63
Mozambique	—	61, 62 and 63
Nepal	54 (C 131), 62 and 63	51, 52, 53, 54 (C 132; R 135, 136), 55, 56, 58, 59, 60 and 61
Netherlands	31 to 62	63
New Zealand	31 to 62	63
Nicaragua	40 to 62	63
Niger	45 to 51 (C 127; R 128, 129, 130), 52 to 56 (C 135) and 58 (C 138)	51 (C 128; R 131), 56 C 136; R 143, 144), 58 (C 137; R 145, 146), 59, 60, 61, 62 and 63
Nigeria	45 to 63	—
Norway	31 to 63	—
Pakistan	31 to 61	62 and 63
Panama	31 to 63	—
Papua-New Guinea	61 to 63	—
Paraguay	40 to 61	62 and 63
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), 60, 61, 62 and 63
Philippines	31 to 63	—
Poland	31 to 60, 61 (R 152) and 62 (R 154, 155)	61 (C 144), 62 (C 145, 146, 147; R 153) and 63
Portugal	31 to 56 and 60 (C 143; R 151)	58, 59, 60 (C 141, 142; R 149, 150), 61, 62 and 63

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)
Qatar	58 (C 137, 138; R 145) and 59 (R 147)	58 (R 146), 59 (C 139, 140; R 148), 60, 61, 62 and 63
Romania	39 to 63	—
Rwanda	47 to 63	—
Saudi Arabia	61 to 63	—
Senegal	44 to 63	—
Seychelles	—	63
Sierra Leone	45 to 62 (C 145, 147; R 153, 155)	62 (C 146; R 154) and 63
Singapore	50 to 61	62 and 63
Somalia	45 to 62	63
Spain	39 to 60, 61 (R 152) and 62	61 (C 144) and 63
Sri Lanka	31 to 60	61, 62 and 63
Sudan	39 to 61	62 and 63
Suriname	—	61, 62 and 63
Swaziland	—	60, 61, 62 and 63
Sweden	31 to 63	—
Switzerland	31 to 62	63
Syrian Arab Republic	31 to 58 (C 138; R 146), 59 (C 139; R 147) and 60 (C 143; R 151)	58 (C 137; R 145), 59 (C 140; R 148), 60 (C 141, 142; R 149, 150), 61, 62 and 63
Tanzania	46 to 53	54, 55, 56, 58, 59, 60, 61, 62 and 63
Thailand	31 to 60	61, 62 and 63
Togo	44 to 59	60, 61, 62 and 63
Trinidad and Tobago	47 to 62	63
Tunisia	39 to 61 and 63	62
Turkey	31 to 63	—
Uganda	47 to 63	—
Ukrainian SSR	37 to 63	—
United Arab Emirates	58 to 63	—
United Kingdom	31 to 63	—

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)
Upper Volta	45 to 58, 60 (C 143), 61 and 63	59, 60 (C 141, 142; R 149, 150, 151) and 62
Uruguay	31 to 53, 54 (C 131, 132), 55 (C 133, 134), 56, 58 (C 138), 59 (C 140), 62 (C 145, 146, 147; R 154, 155), and 63 (C 149)	54 (R 135, 136), 55 (R 137, 138, 139, 140, 141, 142), 58 (C 137; R 145, 146), 59 (C 139; R 147, 148), 60, 61, 62 (R 153) and 63 (C 148; R 156, 157)
USSR	37 to 63	—
Venezuela	31 to 63	—
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, 60, 61, 62 and 63
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), 60, 61, 62 and 63
Yugoslavia	31 to 54, 56 and 59 (C 139; R 147)	55, 58, 59 (C 140; R 148), 60 61, 62 and 63
Zaire	45 to 56 and 59	58, 60, 61, 62 and 63
Zambia	49 to 62	63

Appendix II. — Over-all position of member States at 22 March 1979

Sessions at which decisions were adopted	Number of States in which, according to information supplied by Government			
	All the texts have been submitted	Some of these texts have been submitted	None of these texts have been submitted (including cases in which no information has been supplied by the Government)	Number of States which were Members of the Organisation at the time of the session
31 (June 1948)	58	2	—	60
32 (June 1949)	57	4	—	61
33 (June 1950)	59	— ¹	4	63
34 (June 1951)	61	2	1	64
35 (June 1952)	62	3	1	66
36 (June 1953)	63	—	3	66
37 (June 1954)	65	— ¹	4	69
38 (June 1955)	65	2	2	69
39 (June 1956)	71	—	5	76
40 (June 1957)	72	5	—	77
41 (April/May 1958)	74	1	4	79
42 (June 1958)	76	3	—	79
43 (June 1959)	76	2	2	80
44 (June 1960)	79	2	2	83
45 (June 1961)	94	7	—	101
46 (June 1962)	94	7	1	102
47 (June 1963)	99	7	2	108
48 (June/July 1964)	103	6	1	110
49 (June 1965)	108	5	1	114
50 (June 1966)	104	7	4	115
51 (June 1967)	106	7	4	117
52 (June 1968)	104	— ¹	14	118
53 (June 1969)	109	6	6	121
54 (June 1970)	104	11	6	121
55 (October 1970)	96	9	16	121
56 (June 1971)	104	8	9	121
58 (June 1973)	88	10	25	123
59 (June 1974)	97	5	23	125
60 (June 1975)	86	9	31	126
61 (June 1976)	79	1	51	131
62 (October 1976)	59	7	66	132
63 (June 1977)	45	1	89	135

¹ At this session the Conference adopted one Recommendation only.