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70th Session 1984

# WORKING TIME

**Reduction of hours of work,  
weekly rest and holidays with pay**

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



**International Labour Conference**  
**70th Session 1984**

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**Report III**  
**(Part 4 B)**

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

**General Survey of the Reports relating to**  
**the Reduction of Hours of Work**  
**Recommendation (No. 116), the Weekly Rest**  
**(Industry) Convention (No. 14), the Weekly Rest**  
**(Commerce and Offices) Convention (No. 106) and**  
**Recommendation (No. 103), and the Holidays with**  
**Pay Convention (Revised) (No. 132)**

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

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## GENERAL INTRODUCTION

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 218th Session (November 1981) to request reports on the following instruments:

- the Reduction of Hours of Work Recommendation, 1962 (No. 116);
- the Weekly Rest (Industry) Convention, 1921 (No. 14);
- the Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106);
- the Weekly Rest (Commerce and Offices) Recommendation, 1957 (No. 103); and
- the Holidays with Pay Convention (Revised), 1970 (No. 132).

In pursuance of this decision, the Committee has drawn up a general survey of the situation, in accordance with its usual practice.

2. Each of the subjects considered in this survey - reduction of working hours, weekly rest and holidays with pay - has been the subject of a previous general survey made by the Committee nearly 20 years ago: in 1964 separate surveys were made on holidays with pay and weekly

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<sup>1</sup> Report of the Committee of Experts on the Application of Conventions and Recommendations (RCE), International Labour Conference (ILC), 48th Session, Geneva, 1964, Report III (Part IV), Part Three, p. 215: General conclusions on the reports relating to the Holidays with Pay Convention (No. 52) and Recommendation (No. 47), 1936, the Holidays with Pay Recommendation, 1954 (No. 98), and the Holidays with Pay (Agriculture) Convention, 1952 (No. 101).

rest<sup>1</sup> and in 1967 the general survey was on hours of work.<sup>2</sup> The two Conventions on holidays with pay considered in 1964 have since been revised by Convention No. 132, so that it is now possible to place that question in the framework of the more modern instrument. On the subject of hours of work, the only instrument on which reports were requested this time was Recommendation No. 116 on which the Governing Body put the main emphasis for the general survey of 1967. This Recommendation, like the other instruments now being examined, was included in the category of "instruments to be promoted on a priority basis" by the Governing Body of the ILO as the outcome of its in-depth review of international labour standards in 1979.<sup>3</sup> Furthermore, the question of arrangement of working time, including shift work and night work, was placed by the Governing Body amongst the subjects concerning which the formulation of new instruments should be considered. These decisions, combined with the inclusion in the ILO's Medium-Term Plan, 1982-87, of all three subjects of hours of work, weekly rest and holidays with pay, as worth considering separately for article 19 reports, evidence the enduring feeling in the ILO that questions of working time merit periodical review and reconsideration in the light of changing circumstances.

3. A survey of current trends in working time is of topical interest, not only in view of the subject's traditional importance among other aspects of conditions of work, but also because of the relationship sometimes drawn - recently with renewed interest - between working time policies and employment policies. The present survey draws together the strands of three lines of development pursued by international labour standards with a view to the reduction of working time. The adoption since the very beginning of the International Labour Organisation of the Hours of Work (Industry) Convention, 1919 (No. 1), and subsequently of progressive Conventions and Recommendations dealing with hours of work, weekly rest and holidays with pay has continually provided evidence of the constant validity of the Constitution's

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<sup>1</sup> *ibid.*, p. 311: General conclusions on the reports relating to the Weekly Rest (Industry) Convention, 1921 (No. 14), the Weekly Rest (Commerce and Offices) Convention (No. 106) and Recommendation (No. 103), 1957.

<sup>2</sup> RCE Report III (Part IV), Part Three, 1967, p. 171: General survey on the reports concerning the Hours of Work (Industry) Convention, 1919 (No. 1), the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30), the Forty-Hour Week Convention, 1935 (No. 47), and the Reduction of Hours of Work Recommendation, 1962 (No. 116).

<sup>3</sup> Final report of the Working Party on International Labour Standards, in Official Bulletin (OB), Special Issue, Vol. LXII, 1979, Series A, p. 16.

preoccupation with the improvement of conditions of labour through the establishment, in particular, of steadily improved standards on working time. As regards other international action in this field, mention should be made in particular of the International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly of the United Nations in 1966. The Covenant, which came into force in January 1976, lays down (Article 7) the right to just and favourable conditions of work, including rest, leisure, reasonable limitation of working hours, and periodic holidays with pay, as well as remunerated public holidays. The choice by the Governing Body of the ILO of the subject of working time for reporting under article 19 of the Constitution in 1983 presents the opportunity of reviewing as a whole the achievements already attained in implementing international standards adopted in this area and at the same time of enabling new consideration to be given to the subject in current trends and policies.

#### Arrangement of the survey

4. With this background, the survey will examine the law and practice in member States of the ILO as regards working time in terms of the three selected subjects covered by the international labour standards being considered. The survey is divided into three chapters dealing respectively with reduction of hours of work, weekly rest, and holidays with pay. In a final section, some considerations regarding questions of working time which are common to all three subjects are referred to in the general conclusions to the survey.

#### Information available

5. The survey is based on reports supplied under article 19 of the ILO Constitution on Recommendations Nos. 103 and 116 and, in respect of States which have not ratified them, on Conventions Nos. 14, 106 and 132. Information supplied in reports under article 22 of the Constitution by countries which have ratified any of the Conventions Nos. 14, 106 and 132 has also been examined (the position as to ratification is given under the relevant chapters). Reports under either article 19 or article 22 from a total of 142 countries (133 States and nine non-metropolitan territories) have thus been taken into consideration.<sup>1</sup> In addition, the Committee has examined the information in article 22 reports supplied by governments on other Conventions, especially those relating to hours of work. On the whole, the information available has permitted a comprehensive assessment to be made of the situation.

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<sup>1</sup> See Appendix II.



6. In several cases<sup>1</sup> information or comments have been received from employers' or workers' organisations on the matters dealt with in the government reports, copies of which must be communicated to such organisations in accordance with article 23(2) of the ILO Constitution. As usual, the Committee has endeavoured to take due account of relevant legislation and national practices (particularly collective agreements, where available).

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<sup>1</sup> Australia (Confederation of Australian Industry); Austria (Congress of Austrian Chambers of Labour); Finland (Finnish Employers' Confederation (STK), Employers' Confederation of Service Industries (LTK), Central Organisation of Finnish Trade Unions (SAK), Confederation of Salaried Employees (TVK)); India (Orissa Branch of Hind Mazdoor Sabha); Italy (Confederation of Commerce (CONFCOMMERCIO), Association for Petrochemical and Allied Concerns (ASAP)); Japan (General) Council of Trade Unions of Japan (SOHYO), Japanese Confederation of Labour (DOMEI)); Malaysia (Malaysian Employers' Federation, Malaysian Trades Union Congress, Congress of Unions of Employees in the Public and Civil Service); Mexico (Confederation of Mexican Workers (CTM)); Portugal (Confederation of Portuguese Industry (CIP), General Confederation of Portuguese Workers (CGTP)); Somalia (General Federation of Somali Trade Unions, Chamber of Commerce, Industry and Agriculture); Switzerland (Swiss Union of Trade Unions (USS)); United Kingdom and United Kingdom (Guernsey, Isle of Man, Jersey) (Trades Union Congress).

## CHAPTER I

### REDUCTION OF HOURS OF WORK

#### Introduction

7. In its 1967 general survey on the reduction of hours of work, the Committee stressed the dynamic character of the problem, the evaluation of which is closely linked to the factors which govern economic and social development.<sup>1</sup> As this survey will show, the subject of working time has remained dynamic and in many aspects has continued to progress in both national and international standards. Thus, many ILO instruments adopted in recent years either deal directly with working hours<sup>2</sup> or contain provisions relating to working hours.<sup>3</sup> In 1975, the Conference adopted a resolution concerning future action of the ILO in the field of working conditions and environment which was the launching base of PIACT (the International Programme for the Improvement of Working Conditions and Environment). The questions of hours of work and the use of free time are among the aspects referred to in the resolution. In these developments, the dynamics of the problem are necessarily linked to and conditioned by prevailing economic and social factors as stressed in Paragraph 7 of Recommendation No. 116. This means that the question of working time must be considered in relation to factors such as the effect of new technology and employment

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<sup>1</sup> RCE 1967 op. cit., paras. 308-309.

<sup>2</sup> The Hours of Work and Rest Periods (Road Transport) Convention (No. 153) and Recommendation (No. 161), 1979.

<sup>3</sup> For example, the Special Youth Schemes Recommendation, 1970 (No. 136) advocates the limitation of daily and weekly work and training so as to allow for education, rest and leisure; the Nursing Personnel Convention (No. 149) and Recommendation (No. 157), 1977, provide for conditions at least equivalent to those of other workers in respect, inter alia, of working time; the Workers with Family Responsibilities Recommendation, 1981 (No. 165) refers to the question of progressive reduction of hours of work. The Occupational Safety and Health Convention (No. 155) and Recommendation (No. 164), 1981, refer to the need of adaptation of working time to questions of safety and health.

policy objectives. The discussion on supplementary standards on employment policy at the 69th Session of the Conference (1983) has specifically connected the reorganisation and reduction of working time with national employment policies.<sup>1</sup> This general survey will keep all these considerations in mind, when examining the various aspects of the question covered by Recommendation No. 116.

8. The present chapter will review in successive sections the general aims of the Recommendation and the national policies for reducing hours of work, the programme and methods of application, the determination of hours of work, exceptions to normal hours and overtime, the role of employers' and workers' organisations and the means of ensuring observance of the standards nationally. The connection between reduction of working hours and the two other aspects of working time dealt with in this general survey - weekly rest and annual paid holidays - will be borne in mind.

### I. General aims of Recommendation No. 116

#### (a) Principle of progressive reduction of hours of work

9. According to its Preamble, the Recommendation is designed to supplement and facilitate the implementation of existing instruments on hours of work by indicating practical measures which take into account various economic and social conditions and national practices, by outlining possible methods of application, by indicating the standard set out as a principle by the Forty-Hour Week Convention, 1935 (No. 47) as a social standard to be reached by stages if necessary, and by the setting of a maximum limit to normal hours of work in pursuance of the Hours of Work (Industry) Convention, 1919 (No. 1).

10. Paragraph 4 of the Recommendation spells out the principle of progressive reduction of hours of work referred to in the Preamble. Normal hours of work should be progressively reduced, when appropriate, with a view to attaining the social standard of the 40-hour week without any reduction in the wages of workers as at the time hours of work are reduced. In the achievement of the aim of a 40-hour week, the Recommendation sets a first immediate objective, in Paragraph 5, of bringing the normal working week down to the level of 48 hours where it is above that level, without any corresponding reduction in wages.

11. According to Paragraph 1 of the Recommendation, "each Member should formulate and pursue a national policy designed to promote ... the adoption of the principle of the progressive reduction of normal

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<sup>1</sup> ILC, 69th Session (Geneva, 1983), Provisional Record, No. 34, para. 62.

hours of work" as set out above. According to Paragraph 2, each Member should also "in so far as is consistent with national conditions and practice, ensure the application of the principle".

(b) Formulation of national policy

(i) Form and contents of national policy

12. The national policy envisaged by Paragraph 1 of the Recommendation may take many forms, since it is designed to promote the principle of progressive reduction of normal hours of work by methods "appropriate to national conditions and practice and to conditions in each industry". While there may be no formal policy declaration, a national policy on the reduction of hours of work can be deduced either from all measures taken in this field through legislation or collective agreements or other measures, or even from a deliberate non-intervention by the government in the process of fixing hours of work.

13. It should be borne in mind that action to reduce working hours, at both national and international levels, has already extended over a long period, marked as regards ILO standards, by the two steps recalled in the Preamble to Recommendation No. 116: the 48 hours limit set by Convention No. 1, and the 40 hours social standard of Convention No. 47, subsequently reaffirmed by Recommendation No. 116. It is in this perspective that the formulation and pursuit of a national policy for the progressive reduction of hours of work must be seen, in terms of Recommendation No. 116. While such policy may be more directly relevant to those countries where the maximum limits set to normal hours of work are, either in general or in certain activities, relatively high, indications in many governments' reports are that the reduction of working hours continues to be a major social objective.

14. In some countries the principle of limiting hours of work has been embodied in the Constitution, and/or Labour Code,<sup>1</sup> sometimes linked to a right to leisure or rest.<sup>2</sup> In several cases where governments have indicated that the social standard of the 40-hour week

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<sup>1</sup> For example, Antigua and Barbuda, Argentina, Bahrain, Brazil, United Republic of Cameroon, Canada, Colombia, Comoros, Congo, Cuba, Czechoslovakia, Djibouti, Dominican Republic, Ecuador, France, Gabon, German Democratic Republic, Guatemala, Indonesia, Italy, Mali, New Zealand, Norway, Panama, Rwanda, Saudi Arabia, Senegal, Singapore, Somalia, Spain, Sweden, Switzerland, United States, Democratic Yemen.

<sup>2</sup> For example, Bulgaria, China, Guyana, Hungary, Romania, USSR, Yugoslavia.

has already been generally attained, national policy has continued to promote further improvements in terms of a general continuing reduction below 40 hours<sup>1</sup> or more advantageous arrangement of working time.<sup>2</sup>

15. Many countries provide information showing that national policy is primarily concerned to allow hours of work to be fixed through collective bargaining and that, through this means, the 40-hour standard has either been generally achieved<sup>3</sup> or progress has been made towards it.<sup>4</sup> In some of these cases, where the national policy does not involve legislation as a primary means of reducing hours of work, there is none the less often legislative provision giving special working time protection in certain (sometimes arduous or dangerous) activities<sup>5</sup> or for certain categories of workers such as young persons<sup>6</sup> or a framework of joint bodies (industrial tribunals, wage councils or similar machinery) for collective bargaining on working time and other conditions of work in various activities.<sup>7</sup> One country has, in connection with its employment policy expressed its strategy as one of removing legislative obstacles to reduction of hours of work and, whilst itself active in the public sector in this area, encouraging decentralised decision-making.<sup>8</sup>

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<sup>1</sup> For example, Belgium, France (a level of 35 hours is the aim for 1985), Italy (further reductions have been agreed by national collective agreement for 1984-85), Sweden.

<sup>2</sup> Through collective bargaining (e.g. France) or after consultation of employers and workers, and possibly through flexible hours (e.g. Spain).

<sup>3</sup> For example, Austria (also by enactment), Barbados, Denmark, Netherlands, United States (also by enactment).

<sup>4</sup> For example, Singapore (a 44-hour week).

<sup>5</sup> For example, Cyprus (e.g. miners), Mauritius (in the bus industry), Netherlands (civil service). In Zambia, the Minister may regulate normal hours of work for any group of workers for whom no adequate provision exists.

<sup>6</sup> For example, Cyprus, United Kingdom (in a few limited circumstances).

<sup>7</sup> For example, Malta, United Kingdom.

<sup>8</sup> Netherlands.

16. In many countries, hours of work and working time in general are a subject of active debate, whatever the position of the government on the question of what national policy should be.<sup>1</sup> Such debate may take place in the legislature or in academic or trade union circles, and in most countries it is a subject on which employers and workers manifest their own policies in collective bargaining, either at the national level or at the undertaking or individual levels.<sup>2</sup> At the same time, it is evident from many governments' reports - particularly from countries which are not industrialised - that a certain reserve is entertained at the level of national policy-making. This may be because the government of a relatively newly independent country has not yet been able to give priority to the formulation of a policy in the terms of Recommendation No. 116,<sup>3</sup> or often it is because the immediate reduction of working hours is not regarded as appropriate at the present stage of economic development.<sup>4</sup> It should be borne in mind, however, that in all the countries referred to in table 1 below, general limitations on hours of work exist as indicated, and also that the first immediate aim of a 48-hour week in accordance with Paragraph 5 of the Recommendation has been reached in virtually all countries.

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<sup>1</sup> For example, in Denmark in June 1983, the Parliament called on the Government to initiate discussions with the social partners concerning the social effects of an overall working time policy. In Guyana there are continuing discussions, including with employers' and workers' representatives, particularly in the Labour Code Commission which has recommended some changes in respect of hours of work. In its report, the Government of India refers to the view of the workers' organisation the Hind Mazdoor Sabha (Orissa Branch) that working hours may be reduced from 48 to 40 per week. The Government of Japan describes the role of administration as to make efforts to form a national consensus on the question of working hours and to encourage and promote the voluntary efforts of employers and workers. In Sweden, the Delegation for the Study of Working Hours (DELFA) is a group of experts appointed by the Government to review activities and developments in the area and to initiate research and analysis for further debates.

<sup>2</sup> In Italy, in a National Accord in January 1983 between the Government and employers' and workers' organisations, agreement was reached for further reductions in working hours of 20 per year in the second half of 1984 and another 20 per year in the first half of 1985.

<sup>3</sup> For example, Antigua and Barbuda.

<sup>4</sup> For example, United Republic of Cameroon, India, Mauritius, Pakistan, Rwanda, Somalia, Tanzania, Turkey.



17. The absence of a formal national policy may also be in many cases due to the relatively small workforce involved in countries where the predominant economic activities are informal, for example, in agriculture (excluded by Paragraph 23 of the Recommendation).<sup>1</sup> Further, the same countries may often be moving towards industrialisation at least in some sectors or regions, and they regard the growth of labour costs which might follow from the reduction of working time as an expense which cannot be borne by the often very precarious national economy.<sup>2</sup>

(ii) Problems in formulating  
the national policy

18. Whatever difficulties developing and other countries might have in formulating and administering a policy for the progressive reduction of working hours, it should be remembered that the Recommendation is marked by a high degree of flexibility in all its provisions. The Recommendation (Paragraph 3 and passim) allows for implementation of the principle of progressive reduction by any means appropriate to national conditions and the needs of each branch of activity. Paragraph 7(a) and (c) of the Recommendation specifically contemplates factors relating to the level of economic development and the need to maintain production, productivity and economic growth and competitiveness, to develop new industries, and to improve standards of living in developing countries. The Recommendation (Paragraphs 7(d) and 20) also calls for special regard for the views and preferences of employers' and workers' organisations. Under the Recommendation (Paragraphs 11 to 19), the manner in which hours of work are to be calculated, for example, for shift work or in cases where permanent, temporary or periodic exceptions are possible, leaves - subject to certain guarantees for the workers concerned - a good measure of discretion to the national authorities as to the method of application of the principle of reducing working hours. It is clear that the Recommendation and the principles that it lays down are meant to accommodate and are capable of accommodating varying national conditions, including those of developing countries.

19. As regards industrialised countries too, the reduction of working hours without loss of earnings is often linked by employers and governments to the need to maintain competitiveness by not allowing

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<sup>1</sup> See D. Marić: La durée du travail dans les pays en voie de développement (Geneva, ILO, 1981 - in French only) e.g. p. 2.

<sup>2</sup> For example, Pakistan.

costs to escalate.<sup>1</sup> In this respect the considerations now prevailing are largely different from those of economic expansion and shortage of manpower referred to in the Committee's 1967 general survey (paragraph 83), since the current climate is one of recession, and since the effects of increasing productivity through the application of modern technology and automation (Paragraph 7(b) of Recommendation No. 116) have become particularly evident.<sup>2</sup> Thus, the trend now tends sometimes to be to link the reduction of working time to questions of productivity, and also to the spreading of "available work" over a greater number of workers.<sup>3</sup> These aspects of the problem will be further examined when considering the economic and social factors which are to be taken into account in measures for the reduction of hours of work.

## II. Programme and methods of reduction of hours of work

20. The Recommendation, having called for a national policy for the progressive reduction of normal hours of work with both immediate and long-term objectives, proceeds to examine possible ways and means of achieving them. This section considers these questions and the manner in which they are dealt with at the national level, according to the information available.

### (a) Methods of application

21. The Recommendation provides for a free choice of methods. The means contemplated by Paragraph 3 include "laws or regulations, collective agreements, or arbitration awards ... a combination of these various means, or ... any other manner consistent with national practice, as may be appropriate to national conditions and to the needs of each branch of activity". In indicating how normal hours of work may be fixed, Paragraph 11 of the Recommendation refers to "recognised rules or custom of the establishment or of the process concerned". Paragraph 22 also preserves "any law, regulation, award, custom, agreement or negotiation between employers and workers" which might provide more favourable conditions for the workers.

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<sup>1</sup> See, for example, Record of Proceedings, ILC, 45th Session, Geneva, 1961, Appendix VII, esp. para. 77 (Report of the Committee on Hours of Work).

<sup>2</sup> See Employment Policy, ILC (Report VI (1)), 69th Session, Geneva, 1983 (the law and practice report for discussion at the Conference), p. 36 (employment effects of recent technological innovations).

<sup>3</sup> For example, in recent discussions in certain West European countries and regional organisations.

22. Most commonly, hours of work are governed by a combination of legislation and collective agreements. Thus, a great many countries indicate that there is legislation - sometimes anchored in the Constitution, Labour Code or other basic law - laying down a generally applicable maximum working week.<sup>1</sup> In some cases, there is specific legislation dealing with hours of work, for example, where it has been progressively reduced from a former general standard either over a period of time<sup>2</sup> or for particular occupations and activities.<sup>3</sup> In federal states there may be a division of competence between the national and the state level.<sup>4</sup> In the systems where legislation is the main method, there is usually the possibility of further reductions of the working week below the maximum allowed in law, and such further reductions are often through some form of collective bargaining:<sup>5</sup> this collective bargaining may take place through national or undertaking-level agreements, or it may be within the framework of a system of joint councils - with or without government participation - themselves set up under legal enactments.<sup>6</sup>

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<sup>1</sup> For example, Antigua and Barbuda, Bulgaria, Guyana, India, Indonesia, New Zealand, Norway, Saudi Arabia, Singapore, Spain. In Sweden, the legislation concerning hours of work is largely optional, i.e. it can be overridden by collective agreement (Working Hours Act, 1982, section 3).

<sup>2</sup> For example, Hungary (in 1981 the level was reduced from 44 to 42).

<sup>3</sup> For example, Finland, Pakistan.

<sup>4</sup> For example, India, United States.

<sup>5</sup> For example, Belgium, Ethiopia, France (the Government encourages further reductions through "solidarity contracts": employers recruiting workers when hours have been reduced may be exempt from certain social security charges), Federal Republic of Germany (the statutory maximum of 48 hours has been reduced to 40 for nearly all workers covered by collective agreements), Japan (a statutory maximum of 48 hours may be combined with individual or collective agreements for a lower level; the Government has also given administrative guidance for the reduction of working hours, formulated a programme for their reduction and held industry-based meetings on the subject intended especially for small and medium enterprises and local industries; the workers' organisations SOHYO and DOMEI in their comments state that the results of this 1980 programme are, however, unsatisfactory and of no effect).

<sup>6</sup> For example, Antigua and Barbuda (undertaking-level); in Belgium, collective agreements may be given an extended application through a system of sectoral joint committees; Federal Republic of Germany (collective agreements generally contain clauses referring to the question of normal working hours to plant level), Italy (the tripartite National Accord of January 1983).

23. On the other hand, there are governments which indicate that in fixing working hours - and thus implementing a policy for reducing them - it is collective bargaining which is the usual means.<sup>1</sup> In some cases, governments do not regard it as the role of government or legislation to interfere in the fixing of working hours by collective bargaining, and no generally applicable legal maxima have been laid down,<sup>2</sup> although provisions may none the less exist to deal with some of the particular cases contemplated by the Recommendation (e.g. protection of women or young persons or particularly arduous occupations).<sup>3</sup> There may also under this kind of system be legal provision for joint bodies of some kind in which the collective bargaining takes place,<sup>4</sup> or a system of arbitration awards where certain legislative provisions are read into the conditions which will apply between employers and workers.<sup>5</sup> It should in any event be remembered that the government cannot fail to have a leading role in its capacity as an important employer - and often as the employer with the greatest number of workers in the country. Public employees of all kinds are covered by Recommendation No. 116 and are thus entitled to the benefit of whatever means are suited to national conditions for the fixing and, as appropriate, reduction of working hours.<sup>6</sup>

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<sup>1</sup> For example, United Kingdom. In the case of Switzerland (where generally applicable levels of 45 or 50 hours a week have been fixed by legislation), the Union of Swiss Trade Unions (USS) states in its comments that the State should adapt its legislation to the new standards emerging progressively through the process of negotiation and also reduce in practice the variety of sectoral solutions.

<sup>2</sup> For example, Barbados, Denmark, Mauritius, Netherlands.

<sup>3</sup> For example, Mauritius (young persons), United States (young persons), see also paragraph 37 below.

<sup>4</sup> For example, Canada (Quebec) (an occupational safety and health committee in which employers and workers are represented may make regulations fixing maximum hours), Malta (orders are issued on the basis of wages council proposals; independent persons are also members of the wages council), Pakistan (bilateral negotiating bodies like works councils and management committees assist in the application of the labour laws), Sierra Leone, Zambia.

<sup>5</sup> For example, New Zealand.

<sup>6</sup> In Austria, general legislation draws on the provisions of collective agreements whilst there is separate legislation for the civil service; in Mauritius all public sector officers except policemen and watchmen have a week of 40 hours or less through administrative arrangements; in the Netherlands, public employees are apparently the

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24. In a few countries the modality of fixing and reducing working hours is different, although involving in some form the element of consensus amongst the parties involved. This consensus may show itself in established custom which appears to produce a result satisfactory to those concerned.<sup>1</sup>

25. The consultation of employers' and workers' organisations in questions relating to the application of the Recommendation is an element which should, according to Paragraph 20, in any case be present in the national practice. Whilst this aspect is examined in greater detail below (section VI), it is already evident that the role played by employers and workers and their organisations is a large one as regards reductions of hours of work in many countries, very often through some form of collective bargaining.

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only workers covered by legislation on hours of work; in the United States, the federal legislation covers over 50 million full-time or part-time workers employed in inter-state commerce or by public authorities or on public contracts; in the United Kingdom, where there are no general legislative, administrative or practical measures on hours of work, there are none the less arrangements under the "Net Annual Hours Formula" for the civil service and a system of "comparability" with outside organisations. According to the comments of the Trades Union Congress, it should be the trend of outside movements which is the basis for comparison rather than an absolute measurement, given the length of time over which reductions of hours occur. The TUC also regards the "Net Annual Hours Formula" as unfair and would prefer negotiation of reductions of hours as part of an overall Civil Service package.

<sup>1</sup> In Antigua and Barbuda, custom was replaced by a Labour Code and collective agreements from 1975 for the fixing of hours of work; in Canada (New Brunswick), the question is generally left to formal or informal contractual arrangements between employer and employee; in Egypt in the government sector, hours are said to be fixed by administrative custom; in Hong Kong, hours are mainly fixed by local customary practice; the Mauritius Government refers to private employer-worker arrangement for further reductions for some clerical and managerial staff; in Switzerland, the legislation speaks of hours fixed by contract or usage, model labour contract or collective agreement; in Yugoslavia, self-management enactments of basic labour organisations may fix a level below the 42 hours per week laid down in the federal Constitution.

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(b) Scope

26. Recommendation No. 116 provides for reduction of hours of work in general, except that it does not apply to agriculture, maritime transport or maritime fishing (Paragraph 23). Within this general scope, however, the Recommendation provides for flexible implementation of its objectives through the progressive reduction of working hours by stages gradually encompassing branches and sectors of the economy (Paragraph 8) with priority to be given to certain occupations or categories of worker (Paragraph 9). These aspects will be further examined below (paras. 31-37).

27. At the national level, countries which have legislation of general scope on the subject may make it applicable in terms of the employment relationship and/or the work unit (undertaking). Where the legislation is of general scope, it may apply to "workers" defined, for example, as all those in an employment relationship with an employer, who may in turn be an individual or a legal person or a public body or authority. In some cases, the work unit may be the basis for the application of the provisions, so that the general legislation may or may not apply to private or public undertakings,<sup>1</sup> or to profit- or non-profit-making bodies.<sup>2</sup> There may be different general provisions for "wage earners" (blue-collar workers) and "salaried employees" (white-collar workers). Countries having legislation on hours of work sometimes draw this distinction<sup>3</sup> in the same way that the earlier ILO Conventions on limitation of working hours dealt respectively with industry (Convention No. 1) and commerce and offices (Convention No. 30) and some national legislation<sup>4</sup> had made different provisions for general conditions of work in factories, on the one hand, and shops and offices on the other.

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<sup>1</sup> For example, in Bahrain the Labour Law of 1976 applies to the private sector only; in Guatemala, civil servants are subject to a special regime of a 44-hour week instead of 48; in Japan there are separate rules for national public employees; in Malta, the private sector only is covered by wages regulation orders, the public sector being regulated separately; in Mauritius there are administrative arrangements for the public sector but no general measures for the private sector; in New Zealand there are separate enactments relating to the public and private sectors; in Panama, civil servants are subject to separate rules; in Spain there is separate provision (42 hours instead of 40) for public officials.

<sup>2</sup> For example, Bangladesh, Guatemala, India, Pakistan.

<sup>3</sup> For example, India, Pakistan.

<sup>4</sup> For example, the United Kingdom.



28. Thus, the scope of national measures may be general or may deal with particular branches of the economy or activities or categories of worker. In the latter case there are often also supplementary means of limited scope for dealing with other workers.<sup>1</sup>

29. Examined separately in this survey (see section IV below) are activities involving particular considerations in fixing working time, such as those where there are continuous processes (Paragraph 13), or where work is relatively irregular or intermittent due to special conditions in certain branches of activity (Paragraph 12) or subject to greater demand periodically or because of unusual circumstances (Paragraph 14). As Paragraph 7(d) of the Recommendation indicates, employers and workers in different activities have an important role in bringing their views and experience to bear when policies are applied in respective branches. Through them - particularly, but not only, where it is collective bargaining which is the main method of fixing working hours - the scope of provisions which are part of the process of progressive reduction of hours of work may be continually enlarged and adapted, as appropriate to national conditions and to conditions in each industry.

30. The information available shows that, at the national level, differentiations are drawn in practice between various kinds of work or workers, for purposes of fixing hours of work, and that various national measures are taken to accommodate different situations. Through this process there appear to be some sectors or kinds of activity which in various countries have commonly fallen outside the mainstream trends towards reduction of working time.<sup>2</sup> The scope of the national measures is examined below also in relation to the question of implementation by stages.

(c) Implementation by stages

31. Paragraph 8 of Recommendation No. 116 indicates that the progressive reduction of normal hours of work may take place by stages over time or gradually taking in branches and/or sectors of the economy, or by other appropriate arrangements. When conditions of work are fixed by legislative or other means, as well as when collective

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<sup>1</sup> For example, Guyana (wage council orders for other than factory workers): in India workers not covered by the Factories Act may be covered by sectoral agreements (special provisions apply to civil servants); Netherlands (special provisions for shop workers); in Panama, though the Labour Code applies generally, there are special provisions for broadcasting workers.

<sup>2</sup> For example, in Australia, 11 per cent of employees are not covered by any award or legislation (e.g., managerial staff).

bargaining plays a leading role, it is very common that the question of reducing hours of work is raised each time these arrangements are reviewed and often on a regular basis. In this way, a time-phased reduction of hours of work may be arrived at pragmatically.<sup>1</sup> As recalled above, action - national or international - to reduce hours of work is spread over a long period of time and national policy generally favours gradual rather than drastic changes, since the cost to the national economy may thus be more easily distributed and borne.<sup>2</sup>

32. In any case where the normal working week exceeds 48 hours, the reduction to 48 hours should be by "immediate steps", according to Paragraph 5 of the Recommendation. Whilst a general level of, at most, a 48-hour normal working week seems almost universal (see table 1 and section VIII below), there remain a number of sectors or activities in various countries in which the "immediate steps" referred to in Paragraph 5 would be appropriate, rather than the progressive "stages" dealt with in Paragraph 8.<sup>3</sup>

33. Since hours of work are often fixed - sometimes by legislation and often through collective bargaining - by branch or sector, or by occupation, reduction by stages also takes place by these arrangements.<sup>4</sup> In a few countries there are limits on working hours

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<sup>1</sup> For example, in Cyprus (sample surveys of collective agreements show increasing percentages of workers working 40 hours or less a week (86.8 per cent in 1980)).

<sup>2</sup> For example, in India the Tripartite National Commission on Labour (1969) considered that as economic conditions improved working hours might be brought down to 40 per week by two stages, the first being one of 45 hours per week.

<sup>3</sup> For example, India and Pakistan (some railway workers and newspaper workers), Canada (Manitoba) (construction workers, for whom the level has recently been reduced in stages from 54 to 50 hours per week).

<sup>4</sup> For example, the Government of Austria provides information on reductions in various activities from 1970 leading to a 40-hour week in 1975 (in some cases a 42-hour week). In Yugoslavia, the stages involve self-management enactments of basic work organisations, as well as other steps by republic or sector. In Australia, according to the comments of the Confederation of Australian Industry, the reduction in standard hours of work in the period 1981-83 has been dramatic; the Government states that reductions had previously been made through productivity bargaining, but that recently there have not been such set-offs.

provisions for undertakings as regards their size,<sup>1</sup> and reductions in working hours have been extended progressively by making general limitations applicable to smaller undertakings (for example, from only those employing 20 or more workers to all those employing ten or more).<sup>2</sup> In countries where reduction is rather by collective bargaining at the undertaking level, it is noticeable in some cases that greater percentages of larger undertakings than of smaller ones have negotiated shorter working hours.<sup>3</sup>

34. General enactments limiting working hours may show progress over a period of time by the decreasing maximum successively fixed<sup>4</sup> or by extension over the territory of the country<sup>5</sup> or wider categories of employees,<sup>6</sup> or by employing measures of different standing<sup>7</sup> often

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<sup>1</sup> In China, the Resolutions on Work and Employment state that the 8 hour per day system should be applied as far as possible in comparatively large undertakings in the industrial sectors, mines, communications and transport industries.

<sup>2</sup> For example, Bangladesh, Pakistan.

<sup>3</sup> For example, Japan: the Government considers that if there were a uniform regulation of working hours by law this might seriously affect small and medium enterprises. In India, a number of large establishments are stated to be observing less than the maximum 48-hour week.

<sup>4</sup> For example, in Ecuador, the general level of 48 hours fixed by the Labour Code of 1971, was reduced to 40 in 1980. In France, a limit of 39 hours was enacted in 1982; a further reduction to 35 hours is aimed at by 1985. In Spain there has been a gradual reduction from 1919 to 1983, when the 40-hour level was reached. In the USSR, the Labour Code foresees further reductions of the working week as the necessary economic and other conditions are created.

<sup>5</sup> For example, in the United Republic of Cameroon, the general level of 40 hours per week has since the 1967 general survey apparently been extended to West Cameroon.

<sup>6</sup> For example, in Singapore, the maximum wages of workers covered by the Employment Act has been raised from \$S750 to \$S1,250 in 1980.

<sup>7</sup> For example, in Belgium, a collective agreement for a 40-hour week in 1973 was made compulsory in 1975 and given the force of an Act in 1978. In Romania the 1969 Constitution lays down a 48-hour week; under the Communist Party Programme of 1977 a 46-hour week has been attained; and in a report on Convention No. 1, the Government indicated that by 1981-83, 44 hours would be reached.

reflecting progressive reductions achieved, within the period between general enactments, by means of collective bargaining or legislation for specific activities or sectors.<sup>1</sup>

35. However the progressive reduction of weekly hours of work is made, their relation to paid holidays, weekly rest and arrangement of working time (for instance during each day) is, of course, important. One way of reducing time may well be balanced against another in either the legislative or the collective bargaining process, and indeed this would seem to be in the interests of both workers and employers.<sup>2</sup>

36. Thus, daily working hours may at some stage be increased in order to accommodate an increase in the weekly rest or annual holidays<sup>3</sup> or otherwise viewed in the context of hours worked over a long period.<sup>4</sup> The absence of provision in the Recommendation limiting daily working hours (although the 40-hour week standard had been considered sufficient to guarantee a reasonable limit to working hours per day) makes it more flexible in this respect than, for example, Conventions Nos. 1 and 30, which allow respectively one and two additional hours over the standard 8-hour day in case of uneven weekly distribution of working hours. Where there is a 6-day working week, the sixth day is often shorter than the others.<sup>5</sup>

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<sup>1</sup> For example, Austria (a federal Act in 1969 drew largely on the plans for reductions contained in collective agreements in various sectors); Cuba (1980 legislation generalised a 44-hour week which had become the practice over many years through collective agreements). In Greece, although the legal maximum normal hours are 48, collective agreements have since 1975 progressively established a level of 41 hours; the Government now envisages legislation for a 40-hour week.

<sup>2</sup> As regards daily working hours, cf. 1967 general survey, para. 139.

<sup>3</sup> For example, in Bulgaria, workers on a "non-standardised" day receive special leave. For shift workers (cf. below, section III) longer daily hours are often combined with a longer weekly rest.

<sup>4</sup> For example, in Japan, the Government's programme of promotional measures aims at a yearly level of 2,000 hours actual work by 1985.

<sup>5</sup> For example, Algeria, Rwanda.

Many countries have further moved on towards a 5-day week<sup>1</sup> and this move has usually been made by an initial standing-still or slight increase in the hours worked on each of the five days.<sup>2</sup>

37. An important aspect of reduction by stages is dealt with in Paragraph 9 of the Recommendation. In carrying out measures for progressively reducing hours of work, priority should be given to industries and occupations which involve a particularly heavy strain or health risk, especially where the workers concerned are mainly women and young persons.<sup>3</sup> A number of governments indicate that there are general provisions for the protection of women and young persons as regards the maximum hours they may be allowed to work.<sup>4</sup> While it seems relatively rare now to find strenuous or unhealthy industries or occupations where workers consist mainly of women and children and where priority has been awarded for the reduction of hours in general on their account,<sup>5</sup> in a large number of countries<sup>6</sup> there are relatively

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<sup>1</sup> In Belgium, there is information on further limitation of the working week to four days in some cases as an experiment linked with the creation of additional employment - see para. 43 below.

<sup>2</sup> Cf. Chapter II below on weekly rest.

<sup>3</sup> For example, the Government of Japan indicates it is encouraging in particular improvement in working hours which tend to be long constantly. In the USSR there are progressive reductions below the general level of 41 hours (e.g. to 36 hours) in occupations less favourable to health.

<sup>4</sup> For example, young persons (Bahrain, Bangladesh, Colombia, Czechoslovakia, Ecuador, India, Italy, United Kingdom (in industry in a few limited circumstances), United States, USSR); women (Cuba - 15 to 17 year old women; France; German Democratic Republic (women with family responsibilities); Zimbabwe (textile industry)).

<sup>5</sup> For example, in New Zealand (which ratified Conventions Nos. 1 and 47 in 1938), the first reductions applied specifically to female and young workers. In Hong Kong restrictions on working hours for women and young persons in industry have tended to lead to reductions for the body of males working with them, because of the large number of females in industry; 1967 legislation reduced the maximum hours for women and young persons from 60 a week to 48 by stages. In Romania, the intended reduction to a 44-hour week is to be made first in activities where women are heavily employed and in certain arduous work.

<sup>6</sup> For example, Bulgaria (the Labour Code provides for a reduced working day where work is harmful to health or of a special character and this has been the basis for progressive reductions in a number of branches of activity, depending on conditions and economic possibilities), China

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favourable working hours for all workers in particularly strenuous or unhealthy activities, or in night work. These aspects are referred to again below in section VIII (level of hours of work).

(d) Factors to be taken into account  
in the national policy

38. Paragraph 7 of the Recommendation enumerates the factors to be taken into account in measures for the progressive reduction of working hours: (a) the country's capacity, given its level of development, to bring about a reduction of hours of work without adversely affecting productivity, industrial development and competitiveness in international trade and without creating inflationary pressures which would ultimately reduce the workers' real income; (b) the extent to which productivity can be improved through the use of new technology and management techniques; (c) the need for improving standards of living in developing countries; and (d) the preferences of employers' and workers' organisations.

39. Paragraph 7 does not make any direct reference to the question of maintenance or creation of employment in relation to the reduction of working hours. However, this aspect implicitly derives from the economic factors recalled above; further, the preamble to Convention No. 47, which embodies the social standard aimed at by Recommendation No. 116, establishes that relation. Discussions at the World Employment Conference (1976) and at current sessions of the International Labour Conference on supplementary standards on employment policy, have also linked more directly reduction of working hours and improving living standards in general to employment policy, as have discussions in certain European regional organisations.

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(workers on high mountains, in mines and in the chemical and metallurgy industries), Hungary, Indonesia; in New Zealand and Norway as regards underground work; in Denmark, Ethiopia, Guatemala and Thailand, the Minister may regulate the matter; in Poland, there are more favourable hours for invalids, as well as workers in particularly arduous or unhealthy conditions.

<sup>1</sup> See, for example, Declaration of Principles and Programme of Action of the World Employment Conference (Geneva, 1976), paragraphs 47-56; Employment Policy (ILC, 69th Session, Geneva, 1983, Report VI (1) and (2)); ILC 70th Session, Geneva, 1984, Report IV (1) and (2)); Working Time: a comparative study - evolution and prospects (Council of Europe 1983); Draft Council Recommendation on the reduction and reorganisation of working time (Commission of the European Communities, September 1983).

40. The preferences of employers' and workers' organisations in the different branches as to how hours should be reduced (Paragraph 7(d)) are clearly important in all countries and are referred to again in section VI below. The other factors can perhaps be grouped into (i) the general question of working time strategy in relation to policies for economic and industrial development; and (ii) certain specific elements forming part of the strategy, namely the application of modern technology (especially automation) and management techniques.

(i) Reduction of working hours and  
general economic development

41. In the preparatory work for the Recommendation and the discussions of it at the International Labour Conference, attention was constantly drawn by developing countries to the need to achieve economic development with the objective of raising living standards, and this was seen on some sides as a priority running counter to any move towards a 40-hour week.<sup>1</sup> A similar position continues to be held by the great majority of governments of developing countries. In some cases<sup>2</sup> the link is drawn formally between working hours and the demands of development, national economic, cultural and social objectives, and technical progress. In others<sup>3</sup> the Government has

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<sup>1</sup> See, for example, ILC, 44th Session, Geneva, 1960, Report VII (2) (Reduction of hours of work), Chapter II (analysis of governments' comments), p. 92.

<sup>2</sup> For example, Algeria, Czechoslovakia; in Indonesia an official commentary on the labour legislation also refers to the reduction of working hours in the context of improving living standards.

<sup>3</sup> For example, the Government of Burundi states that, at least for the moment, further effect cannot be given to the Recommendation because of the level of development and world recession. The Government of the Dominican Republic indicates that a reduction of working time will be facilitated in future by overcoming unemployment, increasing productivity and technology and raising living standards. In Guyana it is recognised by employers and workers as well as the Government that for financial reasons reduction of hours of work should be gradual. The Government of Pakistan states that in such a developing country reduction of hours of work does not suit the national interest and would have an adverse effect on the economy. The Government of the Philippines states that although the national economic situation does not warrant new legislation to implement the Recommendation there is a Bill before Parliament to reduce hours in the private sector from 48 to

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provided information to the Office in its report. In some countries where normal hours of work have been reduced to the 40 mark, no further reduction is contemplated in view of the stage of economic development.<sup>1</sup>

42. The governments of a number of market economy and other countries which include industrialised, as well as developing, countries link the reduction of working hours directly to the question of productivity and international competitiveness.<sup>2</sup> In the same way, employers'

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40. In Somalia, it is considered that in the present context of economic, administrative and other pressures, the time is not yet ripe to apply the instruments in question.

<sup>1</sup> For example, Mali, Tunisia. In Congo, according to the Government, the level of economic development does not enable further effect to be given to the Recommendation for the time being. In Mauritius, any further reduction of hours of work by legislation will depend on economic circumstances, although there is nothing to prevent employers and workers agreeing on shorter hours of work.

<sup>2</sup> In Japan, according to the workers' organisation SOHYO, working hours have remained somewhat higher than in Europe and North America at a time when the international economic environment has become severe. SOHYO further states that employers and Government have been rather negative in respect of reducing working time compared with European and North American countries, using overtime as a cushion during fluctuations in business and thus even prolonging working hours. The Government states that, in making any comparisons in this respect between Japan and other countries, it should be remembered that, in the Japanese practice of lifetime employment with an employer, discharge of workers in time of depression is a last resort; enterprises usually adjust production to business fluctuations by adjusting the hours worked outside normal hours; absenteeism is rare. The Government of New Zealand states that factors such as those mentioned in clauses (a), (b) and (d) of Paragraph 7 form the background against which discussions of hours of work take place there. In Portugal, the Government indicates that a reduction in working hours may not only flow from an increase in productivity, but may be used with a view to itself increasing productivity and contributing to the resolution of the unemployment problem; the employers' organisation CIP considers that in the present grave circumstances proposed reductions in working hours might lead to an economic crisis, and it is therefore opposed to the introduction of a 40-hour week. In the United Kingdom, the Government states that reducing the hours of work while maintaining the level of wages paid must, in the absence of improvements in productivity, be against the employees' interests and could result in increased costs to the employer and and eventually fewer jobs; in this view, before hours of work can

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representatives always placed emphasis on this aspect at both the undertaking level and the national level. It can thus be seen that, although Paragraph 7(c) of the Recommendation refers specifically to the need for improving living standards in developing countries, the considerations of economic development and long-term effects on the real income of workers as raised in Paragraph 7(a) are relevant to countries at all stages of development.

43. A number of governments have dealt in their reports with their policies concerning reduction of working hours in relation to employment. These policies may aim first at promoting wider discussion of the issues<sup>1</sup> and particularly at achieving greater participation of workers and employers in making the link between working hours and employment.<sup>2</sup> In some cases there are direct incentives for employers to create new jobs through reduction and rearrangement of

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resume their long-term reduction, it is essential that economic growth be resumed, and the Government's policies are intended to create the right conditions for this. The TUC in its comments relates its campaign for reduced working time to both an improvement in the quality of working life and wider economic policies for economic growth and lower unemployment; it points out that hours of work are in fact currently being reduced.

<sup>1</sup> In Sweden, through the study group DELFA, discussion relates working hours to the economy, employment opportunities and sexual equality.

<sup>2</sup> In Finland, the workers' organisations SAK and TVK state in this connection that a central motive in the requirements of the trade union movement is employment security. In Italy the 1983 tripartite National Accord aims at matching patterns of working time better to production needs, full use of plant, the effective use of contractual working hours, and greater flexibility of hours at undertaking level; the Government is committed to the introduction of legislation providing incentives for the reduction of working hours combined with new hirings - especially of young workers, e.g. through the reduction of social security payments by employers. In the Netherlands, the Government states that in the context of redistributing work a shorter week than 40 hours may be introduced set against the waiving of certain claims to wage increases (through voluntary agreements); the 1982 Umbrella Act promoting collective bargaining on aspects of employment policy proposes measures for reducing working hours, more part-time work, and combating youth unemployment specifically.

working hours.<sup>1</sup> In one case a reduction has been made in terms of the relevant legislation which refers to circumstances where the economic situation, in particular the labour market and the degree of over-population by foreigners, make it possible.<sup>2</sup>

44. On the whole it would seem that the debate so far has been fairly limited in scope as regards the relation between reduction of working hours and employment creation or maintenance. Certain industrialised countries have referred to recent - sometimes experimental - measures to establish such a connection; the subject has also to some extent been researched in certain national and international organisations. However, no clear evidence of significant inroads into large-scale unemployment as a result of reducing working hours has been provided in the reports and workers' and employers' comments for purposes of the present general survey. In the words of one workers' organisation<sup>3</sup> there is not a "crude trade-off" between working hours and extra job creation, although research may show a certain relationship, albeit in small numbers.

(ii) Specific elements in the strategy  
for reducing hours of work

45. Paragraph 7(b) points out that productivity can be raised by modern technology, automation and management techniques; measures taken for the reduction of working hours should take into account such improvements in productivity, in the light of the need to avoid inflationary pressures referred to in Paragraph 7(a). It is clear from the reports of several governments that modern technology and management techniques have affected the quality of working conditions

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<sup>1</sup> In Belgium, an Employment Fund to aid in the creation of new jobs is financed out of contributions from employers who have not reduced working time by 5 per cent and increased recruitment by 3 per cent as a result; a further fund assists in experimentation in arrangement of working time: such experiments have included intensifying use of plant and machinery by employing them six days a week with workers working a four-day week each. In France in 1982 legislation on working time linked also the questions of workers' conditions of life, the organisation of society and the operation of undertakings to the struggle against unemployment and free use of the individual's time. In Yugoslavia (Croatia, Montenegro) as an experiment in some units working hours may be reduced further if this enables employment of new workers, better conditions of work, higher productivity, and higher incomes.

<sup>2</sup> Switzerland: under the Labour Act, section 9(2), a reduction was made from 46 to 45 hours for certain workers.

<sup>3</sup> The United Kingdom Trades Union Congress.

and the arrangement of working time<sup>1</sup> although certain effects may be considered detrimental by the workers concerned.<sup>2</sup>

(e) Maintenance of wages

46. The maintenance of wages (Paragraphs 4 and 5 of the Recommendation) is an essential condition of measures for the reduction of working hours. In practice, this is one of the main preoccupations of those involved in decision-making as to the timing, pace and extent of reduction of hours. The maintenance of wages while hours are reduced is of course tantamount to an increase in the rate of remuneration, and an increase in earnings would also follow where actual hours are not reduced and overtime rates accordingly applied. The economic implications are referred to in paragraph 7(a) of the Recommendation where the need to avoid inflationary pressures is mentioned in any measures for the reduction of hours of work. (See above, paragraphs 38-45.)

III. Definition and determination of hours of work

47. Paragraph 11 of Recommendation No. 116 defines normal hours of work as the number of hours fixed by or in pursuance of legislation, collective agreements or arbitration awards, or - in the absence of these - the number of hours in excess of which any time worked is remunerated at overtime rates or constitutes an exception to the recognised rules or custom of the establishment or process concerned.

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<sup>1</sup> For example, Belgium; in Bulgaria, a 1974 decision of the Communist Party called for the modernisation of management techniques to make for more efficient use of working time; France (contracts of solidarity encourage greater attention to the reduction of working hours and recruitment in management decisions); in Italy the employers' organisation ASAP in its comments refers to the establishment of new, more flexible, work schedules dealing with mobility, shifts, overtime, etc., with a view to recovery of productivity and avoidance of unjustified cost increases. In Portugal, the legislation for reduction of working hours aims to enable workers to benefit from technical progress. In Sweden the Government relates the reduction of working hours to family policy and possible measures to facilitate a more even division of labour between parents, and it draws a connection between working hours and enabling part-time employment or extended leave. In the United Kingdom, the Trades Union Congress indicates that the question of hours of work should be part of an overall employment package negotiation taking into account factors unrelated to pay, such as new technology.

<sup>2</sup> In Japan, according to the workers' organisation SOHYO, the introduction of new technologies has a tremendous impact in terms of  
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The relation of normal hours of work to hours actually worked - which may be longer or shorter than the normal hours - is examined further in terms of the Recommendation's provisions as to overtime in section V, below. The connected questions of remuneration, living standards and employment are referred to in paragraphs 38-46 above and again in the general conclusions of the general survey.

48. Preliminary to and as a basic element for calculating hours of work, the notion of "actual work" may itself be defined in various ways: in some cases it does not include rest periods<sup>1</sup> or time when the worker is waiting for instructions from the employer or is otherwise at his employer's disposal.<sup>2</sup> In others, some of these may be included in the definition of "actual work".<sup>3</sup> In some countries no information is available as to any particular provision in this respect. In other countries there is a notion of "equivalent time" for work in, for example, transport or shops, where attendance and availability of the

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heavy social competition, employment unrest, more shift and night work, and irregular assignments, and fatigue and nervous disorders; SOHYO sees the need for a national re-evaluation of the human values and enjoyment of life.

<sup>1</sup> For example, France, Hungary, Turkey.

<sup>2</sup> For example, Guatemala.

<sup>3</sup> For example, in Algeria, breaks may be counted as working time for particularly arduous or dangerous work. In Argentina and Panama, working hours include all time when the worker must be available. In Austria, according to the comments of the Congress of Austrian Chambers of Labour, a number of works agreements have introduced breaks during working hours implying a de facto reduction in weekly hours. In Cuba, rest periods may be included in working hours if the worker is required to remain on duty; in the case of some construction workers, travel time may be included. In the Dominican Republic, the time when the worker is at the disposal of the employer and has to be present at the workplace (including mealtimes) is counted as working time. In Egypt (private sector) the Minister determines the arduous conditions in which rest periods count as effective work. In Guatemala, workers have the right to a rest of at least half an hour per day, counted as working time. In India under the Factories Act, shifts of 8 hours include a half-hour rest period. In Nicaragua meal and rest periods count as working hours when the worker cannot leave the workplace. In Norway, when the worker is not free to leave the workplace, rest breaks may be counted as working time: there are also special provisions for counting "stand-by" periods at home, at least in part. In Rwanda, working time begins when the worker enters the establishment and ends when he leaves it (excluding rest periods). In Turkey, for children under 16, school attendance time counts towards the maximum 8 hours daily working time permissible.

worker at the workplace are required over a great number of hours, during which the performance of the work involved is intermittent or irregular.<sup>1</sup> The greater number of hours is therefore considered as "equivalent" to the normal hours of work. The definition of normal hours as given in the Recommendation is capable of accommodating the various practices of different countries, and the needs of different activities or undertakings. It should be borne in mind however that the definitions of hours of work and its components are important and changes in them may have an effect tantamount to reducing or increasing working hours.

49. Further, while the weekly average or the aggregate annual hours of work may approximate to the normal hours of work, there may be seasonal or other variations due to economic or technical factors. Paragraph 12 of the Recommendation allows for averaging of normal hours over more than a week when the special conditions or technical needs of the activity justify it. Such longer periods should be subject to a maximum limit fixed by the competent authorities.

50. In many countries there is provision for averaging which relates directly to the kind of activity or undertaking concerned.<sup>2</sup> Frequently it is transport and communications which are concerned but in many countries seasonal factors determine when such averaging is made, for example in hotels and restaurants, construction, handling of perishable goods.<sup>3</sup>

51. Whilst a maximum should be fixed by the competent authority, the Recommendation does not specify the period over which hours of work may be averaged, and the period in fact varies according to country and activity.<sup>4</sup> Under Paragraph 20(2)(b) employers' and

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<sup>1</sup> For example, United Republic of Cameroon, Comoros (certain services), Congo, Gabon (e.g. for hospital workers, watchmen), Mali (e.g. for watchmen and firemen). The notion seems similar in Norway as regards "passive periods" of staying at the workplace to perform duties if required.

<sup>2</sup> For example, in India and Pakistan (railway workers). In Italy, according to the comments of the employers' organisation ASAP, greater flexibility of shift arrangements is being introduced in the chemical and energy industries, together with reduction in the total hours worked.

<sup>3</sup> For example, in Romania (construction and forestry); Senegal (continuous processes, railways).

<sup>4</sup> For example, in Belgium, the Government refers to a proposed new flexibility measure allowing weekly hours to be averaged over three months. In Canada under the Federal Labour Code averaging

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workers' organisations should particularly be consulted as to the maximum length of the period over which hours of work may be averaged.

52. Paragraph 13 of the Recommendation deals with the particular case of continuous processes carried on by shifts: special provisions may be formulated so that hours of work on average do not in any case exceed normal hours for the economic activity concerned.

53. Most countries do not limit provisions on shift work to cases of continuous processes as provided for in Paragraph 13 of the Recommendation. However, where in fact the hours worked on shift work are on the whole shorter than normal working hours the intention of this Paragraph is usually met or even surpassed.<sup>1</sup> In several countries, shift work is compensated by shorter hours<sup>2</sup> or by special leave where hours are relatively long,<sup>3</sup> or by other measures such as the payment of a premium wage.<sup>4</sup> Shift work is averaged over periods varying in length. Some countries indicate that there are no special provisions for averaging hours over a period longer than a week.<sup>5</sup>

#### IV. Exceptions

54. The averaging of normal hours over periods longer than a week allows appropriate flexibility in meeting the requirements of certain activities or work processes. In addition, certain circumstances might require normal hours to be exceeded.

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over more than 13 weeks must be authorised by the Minister. In Gabon the period is 12 weeks; in Mauritius one month. In Norway, such averaging must be by written agreement. In Romania the period may be one month, three months, six months or a year. In Singapore the period is three weeks. In Yugoslavia in the tourist industry the averaging period may be a year.

<sup>1</sup> For example, Denmark; in Algeria for continuous work there is a half-hour break in about the middle, counted as working time.

<sup>2</sup> For example, Norway, Sweden (38 hours for intermittent, 36 hours for continuous shifts).

<sup>3</sup> For example, Bulgaria.

<sup>4</sup> For example, Democratic Yemen (a 10 per cent premium wage).

<sup>5</sup> For example, in New Zealand, awards and agreements do not ordinarily provide for averaging, but simply prescribe that hours  
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55. Exceptions of three kinds (permanent, temporary, periodical) to the normal hours of work are envisaged under Paragraph 14 of the Recommendation, and the competent authorities in each country should determine the circumstances and limits of such exceptions. The exceptions thus allowed should be seen in relation to the normal hours threshold in order to appreciate the overall level of hours permitted. Under Paragraph 20(2)(d) these exceptions should be the subject of consultations with employers' and workers' organisations.

(a) Permanent exceptions

56. Permanent exceptions (Paragraph 14(a)(i) of the Recommendation) may be envisaged, first, in work which is essentially intermittent, but where the worker's presence is required for relatively long periods. In many countries this might cover, for example, services given by health workers,<sup>1</sup> watchmen,<sup>2</sup> hairdressers,<sup>3</sup> staff of hotels and restaurants,<sup>4</sup> domestic servants,<sup>5</sup> some transport workers and those handling goods.<sup>6</sup> It is often in this context that the notion of equivalent time is applied (see above, paragraph 48).

57. The exceptions may take the form of an exclusion from the provisions as to normal hours of work,<sup>7</sup> or special arrangements as to calculation of remuneration (an aspect dealt with in section V below),

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should not exceed 40 per week; they usually allow adjustment of daily hours, however.

<sup>1</sup> For example, Mali, Switzerland.

<sup>2</sup> For example, Mauritius, Pakistan, Somalia, Spain, Switzerland, Zambia.

<sup>3</sup> For example, Mali, Switzerland.

<sup>4</sup> For example, Mali, Rwanda, Switzerland - though not, perhaps, shop staff: cf. note 240, article 252, of International Labour Code, Vol. 1.

<sup>5</sup> For example, Argentina, Barbados, Ethiopia, Panama, Sweden, Tanzania.

<sup>6</sup> For example, India, Pakistan, Switzerland.

<sup>7</sup> For example, Antigua and Barbuda, Bahrain, Rwanda, Zambia; in Norway there may be authorisation for extended working hours when except for short or occasional intermittent periods the employee is exempted from work and the duty of attentiveness.

with reference to normal hours and hours actually worked, or equivalent hours.<sup>1</sup> As observed in the 1967 general survey (paragraph 175), when "essentially intermittent" work is not precisely defined, it should preferably be construed restrictively in order to afford the maximum possible protection to workers concerned.

58. Permanent exceptions may also be envisaged (Paragraph 14(a)(ii)), where they are required in the public interest. In some countries there is general legislation allowing exceptional working hours in such cases, for example in government or essential services.<sup>2</sup> The element of "public interest" (not defined in the Recommendation) may well be present in some of the other headings of permissible exceptions such as the case of force majeure or national emergency,<sup>3</sup> which are included in the temporary exceptions envisaged by the Recommendation (see below, paragraphs 60-63).

59. Permanent exceptions may be permitted, finally, in operations which for technical reasons must be carried on outside the limits of the general working of the undertaking or part of the undertaking or shift (Paragraph 14(a)(iii)). This may be considered to refer, at least in part, to preparatory or complementary work.<sup>4</sup> The situations occurring are largely either for cleaning and maintenance or for running machinery.<sup>5</sup> There are various provisions for ensuring that the work covered should only be what cannot be done in the course of ordinary working hours, and that only workers directly concerned with the operation should be the subject of the exception.<sup>6</sup>

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<sup>1</sup> For example, Mauritius: watchmen receive extra leave and special rates of overtime pay of 1/80 or 1/120 of monthly salary per hour.

<sup>2</sup> For example, Ethiopia, Singapore.

<sup>3</sup> For example, Canada. In Austria, exceptions are allowed on grounds of public interest only temporarily.

<sup>4</sup> For example, Argentina, Bangladesh, Czechoslovakia, Gabon, Saudi Arabia. In Austria, an extension of half an hour per day is possible, although it is not regarded as a permanent exception.

<sup>5</sup> For example, Democratic Yemen, France, Morocco.

<sup>6</sup> See 1967 general survey, paragraph 178.



(b) Temporary and periodical exceptions

60. Under Paragraph 14(b) temporary exceptions may be permitted (i) in case of accident, actual or threatened, (ii) for urgent work on plant and machinery, (iii) in case of force majeure, or (vi) in case of national emergency. Provisions in these or similar terms are very common<sup>1</sup> and may or may not take precedence over any limitations of working time otherwise applicable (for example prohibiting overtime for young persons).<sup>2</sup> In some countries there are limitations on the number of extra hours which may be worked on these grounds.<sup>3</sup> The Recommendation's provisions as to overtime pay would cover all temporary exceptions also, again an improvement over the earlier international standards in the safeguards for workers.

61. Temporary exceptions due to abnormal pressure of work are contemplated by Paragraph 14(b)(iv), and periodical exceptions may be allowed under Paragraph 14(c)(i) for annual stock-taking or accounting and (ii) for specified seasonal activities. In many countries, provisions allow for such exceptions in identical or similar terms.<sup>4</sup> However, there are some countries where the

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<sup>1</sup> For example, Antigua and Barbuda, Bangladesh, Bulgaria, Colombia, Ethiopia, Romania, Singapore. In the Netherlands, where legislation covers only civil servants, exceptional hours (with overtime rates) are possible in the event of war or risk of war or other special circumstances.

<sup>2</sup> For example, Saudi Arabia.

<sup>3</sup> For example, Gabon, Rwanda, Saudi Arabia.

<sup>4</sup> For example, in Canada (Ontario) excess hours may be authorised if the nature of the work or perishable nature of raw materials require it, but employees have the right to refuse to work more than eight hours per day or 48 hours per week. In Indonesia, where there is an accumulation of work which must soon be finished, hours may be increased up to 54 per week and count as overtime. In Norway the term "unforeseen volume of work" is considered equivalent to Paragraph 14(b)(iv).

circumstances of the exceptions are further removed from what is anticipated by the Recommendation (for example, where the aim is to increase production); authorisation of the labour inspectorate may be needed in such cases.<sup>1</sup> The notion of public interest (see above, paragraph 58) is often invoked also in this context, especially in relation to work in services regarded as essential or other public utilities.<sup>2</sup>

62. The Recommendation also provides for temporary exceptions for the making up of time lost through collective (involuntary) stoppages of work due to accidents to or shortages of materials, power cuts, bad weather, shortage of transport, and calamities (Paragraph 14(b)(v)).<sup>3</sup> Several countries allow for making up lost time, sometimes for wider-ranging reasons,<sup>4</sup> sometimes with the provision of consultation between employers and workers.<sup>5</sup> The making up of time lost is often linked with cases of accident, force majeure or seasonal factors. In particular, there are often prohibitions on making up time lost as a result of an industrial dispute (for example, strike or lock-out).<sup>6</sup>

63. In many cases of temporary and periodical exceptions the relationship of working hours to employment policy is raised: the question may be put whether the exceptional working needs ought rather to be met by the employment of additional workers at regular

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<sup>1</sup> For example, Democratic Yemen, Mali. In Switzerland, extra work may generally be required of a worker (paid at the overtime premium of 25 per cent) where circumstances demand longer hours, and where it is possible for him/her and can be required in good faith. In Turkey, hours may be extended with the employee's consent to increase output; overtime rates apply.

<sup>2</sup> For example, Austria, see footnote to paragraph 59, above.

<sup>3</sup> Time lost for local holidays is not included (cf. Convention No. 30, Article 5(1), where there is such provision).

<sup>4</sup> For example, Gabon, Mali.

<sup>5</sup> For example, Antigua and Barbuda, Senegal.

<sup>6</sup> For example, Gabon (unless there is contrary agreement), Mali, Rwanda.

hours as provided for in certain countries.<sup>1</sup> There may also be protection against immediate dismissal for workers who have been employed in such exceptional circumstances. In order to ensure due protection for workers, there may be provision for notification and/or authorisation of the authorities when the exceptions are invoked.<sup>2</sup>

(c) Relationship to Conventions  
Nos. 1, 14 and 106

64. In comparing these exceptions with similar provisions of Convention No. 1 (and also Convention No. 30) where the 48-hour week standard applies, it should be noted that Recommendation No. 116 provides for certain further safeguards.

65. Paragraph 15 indicates that, for certain of the exceptions, when normal hours of work already exceed 48 a week, the competent authorities should "most carefully consider whether there is a real need". This applies to permanent exceptions for essentially intermittent work or operations necessarily carried on beyond general work limits (Paragraph 14(a)(i) and (iii)); temporary exceptions due to abnormal pressure of work or making up time lost in terms of

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<sup>1</sup> For example, in Argentina, the temporary exception for extraordinary work demands may be made only taking into account the degree of unemployment existing. In Italy, additional hours may be worked only occasionally and only to deal with exceptional needs of production which cannot be handled through the engagement of additional workers; the employers' organisation CONFCOMMERCIO states that in the commercial sector overtime may be requested of the individual for up to 200 hours per year. In Luxembourg, an enactment of 24 December 1977 concerning employment suspended employers' right to request overtime to deal with exceptional increase of work. In Rwanda, the exception to deal with extra work is only possible if the employer is unable to recruit additional workers or find other means; where certain temporary exceptions have been invoked there are restrictions on the employer reducing staff immediately afterwards. In Senegal, in public undertakings, the legislation states that in the event of extraordinary and prolonged unemployment the Minister may suspend the use of overtime in whole or in part on grounds of unusual increase of work. Cf. Article 8(1)(b) of Convention No. 106 (below, Chapter II, paragraph 168).

<sup>2</sup> For example, Cuba, Mali, Rwanda, Senegal, Spain.

Paragraph 14(b)(iv) and (v); and periodical exceptions for stock-taking or preparing annual accounts or for seasonal activities (Paragraph 14(c)(i) and (ii)). As has already been pointed out, under Paragraph 5 of the Recommendation, normal hours exceeding 48 a week are to be the subject of "immediate steps" to reduce them to 48: Paragraph 15 accordingly confirms that general principle of the Recommendation while recognising that normal hours over the 48 may continue to exist in some countries for some workers (such as intermittent workers or shop workers) and providing for additional protection in comparison with earlier standards.

66. Extensions of weekly normal hours contemplated under Recommendation No. 116 have a direct relation to the question of weekly rest. Conventions Nos. 14 and 106 both make provision (in Article 4(1) and Article 8 respectively) for exceptions. Whereas Convention No. 106 refers to certain specific circumstances also contemplated in Recommendation No. 116, Convention No. 14 does not, but provides that special regard should be had to all proper humanitarian and economic considerations. In all cases, however, there is provision for consultation of employers' and workers' organisations concerned - a question dealt with in section VI below.

67. In practice, it would seem that the same exceptions apply to both weekly rest and maximum hours of work provisions in many countries. Because of the direct relation between these two aspects, the conditions under which temporary extensions of working time are to be made are subject to similar considerations in both cases.

## V. Overtime

68. Under Paragraph 14, limits should be set to the exceptions to normal hours. The questions of limitation and remuneration of overtime are dealt with by the Recommendation in a separate section. The definition of overtime as a corollary of the definition of normal hours (Paragraph 11) is given in Paragraph 16 of the Recommendation: "all hours worked in excess of the normal hours should be deemed to be overtime unless they are taken into account in fixing remuneration in accordance with custom". Paragraph 17 deals with limits to the overtime which can be worked in a given period; Paragraph 18 contemplates the situation of particular categories of workers; and Paragraph 19 deals with higher remuneration for overtime than for normal hours, the rates being increased by at least 25 per cent, to be determined by the competent authorities.

(a) Limits to overtime

69. Under Paragraph 14 of the Recommendation, the competent authorities should determine limits in which exceptions may be permitted to the normal hours of work. Paragraph 17 further states that, except for cases of force majeure, limits to the total number of hours of overtime which can be worked in a specified period should be determined by the competent authorities. In many countries there is a first requirement of notification to the competent authorities where overtime is to be worked.<sup>1</sup>

70. In national practice, overtime questions such as its limitation are frequently governed by the specific provisions dealing with each of the exceptions discussed above (section IV) in connection with Paragraph 14 of the Recommendation. In many countries, the same restrictions and limitations on overtime do not cover force majeure or certain other exceptional conditions (accidents or urgent work).<sup>2</sup> Different limitations may be fixed for different circumstances,<sup>3</sup> or there may be a general limitation on overtime in the form of a maximum working day or week applicable in all conditions, i.e. whether or not they are "exceptional" in the sense of Paragraph 14 of the Recommendation.<sup>4</sup> There may be wider variations allowed to make up for voluntary collective stoppages such as for local holidays,<sup>5</sup> to prevent loss of perishables or avoid endangering technical results of work,<sup>6</sup> for stock-taking, or for purposes of making up time lost

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<sup>1</sup> For example, Bahrain, Bulgaria, Cuba, Guyana, Italy, Romania, United Kingdom (Factories Act cases). In Colombia, authorisation is required except in listed "exceptional" circumstances. In France, authorisation is required for overtime above a certain limit, and where overtime might prevent new recruitment of unemployed workers it may in some cases be restricted.

<sup>2</sup> For example, in Algeria (force majeure), Panama (disaster), Turkey (emergency), Luxembourg (accident, emergency, or force majeure).

<sup>3</sup> For example, Czechoslovakia (higher limit for serious reasons and with trade union consent).

<sup>4</sup> For example, Algeria, Singapore.

<sup>5</sup> See footnote to paragraph 61, above.

<sup>6</sup> For example, Algeria, Rwanda.

or increasing production or productivity<sup>1</sup> where overtime is motivated by the incentive of increased earnings to the advantage of both employers and workers. As is the case where in some countries the working of extra hours as a temporary exception is related to employment policies (see above, paragraph 63), in some countries the use of overtime pure and simple is also related to employment.<sup>2</sup> Such limitations may depend on agreement between employers and workers.<sup>3</sup> In some countries there may be little or no general legislative provision or no provision in certain activities, the only limitation being that which may result from the increased rate of remuneration for overtime.<sup>4</sup>

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<sup>1</sup> For example, Mali, Senegal, Zambia; in Italy, overtime is only allowed occasionally except for exceptional needs of production.

<sup>2</sup> For example, in France, overtime may not be resorted to where the staff consider it would avoid new recruitment. In Italy overtime for exceptional needs of production is only allowed where the problem cannot be dealt with by extra recruitment. In Panama, overtime may generally speaking not be compulsory and the employer is bound to employ sufficient numbers during normal working hours. In Spain, an Inter-Confederal Accord between employers and workers suggests undertaking-level negotiations to do away with national overtime and thus favour employment creation.

<sup>3</sup> In France and Norway, the normal limit on overtime may be extended (so that there is a total of 16 hours' work in a 24-hour period) by agreement; if trade union representatives agree, an extension to 15 hours' overtime per week may in some circumstances be applied to all employees in the enterprise.

<sup>4</sup> In Australia there are no general limitations on total hours worked counting overtime. In Austria, the Government indicates that there is no limit on overtime in the public service. In Denmark, the report says that the question concerning regulation of overtime cannot be said to have been solved satisfactorily; collective agreements may restrict overtime, or it may be agreed individually. In Hong Kong overtime pay is relatively uncommon in the non-industrial sectors except in the junior ranks. In Italy the employer must also make increased unemployment insurance payments. In New Zealand there is no general legal restraint on overtime; it is voluntary and penal rates are regarded as a restraint on excessive hours; rates are prescribed by the relevant awards. In Japan only young persons' overtime is restricted: the workers' organisation DOMEI states that the regulation of maximum overtime in general should be revised; the workers' organisation SOHYO advocates a system of progressive premiums (see also paragraph 42, above, footnote). In Panama, according to information provided under Convention No. 30 in response to a direct request of the Committee, a bill is under consideration to impose a limitation of 250  
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71. Limitations imposed may be based on one period or a combination of periods of a day, a week, a month or longer. The total number of hours permitted in such a period varies from country to country and from activity to activity.<sup>1</sup>

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hours per year in offices etc. In the United States the relevant legislation does not set a maximum limit on the number of hours worked, requiring instead the payment of overtime rates. In Yugoslavia, any limitations may be decided by self-management enactment in exceptional circumstances.

<sup>1</sup> Information available on general limitations of overtime includes the following:

Angola (maximum average of 40 hours per month (20 for white collar)), Austria (maximum 5 hours per week, 60 per year, usually), Bahrain (maximum total weekly hours of 60, except by ministerial authorisation), Bangladesh (maximum total weekly hours 60 in any week, or an average of 56 in a year), Belgium (maximum 2 hours per day, 10 per week, 130 per year), Brazil (maximum 2 hours per day), Bulgaria (4 hours in 2 days running, 10 per week, 150 per year), Burma (60 hours per year), Canada (average maximum 48 hours per week), Czechoslovakia (150 hours per year), Finland (16 hours over a 2-week period, 120 per year), France (maximum total hours of 10 per day, 48 per week; maximum 130 hours overtime per year), German Democratic Republic (4 hours any 2 days running, 120 hours per year), Federal Republic of Germany (2 hours per day on 30 days per year), Greece (60 hours per 6-month period), Guatemala (maximum total of 12 hours per day), India (maximum total 12 hours per day, 60 per week, in factories), Indonesia (maximum total 54 hours per week), Islamic Republic of Iran (4 hours per day), Ireland (2 hours per day, 12 per week, 240 per year), Italy (2 hours per day, 12 per week), Lesotho (12 hours per week, 50 per year), Libyan Arab Jamahiriya (maximum total 12 hours per day), Luxembourg (2 hours per day), Mongolia (maximum 4 hours per day, 120 per year), Netherlands (maximum total 11 hours per day, 62 per week), Norway (maximum total 14 hours per day; 10 hours overtime per week, 200 per year), Panama (maximum 3 hours per day, 9 per week), Paraguay (maximum 3 hours per day, up to maximum total of 56 hours per week), Poland (maximum 120 hours per year), Portugal (maximum 2 hours per day, 240 per year), Romania (maximum 120 hours per year), Rwanda (maximum 1 or 2 hours per day), Singapore (maximum total 12 hours per day; 48 hours overtime per month), Somalia (12 hours per week), Spain (2 hours per day, 15 per month, 100 per year), Suriname (maximum total 64 hours per week), Swaziland (10 hours per week), Sweden (50 hours per month, 200 per year), Syrian Arab Republic (maximum total 10 hours per day), Turkey (maximum 3 hours per day on 90 days per year), USSR (maximum 4 hours in 2 days running, 120 per year), United Arab Emirates (2 hours per day), Venezuela (maximum 2 hours per day on 100 days per year), Zaire (12 hours per week, 144 per year).

72. One particular consideration referred to in Paragraph 18 in arranging overtime is the special circumstances of young persons under 18, pregnant women and nursing mothers and handicapped persons. Many countries prohibit or limit the overtime which may be done by some or other of the first three of these categories of persons<sup>1</sup> although relatively few deal with handicapped workers as such in this respect.<sup>2</sup>

(b) Remuneration of overtime

73. Rates of overtime remuneration vary and are very often the subject of collective agreement; a higher rate may reflect the strength of trade unions or productivity in the industry in question. Provisions may be different also for various activities, or for various conditions in which overtime is worked;<sup>3</sup> and they may apply different rates for the first hours of overtime than for subsequent hours (on a daily, weekly, monthly or yearly basis) or for overtime

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<sup>1</sup> For example, young persons (Bangladesh, New Zealand, Singapore, United Kingdom (Factories Act)); young persons and mothers (Austria, Bulgaria, Cuba Czechoslovakia, Ethiopia, Hong Kong, Hungary, Japan, Mauritius, Panama, USSR). Provisions in Norway cover young persons and others when it is for reasons of health or material social reasons. In Sudan overtime is ordinarily optional for women.

<sup>2</sup> In Austria the situation of handicapped persons can be taken into account. In Bulgaria the disabled and old-age pensioners may only work overtime by consent. In the German Democratic Republic there are also restrictions on the overtime of tuberculosis patients, rehabilitated workers, workers with family responsibilities, and handicapped workers. In Japan, for civil servants who are handicapped necessary consideration is to be given to their disability when ordering overtime. In Portugal the physically handicapped may be excluded from overtime. In USSR handicapped persons may work overtime only if they consent and it is not medically forbidden.

<sup>3</sup> Where collective bargaining fixes the rates by sector or activity. There may also be different conditions for overtime worked at night or by shift workers (e.g. Democratic Yemen, Gabon, Italy).



worked on Sundays or holidays or other days off.<sup>1</sup>

74. In many cases, in conformity with paragraph 16, remuneration has already been fixed taking excess hours of work into account, so that the question of overtime in terms of the Recommendation does

<sup>1</sup> The following information is available regarding overtime rates in operation. Where two percentages are shown, the lower is the premium rate for the first portion of overtime, and the higher is the premium applied in particular circumstances (e.g. extra long hours, public holidays, night), there being a progressive scale up to this maximum.

Angola (50-100 per cent), Antigua and Barbuda (50 per cent minimum), Australia (50-100 per cent), Austria (50-100 per cent), Bahamas (50-100 per cent), Bahrain (25-50 per cent), Bangladesh (100 per cent), Belgium (25-100 per cent), Belize (50-100 per cent), Bolivia (25-100 per cent), Brazil (20 per cent minimum), Bulgaria (25-100 per cent), Canada (50 per cent minimum, federal legislation), Cyprus (50-100 per cent), Czechoslovakia (25-50 per cent), Democratic Yemen (25-100 per cent), Denmark (50-100 per cent), Dominica (50 per cent), Equatorial Guinea (25-50 per cent), Ethiopia (25-150 per cent), Finland (50-150 per cent), France (25-50 per cent), Gabon (10-100 per cent), German Democratic Republic (25 per cent minimum), Federal Republic of Germany (25-50 per cent), Greece (25-100 per cent), Guatemala (50 per cent), Guyana (50 per cent), Honduras (25-75 per cent), Hungary (25-100 per cent), India (25-100 per cent), Indonesia (50-200 per cent), Islamic Republic of Iran (35 per cent), Iraq (50-100 per cent), Ireland (25-100 per cent), Italy (15-75 per cent), Jamaica (50 per cent), Japan (25-50 per cent), Kenya (50-100 per cent), Lesotho (25 per cent minimum), Libyan Arab Jamahiriya (50 per cent), Luxembourg (25-100 per cent), Mali (10-100 per cent), Mauritius (50-200 per cent), Mongolia (50 per cent), Mozambique (10-100 per cent), Nepal (50 per cent), Netherlands (25-100 per cent), New Zealand (50-100 per cent), Norway (40 per cent minimum), Pakistan (100 per cent), Panama (25-75 per cent), Papua New Guinea (50-100 per cent), Paraguay (50-100 per cent), Poland (50-100 per cent), Portugal (25-50 per cent), Romania (50-100 per cent), Rwanda (50-120 per cent), San Marino (25-200 per cent), Saudi Arabia (50 per cent minimum), Sierra Leone (50-100 per cent), Singapore (50 per cent), Somalia (25-100 per cent), Spain (75 per cent minimum), Suriname (50-100 per cent), Swaziland (50 per cent), Sweden (50-100 per cent), Syrian Arab Republic (25-50 per cent), Trinidad and Tobago (50-100 per cent), Turkey (50 per cent), USSR (50-100 per cent), United Arab Emirates (25-50 per cent), United Kingdom (50-100 per cent), United States (50-100 per cent), Venezuela (25 per cent), Yemen (50 per cent), Zaire (30-100 per cent), Zambia (50-100 per cent), Zimbabwe (50-100 per cent).

not arise<sup>1</sup> (see above, section III). In some cases,<sup>2</sup> higher rates of remuneration are not applied at all for the exceptions listed in Paragraph 14, although, under Paragraph 16, they should be.

75. In some cases, normal hours as defined in Paragraph 11 are fixed by collective bargaining and are below a statutory norm. Under the Recommendation, overtime rates should apply for hours worked above the negotiated level; in some countries it appears that the overtime rate starts only above the statutory norm and that between the negotiated and statutory norms ordinary rates or perhaps rates of less than the minimum overtime premium rate of 25 per cent (for example, 10 per cent) apply.<sup>3</sup>

76. Where overtime is to make up for lost time, as an exception anticipated by Paragraph 14(b)(v), the considerations are not exactly the same for workers receiving a regular wage or salary in respect of the time when they were prevented from working and those paid only by the day or at piece rates. The need for overtime rates to make up

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<sup>1</sup> This may be an explanation of the exclusion of managerial work from overtime provisions as in e.g. Romania. In Switzerland, office and other white-collar workers and some sales staff have no right to overtime pay until the 61st hour in a year. In the United Kingdom, in the civil service senior grades the plain time-rate applies for overtime; the Trades Union Congress indicates the view of the civil service unions that the Government's preoccupation with "cost factors" in this respect is a denial of free collective bargaining and an unfair discrimination against government employees.

<sup>2</sup> For example in Canada (Manitoba) in work camps where employees do not have access to their homes, standard hours may with the consent of the parties be extended by the Minister to 60 per week without payment of overtime rates. In the Comoros, exceptional work in urgent circumstances is at normal paid rates.

<sup>3</sup> For example in Djibouti and Gabon in many activities the overtime premium rate of 25 per cent starts after 48 hours; from 40 (the normal level) to 48 a premium of 10 per cent applies. In Italy, according to the employers' organisation CONFCOMMERCIO the overtime premium is 15 per cent for the 41st to 48th hours, then 20 per cent (higher on holidays and at night).

for loss of earnings in respect of the latter is more acute.<sup>1</sup> It is rare for national legislation to provide for remuneration at a higher rate when making up time lost, although this should be done according to the Recommendation, which states that all hours in excess of normal hours should be regarded as overtime (Paragraph 16).

77. The rates in fact applied are not invariably up to the 125 per cent prescribed by the Recommendation.<sup>2</sup> However in many cases they are higher, especially after 48 hours.

78. In some cases compensatory leave<sup>3</sup> or rest periods are accorded in addition to or instead of overtime pay.<sup>3</sup> Recommendation No. 116 makes no specific provision in this respect, although some of the principles it does include are of relevance. The policy of reducing normal hours of work towards the level of 40 per week and of limiting the exceptions to them is fundamental. Paragraph 19 also clearly calls for higher remuneration in respect of overtime. At the same

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<sup>1</sup> In some countries, piece-work is apparently assimilated to other work in this respect, since any overtime piece-work is remunerated at the premium rate applicable for overtime work in general (e.g. 50 or 100 per cent in the case of Ecuador and Mongolia; 25 or 50 per cent in the case of Israel). The Government of Finland distinguishes the case where normal hours of work are based on a "contract of work", when there may not always be increased rates of remuneration for excess hours under the relevant contract.

<sup>2</sup> For example, see footnote to paragraph 75 above.

<sup>3</sup> For example in Bahrain (overtime rates or time off in lieu); in Belgium a proposed bill would apply compensatory rest in preference to partial unemployment; in Czechoslovakia in principle compensatory leave applies, but the workers may opt for overtime pay; in Democratic Yemen compensatory rest and pay at higher rates are alternatives; in France above certain limits compensatory leave may apply in addition to overtime pay; in the Netherlands in the civil service compensation is by leave equal to the overtime plus the normal hourly wage or overtime rate; in Romania compensation is by an equal period of leave to be taken within 30 days or if that is not possible pay at premium rates; in Spain the Interconfederal Accord proposes compensatory leave instead of higher pay; in Switzerland compensatory leave may be given with the workers' agreement; in the United States State Government employees may receive 1 1/2 times compensatory leave instead of overtime pay in nearly half of the States, at the option of the employer.

time, the Recommendation places particular emphasis on the role of employers' and workers' organisations (considered further below, section VI) both through the actual fixing of provisions relating to hours of work in collective agreements (for example, Paragraphs 3, 11, 22) and through consultations with the competent authority on questions relating to the limitation and remuneration of overtime (Paragraph 20(e)). It might therefore be possible to conclude that where provisions for compensatory leave or rest periods in lieu of overtime pay operate through the agreement of employers and workers concerned - especially when the conditions are regarded as more favourable for the workers - due respect for the policies and aims of the Recommendation may be observed.

### (c) General

79. As indicated in the 1967 general survey (paragraphs 238 to 240), the Committee has always attached great importance to the limitation of additional hours, for example, in supervision of the application of Conventions Nos. 1 and 30. The level of hours actually worked irrespective of the statutory normal hours is of course very closely connected with the provisions for overtime. Undue facilitation of overtime, for example, by not limiting the circumstances in which it may be permitted or by allowing relatively high maximums, could in the most egregious cases tend to defeat the Recommendation's objective of a social standard of a 40-hour week and make irrelevant the provisions as to normal working hours.

80. It remains the case, however, that in a great number of countries the system of limitation of exceptions and of the amount of overtime permitted, and of overtime pay, is at least as favourable as the Recommendation.

## VI. Consultation of employers' and workers' organisations

81. Under Paragraph 20 of the Recommendation, the competent authorities should make a practice of consulting the most representative employers' and workers' organisations on questions relating to the implementation of the Recommendation, in particular as regards specified matters where the Recommendation leaves the competent authority to make determinations. Several governments have described in their reports the general procedures operating for the consultation of employers and workers<sup>1</sup> in which questions of working hours and national policy are

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<sup>1</sup> See the Committee's general survey of tripartite consultations on international labour standards, ILC, 68th Session, 1982, Report III, Part 4B.

discussed, amongst other things.<sup>1</sup> In some cases, there may be positive advantage in discussions in such a forum, since they might enable reduction of working hours to be placed in the context of economic policy or economic development in general - as advocated by Paragraph 7 of the Recommendation - or of other aspects of employment policy.<sup>2</sup>

82. Paragraph 7(d) of the Recommendation indicates that account should be taken of the preferences of employers' and workers' organisations in different branches of activity as to the manner in which hours might be reduced. Where collective negotiation is the method of reducing working hours, such preferences will be expressed through that means.<sup>3</sup>

83. In other cases there are specific provisions in legislation for consultations on more particular issues - either joint committees on conditions of work in general,<sup>4</sup> or on reduction of working hours,

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<sup>1</sup> For example in Burundi in the National Labour Council; in Canada annual Tripartite Meetings on ILO Questions; in China the Workers' Congress system may ensure co-operation of managements and trade unions in relation to working laws questions; in Finland the ILO Committee was consulted concerning the article 19 report; in Guyana the Labour Code Commission; in India, various state-level advisory boards in addition to national consultations, for example, the Tripartite National Commission on Labour in 1969; in Italy the National Accord of January 1983 and subsequent negotiations; in Madagascar the National Labour Council; in Mauritius the National Labour Advisory Board; in the Netherlands the Joint Industrial Labour Foundation; in Thailand in tripartite committees such as those on ILO Conventions and Recommendations, and on Labour Law consideration.

<sup>2</sup> For example in Sweden the research body DELFA is particularly mandated to consider working hours in relation to employment policy.

<sup>3</sup> In Spain, the Interconfederal Accord anticipates further undertaking-level agreements.

<sup>4</sup> For example in Norway, joint working environment committees may be established in enterprises; they have a consultative (sometimes decisive) role in overtime questions.

exceptions, or overtime,<sup>1</sup> or consultative committees for particular activities or sectors or enterprises.<sup>2</sup> The process of consultation may be in the framework of joint bodies which in fact are a way of conducting collective negotiations between employers and workers.<sup>3</sup>

84. As for the other specific matters on which Paragraph 20 calls for consultation, in several countries information has been provided as to existing arrangements.<sup>4</sup>

85. Perhaps the most important manner in which employers and workers are involved in the reduction of working hours is through collective bargaining, and in several Paragraphs the Recommendation refers to the role of collective bargaining specifically, notably Paragraphs 3 and 11 on the various means by which normal hours of work

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<sup>1</sup> For example Algeria, Antigua and Barbuda (Advisory Committee consulted on exceptions and permanent increases), France (works committees or staff delegates to be consulted for authorisation of prolonged overtime), German Democratic Republic (consent of the undertaking trade union committee required for overtime), Mali (consultation of unions concerned before the Minister authorises overtime), Netherlands (the 1982 Umbrella Act enables parties to an agreement in force 18 December 1982 to decide jointly for a given period up to 1 October 1983 to renegotiate agreed wages provisions (especially as regards shorter working hours for which the cost of living increase is temporarily waived) as part of their proposed employment policy), Romania (overtime normally requires trade union approval). In Sweden the legislation on hours of work may be overridden by collective agreement.

<sup>2</sup> For example Czechoslovakia, Pakistan.

<sup>3</sup> See above, section II(a).

<sup>4</sup> For example in Argentina there must be consultations on the use of exceptions. In Austria, there is provision for deviation from the legislation by collective agreement concerning averaging, exceptions or overtime to provide more favourable arrangements. In the Netherlands, for the civil service, work schedules are the subject of consultations with staff representatives. In the USSR there must be trade union authorisation as regards the averaging of working hours and overtime, etc.

might be reduced. As the survey shows, collective bargaining occupies the central ground for all questions relating to reduction of working time in many countries, occasionally to the exclusion of any other methods of application. The role of collective bargaining is in these cases extremely effective, although, as several government reports have shown, the competent authorities and the legislative method may still have a role to play.

86. Where employers and workers must necessarily be active in any event at the stage of supervision (see also section VII below). It is also natural that workers' organisations should play an active role in co-operation with the inspection services in this respect.<sup>2</sup>

87. At the international level, employers' and workers' active interest in the application of the Recommendation has been demonstrated in cases where comments made by them have been forwarded by the respective governments with the article 19 reports or received separately.<sup>3</sup>

## VII. Supervision

88. Paragraph 21 of the Recommendation provides for the effective enforcement of measures taken to reduce hours of work. The first means of enforcement mentioned (clause (a)) is proper administration of hours of work provisions through adequate inspection or otherwise. Most governments' reports indicate that the inspection services are responsible for ensuring the observance of legal provisions, but there are few details of the extent to which proper

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<sup>1</sup> For example in Barbados, where only shop workers and domestic staff have their hours fixed by law after consultations of employers' associations and employees.

<sup>2</sup> For example in Austria, the chambers of labour, as bodies representing the interests of the employed, have a statutory role to propose and assist in inspection visits and to negotiate with establishments for the elimination of illegal conditions. In Democratic Yemen inspection is carried on by inspectors from both government and trade unions. The New Zealand Government refers to the general surveillance of working conditions maintained by trade union organisations, although the standard 40-hour week is so firmly established that no action in particular is necessary.

<sup>3</sup> See General Introduction, para. 6.

administration and effective enforcement are in fact accomplished.<sup>1</sup> It should be recalled, however, that the Labour Inspection Convention, 1947 (No. 81), is among the most widely ratified of ILO instruments. In addition, it will, together with the Labour Inspection (Agriculture) Convention, 1969 (No. 129), be the subject of the Committee's general survey next year.

89. Enforcement measures envisaged by Paragraph 21(a) include means of adequate inspection or others, the point having been argued in the preparatory discussions that inspection may not always be the appropriate method of ensuring proper administration, especially in the case where there is no legislation which governs hours of work.<sup>2</sup> The other methods occasionally referred to in the reports<sup>3</sup> might include, for example, the vigilance of workers' organisations<sup>4</sup> or other means.<sup>4</sup> In some countries where legislation is applicable only to certain categories of workers as regards working time, the inspection services may operate in that regard.

90. Paragraph 21(b) refers to the posting of notices by employers or other approved methods to inform workers of the times when the work and shifts begin and end, the rest periods not included in normal hours of work, and the days of the week worked. Provisions in this respect are described by several governments' reports.<sup>6</sup> In some cases these conditions of work are contained in the written contract of employment.<sup>7</sup>

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<sup>1</sup> In federal States (e.g. India, Pakistan) administration is frequently split between national and state-level authorities.

<sup>2</sup> In Argentina and Mauritius, for example, the Government authorities are responsible also for ensuring that collective agreements are adhered to.

<sup>3</sup> Both through collective bargaining and through co-operation with the inspectorate.

<sup>4</sup> In China the directors or other leaders of a factory where provisions relating to working hours are violated are criticised.

<sup>5</sup> For example Barbados (shop workers, domestic staff), United Kingdom (young persons).

<sup>6</sup> For example Austria, Dominican Republic.

<sup>7</sup> For example United Kingdom.



91. Under Paragraph 21(c), employers should be required to keep and produce for inspection records of hours of work, wages and overtime for each worker. Not all governments provided information on this. In some cases, where inspection of these matters is only required as regards particular categories of workers such as young persons, there is provision for records only of them. In practice, however, any employers may have at their disposal information of this kind - if only for their own use.

92. So far as hours of work are governed by legislation, the requirement of sanctions in Paragraph 21(d) is often met by law.<sup>2</sup> Sanctions need not necessarily be penal, however; since under clause (d) they are "as may be appropriate to the method by which effect is given to the provisions of the Recommendation", they might perhaps also take the form of compensation or civil damages under a collective agreement or individual contract of employment.<sup>3</sup>

#### VIII. Level of hours of work

93. As stated earlier (paragraph 47) hours of work should be assessed taking into account both normal hours and hours actually worked.

94. The level of normal hours is variable in most countries according to industry or activity; in some it varies according to time of year.<sup>4</sup> It should also be considered in terms of numbers of workers concerned in each case. For these reasons, as well as those referred to above, the "normal hours per week" indicated in the tables should be

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<sup>1</sup> For example Mali, Panama.

<sup>2</sup> For example by fines (e.g. Antigua and Barbuda, Czechoslovakia, Hungary). In Sweden there are pro rata special overtime charges for infringement of the legislation. In the USSR there are disciplinary, administrative and penal measures.

<sup>3</sup> For example in the United States relevant legislation provides for recovery of wages due, plus an equal amount as liquidated damages, and legal costs.

<sup>4</sup> For example Ramadan (for example Saudi Arabia, Sudan); between 20 December and 6 January for certain sales staff when it is shown that there are no other suitable workers available (Dominican Republic); from June to August civil servants have a week of 32 1/2 hours compared with 36 1/4 from September to May in Finland.

seen only as an indication of the trends in working hours in a given country or in a given industry or activity. As regards tables 1 and 2, the figures given for normal hours of work include levels fixed by various means (for example, legislation, collective agreements). Such figures are only indicative and based on information available; in some countries lower levels of normal hours than those indicated may have been fixed for certain workers, especially by collective agreement. Further, because of many variable factors, it may be hazardous to make too broad comparisons between one country and another on the basis only of the figures presented in this general survey. Similarly, as regards the figures given for hours actually worked, the ILO Year Book of Labour Statistics emphasises that data are not fully comparable on account of the variety of sources used as well as differences in national definitions of hours of work, the coverage of the series, and the methods of compilation<sup>1</sup> (see also paragraph 104 below). With these qualifications in mind the levels of normal hours observed in various countries (table 1) show that cases where they exceed 48 per week are few, and usually limited to particular branches of activity (e.g. retail trade, hotels and restaurants). In some 60 countries, weekly normal hours are 48; in some 40 countries the level of 40 weekly hours has been reached and even bettered in a few cases; and in some 30 countries normal weekly hours are between 40 and 45.

95. Priority for the reduction of working hours is assigned in Paragraph 9 of the Recommendation to industries and occupations involving particularly heavy physical or mental strain or health risks, especially where the workers concerned are mainly women and young persons. The tendency both in national and international labour standards seems to be to provide protection to these workers as a category (see above, paragraph 37) and to prohibit such activities for the persons concerned.

96. Many countries provide special protection for young persons by laying down reduced normal working hours to apply to them and restricting the overtime they may work by either prohibiting it completely or fixing lower limits than those applicable to adults.<sup>2</sup> Paragraph 18 of the Recommendation provides for due consideration to be given to their special circumstances in arranging overtime (see paragraph 72 above).

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<sup>1</sup> See ILO Year Book of Labour Statistics, 1983, pp. 481-536.

<sup>2</sup> For example Bulgaria, Cuba, Hungary, New Zealand, Panama. In Sierra Leone there may be employment at fewer than the hours of work determined for certain handicapped and for young workers, though it may also be at lower rates of pay (by decision of the Joint National Board).

97. Some countries similarly have special protective measures in favour of women (see also paragraphs 37 and 72 as regards overtime for pregnant women and nursing mothers). Separate statistics of women's working hours are sometimes available.<sup>2</sup>

98. Where activity involves strain or health risks for the workers in general - for example as in mining or underground work - there has often been a reduction in normal working hours,<sup>3</sup> although, as was noted in the 1967 General Survey (paragraph 69) and remains the case, the hours actually worked have not necessarily been reduced as a consequence. On the other hand, it may be precisely in arduous work such as mining that provision is made to include, for example, cleaning up time within working hours, with the result that the time spent on the work itself is in fact reduced. Arduous or unhealthy work is sometimes also related to longer annual holidays.<sup>4</sup>

99. Night work is often distinguished from day-time work as regards rate of remuneration and/or hours worked.<sup>5</sup> In this respect, it may be treated in a similar way to other kinds of work considered arduous or unhealthy, or the notion of "unsocial hours" may in itself be an element in fixing conditions of work in this connection.<sup>6</sup>

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<sup>1</sup> For example Hungary. In Spain there may be a reduced working day for anyone with a child or a handicapped person in his or her charge. In Switzerland there are provisions for the special arrangement of working time of women with a household to see to.

<sup>2</sup> See ILO Year Book of Labour Statistics, 1983, table 11.

<sup>3</sup> For example Bulgaria, New Zealand, Norway, Romania (as a first stage in a more general reduction).

<sup>4</sup> See below, Chapter III, para. 237.

<sup>5</sup> For example Guatemala, Panama, Romania. In Japan, the workers' organisation DOMEI states that there should be revision of certain regulations on night and shift work.

<sup>6</sup> For example in some collective agreements in the United Kingdom.

100. There are other fields of activity which are commonly subject to below-average working hours, for example, white-collar workers variously defined very often have shorter basic hours than blue-collar workers (cf. the cases described above, paragraph 74, where white-collar workers do not usually benefit from special rates of remuneration for overtime). Senior and sometimes middle management may be excluded from general limitations on working hours.<sup>1</sup> Sometimes there are more favourable conditions for all workers in commerce and offices (manual and non-manual) or for those in public administration.<sup>2</sup>

101. Aside from the exceptions discussed in section IV above, in respect of any activities where the normal working week exceeds 48 hours the Recommendation advocates immediate steps to reduce them to that level (Paragraph 5). Table 1 shows a few cases where the normal working week is above 48 hours,<sup>3</sup> as well as others which, while they may be within the 48-hour limit, often exceed the national mean for working hours (either normal or actual), for example shops or offices.

102. The countries which appear on the whole to have relatively long working hours are often developing ones, although some industrialised countries also maintain relatively long working hours, at least in certain activities.<sup>4</sup> The reasons are largely

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<sup>1</sup> In the United States certain federal employees are not covered by federal legislation (executive, administrative and professional employees) but none the less benefit from overtime provisions.

<sup>2</sup> As discussed in section II(b) above, the scope of general provisions often has special regard to these workers.

<sup>3</sup> For example, Canada (Manitoba); heavy construction (50 hours); India (newspaper and some railway workers; the latter were subject to special provisions in Article 10 of Convention No. 1); Kenya (certain workers to whom the legislation applies, who do not benefit from more favourable collective agreements); Pakistan (some railway workers - also covered by the special provisions of Convention No. 1); Switzerland (all workers other than industrial and white-collar and technical employees).

<sup>4</sup> In Japan, where the statutory maximum is generally 48 hours, the workers' organisations DOMEI and SOHYO criticise certain aspects of overtime and hours actually worked and also advocate progress towards a 40-hour and a 35-hour week respectively. In Switzerland, the workers' organisation USS considers that the standards in force - even if only maximums - are too high, and the legislation should be amended.

connected with the factors referred to in Paragraph 7 (see section II(d) above), or, in the case of certain developing countries, they may reflect the absence as yet of any active national policy on reduction of hours of work. In some cases too they may reflect the fact that collective bargaining has not given attention to the subject on a large scale.

103. On the whole, it seems fair to say that general levels of working hours - whether described in terms of normal hours or hours actually worked - have continued to fall in the last 20 years.<sup>1</sup> As the 1967 general survey observed (paragraph 78), normal hours for the generality of workers do not seem ever to exceed 48 hours, though there remain now as in 1967 industries and activities in several countries not falling within the exceptions envisaged in the Recommendation where a normal working week of 50 hours or more exists.<sup>2</sup> On the other hand, the 40-hour objective of Recommendation No. 116<sup>3</sup> is clearly met and bettered in a growing number of countries.

104. The level of hours actually worked where information is available shows that, in many cases, they are noticeably lower, and only in a few cases higher, than that of normal hours. Further, hours actually worked are lower than normal hours in a majority of industrialised countries. This situation may reflect a variety of factors, including cuts in production and working hours due to a recessionary climate as well as increased short-time or part-time working for other reasons, and the effects of technological changes and of other new arrangements of working time, in adaptation to economic and social evolution. The current position is the more interesting since - at least as a snapshot observation - it is in an opposite direction

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<sup>1</sup> For example, Belgium, Bulgaria, Cuba, Cyprus, Denmark, Ecuador, Norway, Romania. In the United States since January 1976, at least six states have lowered the overtime pay threshold and two others have newly adopted overtime standards.

<sup>2</sup> In one country (Algeria) the legal working week is now 44 hours compared with a level of 40 under 1936 legislation.

<sup>3</sup> For example, Australia, Belgium, Denmark, France, Italy, Netherlands, New Zealand, Norway, Spain, Sweden.

to that observed in the 1967 general survey when the levels of hours actually worked - especially in industrialised countries - were often higher than those fixed for normal hours.

### IX. Conclusions

105. The trends as regards working hours and the approaches to their reduction described in the 1967 general survey have by and large continued in the last 17 years. Because of its progressive nature and its flexibility, Recommendation No. 116 has again shown itself an eminently suitable instrument for guidance on these questions.

106. Several governments have stated in their reports that the whole or parts of the Recommendation are applied in practice. For a large and growing number of countries, the main objective of a 48-hour week contained in Convention No. 1 has already been achieved or improved on, although the Committee's examination of reports communicated under article 22 of the Constitution by governments of countries which have ratified this Convention (and also Convention No. 30) reveals some continuing problems on the questions of, for example, exceptions or the limitation of overtime.

107. The information considered in this survey from a good number of countries also shows that the social standard of the 40-hour week referred to in Convention No. 47 and in Recommendation No. 116 has in fact been achieved and even, in some cases improved on.

108. As regards the developing countries considered in this survey, some governments have indicated difficulty in accepting the social standard contained in the Recommendation at their present stage of development - sometimes looking forward to a time when this will be possible. On the other hand a number of developing countries (notably French-speaking countries of Africa) have basic legislation on a 40-hour week. This difference in approach may be accounted for by the economic and social factors and the need for adaptation to national conditions emphasised in various provisions of Recommendation No. 116. In the case of developing countries where the agricultural or informal sectors occupy the majority of the population, the limited extent to which the Recommendation finds suitable conditions for its application should also be borne in mind.

109. Not only the trend in levels of normal hours, but also the situation as regard levels of hours actually worked show some interesting developments since last surveyed in 1967. The lower levels of actual hours now frequently observed, as compared with normal hours, even with the reservations expressed in paragraph 94 as to available statistics, may reflect unfavourable economic trends but also the effects of technology, new methods of arranging working time (e.g.

short-time or part-time working) and new thinking on the conditions and quality of life.

110. The whole picture seems to confirm the main conclusion of the Committee in its 1967 survey, as to the dynamic character of the question of hours of work. The essential elements in the dynamics of hours of work are made up of the economic and social factors set out in Paragraph 7 of Recommendation No. 116.

111. The interplay of these factors, at the national and international levels, affects developed and developing countries alike. Responses and reactions may accordingly vary. There is no doubt, however, that the aims set out in the Recommendation, and the methods proposed for their achievement, offer useful and universally valid suggestions not merely for better labour protection, but for suitable responses to economic and social evolution. The present survey, it is hoped, will provide an opportunity for a re-examination of the situation and for further action in this field.

Table 1: Working time in ILO member States

	Normal hours per week <sup>1</sup>	Hours actually worked per week	Minimum weekly rest	Minimum annual leave (in working days unless otherwise indicated)
Afghanistan	40		24 hrs Fri. (c.o. 1 1/2 days)	20 days (state employees)
Algeria	44	44.5 (1977)	24 hrs Fri. (c.s. 2 days)	30 days*
Angola	44		1 day Sun.	30 days*
Antigua and Barbuda	48 (40 c.a.)		24 hrs (2 days c.a.)	12 days* (2-3 wks c.a.)
Argentina	48		35 hrs Sat.-Sun.	14 days*
Australia	40	34.5 <sup>a</sup> (1982)	1 1/2-2 days	3-4 weeks (4 wks c.a.)
Austria	40	145.5 <sup>b</sup> (per.mth, manuf. 1982)	24 hrs-1 1/2 days	24 days
Bahamas	48		1 day Sun.	1 week
Bahrain	48		24 hrs Fri.	21 days*
Bangladesh	48		24 hrs (c.a.) Fri. or Sun. (c.o. 1 1/2 days)	1 day per 22
Barbados	40		2 days Sun.	3 wks (c.a. 4-5 wks)
Belgium	40 (38 c.a.)	33.6 <sup>a</sup> (1982)	1 day Sun. (2 or 3 c.a.)	4 wks
Belize	48 (govt. workers)		1 day	1-2 wks (16-28 days* c.a.)
Benin	40		24 hrs Sun.	30 days*
Bolivia	48	45.6 <sup>a</sup> (1981)	33 hrs Sun.	15 days
Botswana	47 1/2 (shops and offices)		Sun. (from 1 pm Sat.) (shops and offices)	12 days*
Brazil	(48) 8 hrs per day		24 hrs Sun.	30 days*
Bulgaria	42 1/2		36 hrs	14 days
Burma	35 (public servants) 40 (other workers public enterprises)	7.6 per day <sup>a</sup> (1981)	24 hrs Sun. (2 days c.s.)	10 days*
Burundi	45	45 <sup>a</sup> (1982)	24 hrs Sun. (1 1/2 days c.s.)	12 days
Byelorussian SSR	41	40.4 <sup>a</sup> (manuf. 1982)	42 hrs	15 days
United Republic of Cameroon	40		24 hrs Sun.	18 days
Canada	40 (federal legislation) (35-40 c.a.)	37.6 <sup>b</sup> (manuf. 1982)	24 hrs (under fed. leg. 2 days)	2 weeks (3 wks c.a.)
Cape Verde	44 (39 white collar, 36 1/2 public servants)		1 day Sun.	30 days*



	Normal hours per week <sup>1</sup>	Hours actually worked per week	Minimum weekly rest	Minimum annual leave (in working days unless otherwise indicated)
Central African Republic	40		24 hrs Sun.	18 days
Chad	40		24 hrs Sun.	18 days
Chile	48		from 9 pm Sat.-6 am Mon.	15 days
China, People's Republic of	48		24 hrs (Sun.)	
Colombia	48		24 hrs	15 days
Comoros	40		24 hrs Sun.	18 days
Congo	40		24 hrs Sun.	21 days
Costa Rica	48	48 <sup>a</sup> (manuf. 1982)	1 day Sun.	2 weeks
Cuba	44		1 day Sun.	30 days <sup>a</sup>
Cyprus	44 (41-42 c.a.)	42 <sup>b</sup> (1982 Oct.)	Sun. (over half wks. 2 days by c.a.)	2 weeks (2-3 c.a.)
Czechoslovakia	46 (in practice 42 1/2 max.)	43.1 <sup>a</sup> (manuf. 1982)	32 hrs	2 weeks
Democratic Yemen	46		1 day Fri.	24 days <sup>a</sup>
Denmark	40	33 <sup>a</sup> (manuf. 1982)	1 day (some commerce 2 days)	30 days <sup>a</sup>
Djibouti	40		24 hrs (c.s. 2 days)	30 days <sup>a</sup>
Dominican Republic	44		2 days (c.s.)	12 days <sup>a</sup>
Dominica	40		1 day Sun.	2-3 weeks
Ecuador	40	45 <sup>a</sup> (manuf. 1981)	42 hrs	15 days <sup>a</sup>
Egypt	48	55 <sup>b</sup> (1978 Oct., provisional)	1 day Fri. (c.s. 2 days)	21 days <sup>a</sup>
El Salvador	44	44.5 <sup>a</sup> (men, manuf. 1981)	1 day Sun.	15 days <sup>a</sup>
Equatorial Guinea	48		1 day Sun.	1 month <sup>a</sup>
Ethiopia	48		24 hrs Sun.	14 days
Fiji	45 (building and engineering)		1 day Sun. (building and engineering)	10 days (up to 30 by c.a.)
Finland	40 (35-40 c.a.)	40.4 <sup>a</sup> (manuf. 1982)	24 hrs (c.o. 38; c.s. 2 days)	4 weeks (15 weeks c.a.)
France	39	39.7 <sup>a</sup> (1982)	1 day Sun. (c.s. 2 days)	30 days
Gabon	40		24 hrs Sun.	24 days
German Democratic Republic	43 3/4		48 hrs inc. Sun.	18 days

	Normal hours per week <sup>1</sup>	Hours actually worked per week	Minimum weekly rest	Minimum annual leave (in working days unless otherwise indicated)
Germany, Federal Republic of	48 (40 c.a.)	40.7 <sup>b</sup> (1982)	24 hrs (shops 1 1/2 days)	18 days (5-6 wks c.a.)
Ghana	45		36 hrs	14 days
Greece	48 (41 c.a.)	38.6 <sup>b</sup> (manuf. 1982)	1 day	4 weeks
Grenada	39 (minor industry)		1 day	3 weeks (2 in first year)
Guatemala	48	47.4 <sup>a</sup> (manuf. 1979)	1 day (c.s. 2 days)	6-15 days
Guinea	40		24 hrs Sun.	30 days*
Guinea-Bissau	48		24 hrs Sun.	no provision
Guyana	48 (44 in govt.)		1 day (2 by c.a.)	12 days*
Haiti	48		1 day	15 days*
Honduras	44		1 day Sun.	10 days
Hungary	42	153.8 <sup>a</sup> (per mth, manuf. 1982)	1 day Sun.	15 days
Iceland	40	49.4 <sup>b</sup> (1982)		4 weeks
India	48		1 day (c.o., c.s. 1 1/2)	1 per 20 days (3-4 wks c.a.)
Indonesia	40		1 day	12 days
Iran, Islamic Republic of	48		1 day Fri.	12 days*
Iraq	48		1 day Fri.	20 days*
Ireland	48 (40 c.a.)	40.5 <sup>a</sup> (manuf. 1982)	1 day Sun.	3 weeks (17-19 days c.a.)
Israel	47	36.2 <sup>a</sup> (1982)	36 hrs Fri. Sat. Sun.	14 days*
Italy	48 (40 c.a.)	7.74 <sup>a</sup> (per day 1982)	1 day (metals, commerce, 2 days)	10 days (4-5 wks c.a.)
Ivory Coast	40		24 hrs Sun.	24 days (27 days c.a.)
Jamaica	40		1 day	2 weeks (3 wks c.a.)
Japan	48 (36-48 c.a.)	40.3 <sup>a</sup> (1982)	1 day (c.s. 2 days once per mth)	6 days
Jordan	48		1 day Fri.	3 weeks
Democratic Kampuchea				
Kenya	41-54		1 day	21 days
Kuwait	48		1 day Fri.	14 days*

	Normal hours per week <sup>1</sup>	Hours actually worked per week	Minimum weekly rest	Minimum annual leave (in working days unless otherwise indicated)
Lao Republic	48			12 days
Lebanon	48		36 hrs Sun.	15 days*
Lesotho	45		24 hrs Sun.	12 days
Liberia	48		24 hrs	2 weeks
Libyan Arab Jamahiriya	48		1 day Fri.	16 days*
Luxembourg	40	40.6 <sup>a</sup> (1981)	Sun. (2 days c.a.)	25 days
Madagascar	40 (44 in state functions)		24 hrs Sun.	30 days*
Malawi	48		1 day	6 days (10-18* c.a.)
Malaysia	48	44.6 <sup>a</sup> (Peninsular) 53 <sup>a</sup> (Sabah) 46.2 <sup>a</sup> (Sarawak) (1979)	1 day	8-10 days*
Mali	40		24 hrs	30 days*
Malta	48		2 days (c.a.)	4 weeks
Mauritania	40		24 hrs Sun.	18 days
Mauritius	40		Sun. (c.s. 2 days)	12 days (13-15 c.a.)
Mexico	48 (40 c.s.)	46 <sup>a</sup> (manuf. 1981)	1 day (c.s. 2 days)	6 days (1-2 wks c.s.)
Mongolia	46		42 hrs (inc. Sun.)	15 days
Morocco	48		24 hrs Fri. Sat. Sun.	18 days
Mozambique	48 (36 white collar)		1 day Sun.	15 days
Namibia				
Nepal	48 (factories)		1 day	1 day per 20
Netherlands	48 (40 c.a.)	40.4 <sup>b</sup> (1982)	36 hrs. Sat. or Sun.	3 wks (4-5 c.a.)
New Zealand	40	38.7 <sup>b</sup> (1982)	Sun. (c.s. 2 days)	3 wks
Nicaragua	48		1 day	15 days*
Niger	40		24 hrs Sun.	18 days
Nigeria	40		24 hrs	6 days (15-30* c.a.)
Norway	40	36 <sup>a</sup> (1982)	36 hrs	25 days (4-5 wks c.a.)
Pakistan	48		1 day Fri. or Sun.	14-15 days*
Panama	48	46 <sup>a</sup> (manuf. 1979)	1 day (c.s. 2)	30 days*
Papua-New Guinea	44		1 day Sun.	14 days*

	Normal hours per week <sup>1</sup>	Hours actually worked per week	Minimum weekly rest	Minimum annual leave (in working days unless otherwise indicated)
Paraguay	48		24 hrs Sun.	6 days
Peru	48	46.3 <sup>a</sup> (1982 Lima)	24 hrs Sun.	30 days*
Philippines	48 (private sector) 40 (govt.)	48.1 <sup>a</sup> (1978)	24 hrs	5 days (2-3 wks c.a.)
Poland	46 (in practice, 42)	155 <sup>a</sup> (per mth 1982)	36 hrs Sun.	14 days
Portugal	48 (45 c.a.) (42 offices)	37.9 <sup>a</sup> (1980)	24 hrs Sun. (c.o. 1 1/2-2 days)	3 wks (3-4 wks c.a.)
Qatar	48		1 day Fri.	2 wks
Romania	46		24 hrs	15 days
Rwanda	45		24 hrs Sun.	15 days
Saint Lucia	41 (shops)		24 hrs (industry)	
San Marino	48 (44 white collar)		24 hrs Sun.	10 days* (22 c.a.)
Sao Tomé and Príncipe	48		1 day Sun.	30 days*
Saudi Arabia	48		1 day Fri.	15 days*
Senegal	40		24 hrs (c.s. 2 days)	18 days (24 c.a.)
Seychelles	45 (shops, eng.) 48 (hotels, etc.)		1 day Sun.	21 days*
Sierra Leone	39-45	44 <sup>a</sup> (1981)	1 day Sun. (c.s., offices 2)	15 days c.a.
Singapore	44	48.6 <sup>a</sup> (1982)	1 day Sun.	7 days* (2 wks c.a.)
Somalia	48		1 day Fri.	15 days*
Spain	40	40 <sup>a</sup> (1982)	1 1/2 days	30 days*
Sri Lanka	48	50.1 <sup>b</sup> (1982)	1 1/2 days (shops and offices)	14-21 days*
Sudan	48		24 hrs Fri. or Sat.	15 days*
Suriname	48		1 day	12 days* (3 wks c.a.)
Swaziland	48 (manuf. and processing industries)		1 day Sun.	2 wks
Sweden	40	35.6 <sup>a</sup> (1982)	36 hrs (more by c.a.)	25 days (5-7 wks c.a.)
Switzerland	45 (industrial & white collar) 50 (other) (40-45 c.a.)	44.1 <sup>b</sup> (1982)	1 day Sun. (1 1/2 days hotels)	2-3 wks (3-4 wks c.a.)
Syrian Arab Republic	48		1 day Fri.	14 days*
Tanzania	45		1 day	21 days*
Thailand	48 (industry) 54 (commerce)		1 day	6 days

	Normal hours per week <sup>1</sup>	Hours actually worked per week	Minimum weekly rest	Minimum annual leave (in working days unless otherwise indicated)
Togo	40		24 hrs	30 days*
Trinidad and Tobago	48 (catering)		1 day	14 days
Tunisia	40		24 hrs Fri. Sat. Sun.	12 days*
Turkey	48		35 hrs	12 days
Uganda	48		24 hrs Sun.	18 days
Ukrainian SSR	41		42 hrs	15 days
USSR	41	40.7 <sup>a</sup> (manuf. 1981)	42 hrs	15 days
United Arab Emirates	48		1 day Fri.	30 days*
United Kingdom	37 1/2-40 (c.a.)	42.9 <sup>a</sup> (1982)	1 day Sun. or Sat.	4-5 wks (c.a.)
United States	40	34.8 <sup>b</sup> (1982)	2 days	1-2 wks (c.a.)
Upper Volta	40		24 hrs Sun.	30 days*
Uruguay	48 (44 offices)		24 hrs (industry) 36-48 (offices)	20 days*
Venezuela	48 (44 white collar)	44.7 <sup>a</sup> (1981)	1 day Sun.	15 days (4-5 wks c.a.)
Viet Nam				
Yemen	48		1 day Fri.	21-30 days*
Yugoslavia	42	184 <sup>b</sup> (per mth 1982)	32 hrs Sun. (2 days by c.a.)	18 days
Zaire	48		24 hrs	12 days (2-3 wks c.a.)
Zambia	48		1 day Sun. (2 days c.s.)	12 days*
Zimbabwe	44-48 (40 public service)		24 hrs (36 in some cases) Sat. Sun.	2-3 wks

c.o. = commerce and offices; c.a. = collective agreements; c.s. = civil service; \* = non-working days included;

a = hours actually worked; b = hours paid for. All hours actually worked are for non-agricultural activities, except as indicated.

<sup>1</sup> See paragraph 94.

Sources: Information provided by governments; legislation and other texts examined (see Appendices); ILO Yearbook of Labour Statistics (1983), tables 11 and 12A; ILO, Conditions of Work: A Cumulative Digest, Fact Sheets (1982-83).

Table 2: Countries where there have been developments since previous general surveys  
(1964 annual leave, 1967 hours of work)

Country	Minimum annual leave		Normal hours of work	
	1964	Present	1967	Present
Algeria		30 days*	40	44
Angola	6 or 10 wkg days	30 days*		44
Argentina	10 days	14 days*	48 (44 ca)	48 (44 ca)
Australia	3 wks	3-4 wks (4 wks ca)	40	40
Austria	2 wks	24 days	48	40
Belgium	2 wks	4 wks	45	40 (38 ca)
Benin	3 wks	30 days*	40	40
Brazil	20 wkg days	30 days*	48	48
Bulgaria	14 wkg days	14 days	46	42 1/2
Burma	10 days	10 days	44 (industry)	40 (in public enterprises)
United Rep. of Cameroon	3 wks	18 days	40 (45 West Cameroon)	40 (general)
Canada	1-2 wks	2 wks (3 wks ca)	40 (fed. leg.)	40 (fed. leg) (35-40 ca)
Chile	2 wks	15 days	48	48
Cuba	4 wks	30 days*	44	44
Cyprus	1-2 wks	2 wks (2-3 wks ca)	44	44 (ca, or less)
Denmark	3 wks	30 days*	44	40
Egypt	2 wks	21 days*		48
Ethiopia	10 days	14 days	48	48
Finland	3 wks	4 wks (5 wks ca)	40	40 (35-40 ca)
France	3 wks	30 days	40	39
Gabon	3 wks	24 days	40	40
Germany, Fed. Rep.	15 wkg days	18 days	48	48 (40 ca)
Greece	1-2 wks	4 wks	48	48 (41 ca)
Guatemala		6-15 days	45	48
Guinea	3 wks	30 days*	40	40
Hungary	2 wks	15 days	48	42
India	2 wks	1 per 20 days	48	48
Iraq	2 wks	20 days*	48	48
Ireland	2 wks	3 wks (17-19 days ca)	48	48 (40 ca)
Italy	2 wks	10 days (4-5 wks ca)	48	48 (40 ca)
Ivory Coast	3 wks	24 days	40	40
Kenya	2 wks	21 days	43-54 (ca)	41-54 (ca)

Table 2 (cont.)

Country	Minimum annual leave				Normal hours of work	
	1964		Present		1967	Present
Luxembourg	8-15	wkg days	25	days	40-48	40
Madagascar	3	wks	30	days*	40	40
Malaysia	5	days	8-10	days*	48	48
Mali	3	wks	30	days*	40	40
Netherlands	15	wkg days	3	wks (4-5 wks ca)	48	48 (40 ca)
New Zealand	2	wks	3	wks	40	40
Nicaragua	4	wks	15	days*	48	48
Nigeria	1-2	wks	6	days (15-30* ca)	40-54 (ca)	40
Norway	3	wks	25	days	45	40
Poland	2-4	wks	14	days	46	42 (in practice)
Portugal	4	days	3	wks (4 wks ca)	48	48 (42 offices) (45 ca)
Romania	2	wks	15	days	48	46
Rwanda	1	wk	15	days		45
Sierra Leone	9	wkg days	15	days	38 1/2-54	45
Somalia	2	wks	15	days	48	48
Spain	1-2	wks	30	days*	48	40
Sudan	10	days	15	days		48
Sweden	4	wks	25	days (5-7 wks ca)	45	40
Switzerland	1-3	wks	2-3 (4 wks ca)	wks wks ca)	46 (industrial & white-collar)	45 (industrial & white-collar) (40-50ca)
Tanzania	1	wk	21	days	45 (industry)	45 (industry)
Tunisia	2	wks	12	days	48	40
Uganda	1	wk	18	days	48	48
USSR	2	wks	15	days	41	41
United Kingdom	2	wks	4-5	wks (ca)	37 1/2-42 (ca)	37 1/2-40 (ca)
Upper Volta	3	wks	30	days	40	40
Yugoslavia	14	wkg days	18	days	42	42

\* Non-working days included.

ca = Collective agreements.

(See also notes to table 1.)

## CHAPTER II

### WEEKLY REST

#### Introduction

112. The Preamble of the Constitution of the ILO refers to the regulation of hours of work and the establishment of a maximum working day and week as one of the most important means of improving working conditions. The very first instrument adopted by the ILO, the Hours of Work (Industry) Convention, 1919 (No. 1), by prescribing a 48-hour week and eight-hour day, implicitly established the principle of weekly rest. This principle was subsequently given concrete expression by the adoption of the Weekly Rest (Industry) Convention, 1921 (No. 14), supplemented by the Weekly Rest (Commerce) Recommendation (No. 18). In 1957, the International Labour Conference adopted the Weekly Rest (Commerce and Offices) Convention (No. 106) and Recommendation (No. 103).

113. Probably because its origins go so far back, weekly rest is generally speaking one of the aspects of the organisation of work which is most scrupulously observed; in many countries it is looked upon as a fundamental right that is embodied in the Constitution.<sup>1</sup> The considerable number of ratifications of Convention No. 14,<sup>2</sup> which is in force in 97 States and 17 non-metropolitan territories;<sup>3</sup> and the

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<sup>1</sup> For example, Algeria, Benin, Brazil, Bulgaria, Burma, China, Czechoslovakia, Honduras, Iraq, Italy, Mexico, Paraguay, USSR, Yugoslavia.

<sup>2</sup> Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Bahamas, Bahrain, Bangladesh, Belgium, Benin, Bolivia, Brazil, Bulgaria, Burma, Burundi, Byelorussian SSR, United Republic of Cameroon, Canada, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo, Cuba, Czechoslovakia, Denmark, Djibouti, Dominica, Egypt, Finland, France, Gabon, Ghana, Greece, Grenada, Guinea, Guinea-Bissau, Haiti, Honduras, Hungary, India, Islamic Republic of Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Kenya, Lebanon, Lesotho, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Malaysia (Sarawak), Mali, Mauritania, Mauritius, Mexico, Morocco, Mozambique, Netherlands,

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small number of comments that the Committee has had to make on its application is significant. Convention No. 106, adopted more than 30 years later, has been ratified by 49 States and declared applicable to 10 non-metropolitan territories,<sup>1</sup> and it is with the application of this Convention that most of the Committee's comments on the matter are concerned. This should not be taken to mean that the principle of weekly rest is disputed, but, rather, that certain provisions of Convention No. 106 are more strict and that the conditions under which some of the sectors covered by the Convention operate, as will be seen later, are rather particular. Though the principle of weekly rest is

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New Zealand, Nicaragua, Niger, Norway, Pakistan, Paraguay, Peru, Poland, Portugal, Romania, Rwanda, Saint Lucia, Saudi Arabia, Senegal, Spain, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, Togo, Tunisia, Turkey, Ukrainian SSR, USSR, Upper Volta, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zimbabwe.

In addition, Convention No. 14 has been declared applicable to the following territories: applicable without modification: Denmark (Faroe Islands, Greenland), France (French Polynesia, Guadeloupe, Guyana, Martinique, Réunion, St. Pierre and Miquelon, New Caledonia), Netherlands (Netherlands Antilles), New Zealand (Cook Islands, Niue), United Kingdom (Anguilla, Falkland Islands (Malvinas), Montserrat, St. Helena, British Virgin Islands); applicable with modifications: United Kingdom (Hong Kong).

<sup>1</sup> Afghanistan, Angola, Bangladesh, Bolivia, Brazil, Bulgaria, Byelorussian SSR, Colombia, Comoros, Costa Rica, Cuba, Cyprus, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, France, Gabon, Ghana, Greece, Guatemala, Guinea-Bissau, Haiti, Honduras, Indonesia, Islamic Republic of Iran, Iraq, Israel, Italy, Jordan, Kuwait, Lebanon, Mexico, Morocco, Netherlands, Pakistan, Paraguay, Portugal, Saudi Arabia, Spain, Sri Lanka, Suriname, Syrian Arab Republic, Tunisia, Ukrainian SSR, USSR, Uruguay, Yugoslavia.

In addition, Convention No. 106 has been declared applicable without modification to the following territories: Denmark (Faroe Islands, Greenland), France (French Polynesia, Guadeloupe, Guyana, Martinique, Réunion, St. Pierre and Miquelon, New Caledonia), Netherlands (Netherlands Antilles).

broadly respected and despite the general trend in the matter, therefore, it is an issue which tends to be seen differently according to the country, economic branch and type of employment concerned.

114. This chapter of the general survey endeavours to show how the situation has evolved since the last survey on the subject.<sup>1</sup> The first section deals with the methods of application and scope of the international instruments and of national law and practice. The second section, which describes the various weekly rest schemes, considers in turn the normal type of scheme, the permanent and temporary exceptions to the norm, income protection, and supervisory measures. The chapter ends with a look at the difficulties and progress in implementing these instruments, and with a number of conclusions.

### I. Methods of application and scope

#### (a) Methods of application

115. Article 1 of Convention No. 106 states that "the provisions of this Convention shall, in so far as they are not otherwise made effective by means of statutory wage-fixing machinery, collective agreements, arbitration awards or in such other manner consistent with national practice as may be appropriate under national conditions, be given effect by national laws or regulations". Convention No. 14 does not provide for any specific method of application but stipulates, in Article 11, that each Member ratifying agrees to bring the main provisions of the Convention into operation and to take such action as may be necessary to make them effective. In practice, the vast majority of countries have introduced legislation to give effect to the Conventions on weekly rest. The relevant provisions may be found either in general legislation or in special laws.

116. In several other countries,<sup>2</sup> weekly rest is governed by decrees or ordinances on wage fixing that have been adopted under legislation dealing with hours of work or minimum wages. In such cases, the application of the Conventions rests on a wide range of texts referring to specific occupations, industries or undertakings.

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<sup>1</sup> ILO: Weekly Rest in Industry, Commerce and Offices, Report III (Part IV), International Labour Conference, 48th Session, Geneva, 1964.

<sup>2</sup> For example, Denmark, India, Kenya, Malta, Mauritius, Zambia.

117. In other countries, again, Conventions Nos. 14 and 106 are applied essentially, if not exclusively, by means of collective agreements or arbitration awards.<sup>1</sup> It is a characteristic of the question of weekly rest that the basic national provision is often a matter of long-established custom; the role of collective bargaining in these circumstances may consist first in improving the conditions of application of the weekly rest (for example, its length, or enforcement provisions) and secondly in governing the application of weekly rest in certain kinds of work (for example, continuous processes, or the service sector).

(b) Scope

118. Apart from the exceptions provided for in the Conventions, which will be examined later, Convention No. 14 concerning weekly rest in industrial undertakings and Convention No. 106 concerning weekly rest in commerce and offices, supplemented by Recommendation No. 103, together cover nearly all sectors of the economy except for agriculture.

119. Article 2 of Convention No. 14 states that the principle of weekly rest applies to "the whole of the staff employed in any industrial undertaking, public or private, or in any branch thereof", while paragraph 1 of Article 1 defines the term "industrial undertaking" in this context as the extractive industries, the manufacturing and transforming industries, construction and demolition and transport by road, rail or inland waterways, including the handling of goods.

120. Convention No. 106 applies to all persons, including apprentices, employed in the establishments, institutions or administrative services enumerated in Article 2(a) and (b) (trading establishments and establishments, institutions and administrations in which the persons employed are mainly engaged in office work). According to Article 2(c), the Convention also applies to the trading branches, and branches in which the persons employed are mainly engaged in office work, of any other establishments and to mixed commercial and industrial establishments, in so far as the persons concerned are not employed in establishments referred to in Article 3 (see paragraph 121 below) and are not subject to national regulations or other arrangements concerning weekly rest in industry, mines, transport or agriculture.

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<sup>1</sup> For example, Australia, Cyprus, New Zealand, United Kingdom, United States. In the case of the Isle of Man, the United Kingdom Trades Union Congress states that concern about the non-implementation of various ILO Conventions and the consequent treatment of employees stems from the lack of social legislation.

121. In accordance with Article 3, the scope of Convention No. 106 may moreover be extended, by optional declaration accompanying the ratification of the Convention or subsequent communication, to persons employed in (a) establishments, institutions and administrative services providing personal services, (b) post and telecommunications services, (c) newspaper undertakings, or (d) theatres and places of public entertainment.<sup>1</sup>

122. To complete this review of the scope of Conventions Nos. 14 and 106, Convention No. 14 authorises exceptions for certain countries such as are provided for in the Hours of Work (Industry) Convention, 1919 (No. 1).<sup>2</sup> Furthermore, Article 1, paragraph 3, of Convention No. 14 and Article 4 of Convention No. 106 stipulate that each Member may define the line of division which separates the establishments to which each Convention applies.

123. Both Convention No. 14 (Article 3) and Convention No. 106 (Article 5(a)) allow establishments in which only the members of a single family are employed to be excluded from the scope of provisions governing weekly rest, with the added proviso in the case of Convention No. 106 that they are not, or cannot be considered to be, wage earners.

124. Only Convention No. 106 provides (in Article 5(b)) that the competent authority or appropriate body may exclude from the provisions of the Convention persons holding high managerial positions. This provision concerns persons who, because of the extent of their responsibilities in the establishment, act in fact as if they were themselves employers.<sup>3</sup>

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<sup>1</sup> Declarations accepting the obligations of the Convention in respect of the establishments referred to in Article 3 have been communicated by the following countries: Article 3, paragraph 1: Comoros, Djibouti, France, Guatemala, Haiti, Mexico, Syrian Arab Republic, Tunisia, Yugoslavia; paragraph 1(a): Denmark; paragraph 1(c): Bangladesh, Pakistan; paragraph 1(a), (c), (d): Brazil; paragraph 1(b), (c), (d): Israel.

<sup>2</sup> See general survey, 1964, op. cit., para. 41.

<sup>3</sup> See Report of the Committee on Weekly Rest, cited in the 1964 general survey, op. cit., para 74, footnote.

125. In countries that have adopted general labour legislation in the form of a labour code or general law on working conditions, such legislation relates either to establishments, in which case it is formulated along the same lines<sup>2</sup> as the international Conventions,<sup>1</sup> or to the employment relationship.

126. Whatever the approach, and with a few exceptions that will be examined later, such legislation generally makes no distinction between industry and trade and its scope is the same as that of Conventions Nos. 14 and 106.

127. However, certain activities - for example in the public sector (especially public administration) - are often not covered by this kind of general legislation but are governed by special provisions.

128. When weekly rest is governed by a whole series of texts referring to specific sectors (laws on factories, mines, shop opening hours, commerce and offices), it is more difficult to determine how their scope compares with that of the international Conventions.<sup>4</sup>

129. Both Conventions provide for exemptions in the case of family establishments (see paragraph 123), and the legislation of a number of countries contains specific provisions concerning the members of an employer's family. In most countries, however, this category is implicitly excluded from the scope of national legislation

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<sup>1</sup> For example, France, Honduras, Morocco, Tunisia, Switzerland, Uruguay.

<sup>2</sup> For example, Bahrain, Belgium, Dominican Republic, Islamic Republic of Iran, Iraq, Madagascar, Saudi Arabia, Syrian Arab Republic.

<sup>3</sup> See 1964 general survey, op. cit., paras. 38 and 59-62; see also paragraph 145 below.

<sup>4</sup> For example, India: the 1948 Factories Act, which covers part of the scope of Convention No. 14, is supplemented by the Minimum Wage Act which authorises the individual States to draw up their own regulations on working conditions for certain types of employment, and the 1952 Mines Act. Shops and commercial establishments are governed by laws adopted by individual States. In applying Convention No. 14, India has taken advantage of the special exceptions permitted under Article 1, paragraph 2 (see paragraph 122 above).

on weekly rest in so far as there is no employment relationship with an employer, though occasionally its application to family establishments is stipulated explicitly.<sup>1</sup>

130. The condition that an establishment should be of a strictly family nature to be excluded from the terms of Conventions Nos. 14 and 106 is generally respected in national legislation containing such exemptions, which usually defines family undertakings as establishments employing only members of the employer's family.<sup>2</sup> On the other hand, where they are excluded by implication of the fact that there is no employment relationship or where the exclusion aims at the worker as a member of the employer's family,<sup>3</sup> it would seem less certain that this condition is properly respected. Moreover, legislation rarely stipulates that members of an employer's family may be exempt on condition that they "are not or cannot be considered to be wage earners", as required by Convention No. 106.

131. Most countries do not appear to have availed themselves explicitly of the possibility of excluding persons in high managerial positions provided for in Article 5(b) of Convention No. 106. Their exclusion is, however, implicit in certain legislation applicable to "workers", the definition of which may exclude managerial personnel.

132. Some countries with similar exclusions<sup>4</sup> seem not to restrict them to persons in higher managerial positions as permitted in Convention No. 106 but to extend them to broader categories comprising, for example, people who are able to organise their work freely or work with a certain measure of independence.<sup>5</sup>

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<sup>1</sup> For example France: section L200-1 of the Labour Code.

<sup>2</sup> For example, Belgium, Greece, Islamic Republic of Iran, Iraq, Ireland, Lebanon, Mexico, Netherlands, Nicaragua, Saudi Arabia, Suriname.

<sup>3</sup> For example, United Republic of Cameroon, Egypt, Italy, Libyan Arab Jamahiriya, Malta, Morocco, Pakistan, Switzerland, Yemen.

<sup>4</sup> For example, Israel, Italy, Japan, Liberia, New Zealand, Paraguay, Singapore, Sweden, Switzerland, Zaire.

<sup>5</sup> For example Paraguay: the Labour Code does not apply to managers and managerial personnel or to persons who, by virtue of their high technical skills, level of income and type of work, are able to carry  
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133. Other exemptions not specifically provided for in the Conventions include that of establishments that are defined in terms of their geographic location or the number of persons employed.<sup>1</sup> In other countries,<sup>2</sup> the application of the law is determined by the worker's salary. Finally, some workers may be excluded from the scope of the relevant provisions when their conditions of employment are governed by collective agreements or arbitration awards.<sup>3</sup>

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out their functions independently; Sweden: the Government indicates in its report that persons who are able to organise their work themselves, whether in an administrative, intellectual or artistic capacity, are automatically considered to be occupying high managerial positions; Zaire: persons vested with such authority that they are able to organise their work freely without any day-to-day supervision are excluded from the order governing weekly rest.

<sup>1</sup> For example Bangladesh: the Shops Act applies only to establishments with a certain number of employees. Burma: the Shops and Establishments Act applies only to certain towns. India: the various state Shops and Establishments Acts apply only to certain regions. Kuwait: the Labour Law does not cover establishments with less than five employees. Liberia: Chapter 9 of the Labour Practices Law does not apply to undertakings with less than four employees.

<sup>2</sup> For example Mauritius: the 1975 Labour Act applies to workers who have entered into a contract of employment and earn less than 18,000 rupees per annum. Singapore: Part IV (Rest Days, Hours of Work, Holidays and Other Conditions of Service) of the 1968 Employment Act applies to workmen and other employees who are in receipt of a salary not exceeding 1,250 dollars a month or such other amount as may be fixed from time to time by the Minister.

<sup>3</sup> In its report, the Australian Government indicates that 11 per cent of office workers are governed neither by collective agreements nor by arbitration awards.

134. By and large, however, the great majority of countries which have sent reports under article 19 or article 22 of the Constitution apply the principle of weekly rest to the establishments referred to in Conventions Nos. 14 and 106 except in the specific cases indicated above. Moreover, the countries that have ratified Convention No. 106 without stating explicitly that its provisions apply to the establishments listed in Article 3 do in fact apply them to persons working in these establishments who, because of the nature of their employment, are often subject to special rules and regulations.

135. Little use has been made in practice of Article 1, paragraph 3, of Convention No. 14 and Article 4 of Convention No. 106, concerning the division between establishments to which the Convention applies and the others, largely because the legislation on weekly rest is of a general nature and, as mentioned above, makes no distinction between industry and commerce. It might, however, be necessary for countries that have ratified only one of the Conventions to make this distinction.

## II. Weekly rest schemes

### (a) Normal schemes

136. Article 2 of Convention No. 14 and Article 6 of Convention No. 106 stipulate that all persons to whom they apply shall be entitled to an uninterrupted weekly rest period comprising not less than 24 hours in the course of each period of seven days, which shall, whenever possible, be granted simultaneously to all the persons concerned in each establishment and coincide with the day of the week established as a day of rest by the traditions or customs of the country or district.

137. Thus, the basic standards governing weekly rest (as regards regularity, continuity, uniformity and respect for established traditions or customs) are the same in both Conventions. As to the duration of the rest, which the Conventions set at not less than 24 hours, Paragraph 1 of Recommendation No. 103 states that the persons to whom Convention No. 106 applies should "as far as possible" be entitled to a weekly rest of not less than 36 hours which, wherever practicable, should be an uninterrupted period.

### (i) Regularity

138. By definition, a weekly rest must be granted every working week. Virtually all countries that have adopted provisions referring

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<sup>1</sup> See above, para. 121, footnote.



explicitly to weekly rest state that it must be granted at seven-day intervals, though the wording may vary. On the other hand, national legislation is not always specific on this point and, in countries with no explicit provision establishing a weekly rest day but with provisions governing hours of work, for example, the latter could theoretically be spread over the seven days of the week. However, as many governments have pointed out, in such cases, Sunday is traditionally recognised as a day of rest.

(ii) Continuity

139. Unless the period of rest is uninterrupted the object of the provision is not achieved. The principle of continuity is therefore essential and, as such, has been embodied in both Conventions. As regards the additional period of 12 hours provided for in Paragraph 1(d) of Recommendation No. 103, this should, "wherever practicable", be combined with the minimum rest of 24 hours. Most countries that have adopted a standard 24-hour or longer weekly rest specify that it should be an uninterrupted period.

140. Moreover, when the work timetable is organised in such a way as to increase the number of hours of rest, the relevant provisions generally stipulate that the additional rest must be taken before or after the normal rest period<sup>2</sup> or that the hours of work must be spread over a specified number of consecutive days.<sup>3</sup>

(iii) Duration and method of calculation

141. According to Paragraph 2 of Recommendation No. 103, the minimum weekly rest of 24 hours should be so calculated as to include the period from midnight to midnight and should not include other rest periods immediately preceding or following that period.

142. It is unusual for national legislation to contain specific provisions concerning the method of calculation of the statutory duration of the weekly rest period.<sup>4</sup> Usually, however, national

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<sup>1</sup> For example, Barbados, Malta, Sierra Leone, Sudan.

<sup>2</sup> For example, Algeria, Angola, France, Mali, USSR.

<sup>3</sup> For example, Cyprus, Czechoslovakia, Italy, Poland.

<sup>4</sup> See, however, Norway: section 51 of the Working Environment Act.

legislation specifies a particular day of the week as the official day of rest or indicates that a day of rest must be granted (the rest day being defined as a period of 24 consecutive hours from midnight to midnight).

143. Current provisions in virtually all the countries examined grant 24 hours' rest to all persons covered by the two Conventions. In several countries, the minimum official duration of the weekly rest period is more than the standard 24 hours. In numerous countries longer rest periods are granted in specific sectors (see below).

144. Provisions concerning hours of work also have a bearing on the duration of weekly rest. In countries that have taken legislative action or where there are collective agreements reducing the working day and working week, hours of work are generally spread over a fixed number of days and thus automatically increase the minimum duration of the official weekly rest.<sup>2</sup> Some workers also benefit from a shorter working week when, for example, they are employed on arduous or dangerous work.<sup>3</sup>

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<sup>1</sup> For example, Czechoslovakia (32 hours), Bulgaria, Ghana, Israel, Lebanon, Netherlands, Norway, Poland, Sweden (36 hours), Finland (38 hours), Mongolia, USSR (42 hours), German Democratic Republic (48 hours).

<sup>2</sup> For example, Austria (Vienna): according to the ILO Report for the ad hoc meeting of experts on the link between hours of work and opening hours of commercial and banking establishments (ILO-SB0H/1981/1), the collective agreement for shop employees provides for a 40-hour working week spread over four-and-a-half days. Belgium: the same Report indicates that employees in department stores work a 36-hour week spread over four-and-a-half days. Italy: the national collective agreement for workers in commercial establishments (18 March 1983) and the national collective agreement for persons employed in the tourism sector (8 July 1982) provide for a 40-hour week spread over five-and-a-half days. Japan: according to the Government's report, 75 per cent of workers are entitled to two days' weekly rest at least once a month. Poland: under the Council of Ministers Order of 30 December 1982 respecting hours of work etc., workers may choose from several schemes, the most common of which offers them a four-weekly cycle of three 40-hour five-day weeks and one 48-hour six-day week. Rwanda: Ordinance No. 641/06 defines arrangements for a 45-hour working week and sets minimum rates for overtime, night work and work on non-working days.

<sup>3</sup> For example, China, German Democratic Republic, Norway, Poland.

145. The official rest period varies, moreover, according to occupational category and economic branch. In several countries some groups of workers, who are generally governed by special terms of employment, benefit from above-standard conditions. In the case of public administration personnel,<sup>1</sup> for example, the official weekly rest may be as much as 48 hours.<sup>2</sup> The staff of transport undertakings may likewise benefit from conditions that are better than the legal minimum, though the crews themselves operate under special schemes that will be referred to later.<sup>3</sup>

146. Certain sectors are likewise entitled to a longer period of weekly rest than the national minimum. These are usually the sectors<sup>5</sup> covered by Convention No. 106:<sup>6</sup> commerce in general,<sup>4</sup> retail trade,<sup>5</sup> banks,<sup>6</sup> insurance companies.

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<sup>1</sup> For example, Algeria, Australia, Bolivia, Brazil, Burma, Djibouti, Dominican Republic, Egypt, Finland, France, Guatemala, Mauritius, Mexico, New Zealand, Panama, Senegal, USSR, Uruguay.

<sup>2</sup> See General Report, Joint Committee on the Public Service, Third Session, Geneva, 1983, pp. 31-33.

<sup>3</sup> For example, Algeria.

<sup>4</sup> For example, Afghanistan, China, Finland, Guyana, Hungary, Sierra Leone, Uruguay.

<sup>5</sup> For example, New Zealand.

<sup>6</sup> For example, Denmark, Finland, India, Japan, Sierra Leone, Sweden, Uruguay.

<sup>7</sup> For example, Denmark, Japan. In Portugal, the Government states that 75 per cent of the collective agreements signed by office workers provide for two days' rest and 25 per cent for a five-and-a-half-day week with the weekly rest beginning at 1 p.m. on Saturday; in the commercial sector, 50 per cent of the employees have two days' rest. In Yugoslavia, the Government notes in its report that over half the workers in the public sector and most employees in the commercial sector are entitled to two days' weekly rest.

147. The duration of the weekly rest may be increased by spreading the hours of work over a smaller number of days,<sup>1</sup> which has the effect of increasing the number of hours worked daily.<sup>2</sup> This is the usual kind of arrangement in collective agreements.<sup>3</sup> In one case, on the other hand, the official duration of the weekly rest has been reduced by collective agreement.<sup>3</sup>

148. Recommendation No. 103 (Paragraph 4(1)) states that young persons under 18 years of age should, wherever practicable, be granted an uninterrupted weekly rest of two days.

149. Judging from available information, very few countries<sup>4</sup> seem to have adopted any specific provisions on the subject. However, the longer weekly rest for adolescents is often the result of a shorter working day or week.<sup>5</sup> In addition, the national legislation of many countries contains extremely strict provisions governing overtime, rest breaks and rest at night for adolescents.

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<sup>1</sup> For example, United States: in its report, the Government states that the persons covered by the Federal Labour Standards Act may group their hours of work, provided only that they work an average of 80 hours over each two-week period.

<sup>2</sup> See D. Maric: Adapting working hours to modern needs (ILO, Geneva, 1977), pp. 14-17.

<sup>3</sup> Sweden: under the Hours of Work Act, a national trade union may depart from the provisions relating to weekly rest. The Government states that one national trade union has negotiated an agreement in which the official rest of 36 hours has been reduced to 30 hours.

<sup>4</sup> For example, Netherlands: under the Act of 18 March 1977 to amend the 1919 Labour Act (conditions of employment of young persons), young persons are, with certain exceptions, granted a consecutive rest period of at least 60 hours or two consecutive rest periods of at least 36 hours each. United States: in its report, the Government mentions that in the State of Washington young persons are allowed to work a maximum of five days a week.

<sup>5</sup> For example, Angola, Bolivia, Czechoslovakia, Panama, USSR.

150. From this it can be seen that the duration of the weekly rest is steadily increasing, which can be explained by the laws and regulations or agreements that have been adopted in several countries to reduce the working week while the official minimum weekly rest has not been changed. Measures such as these are, however, not yet the general rule and differences exist between the various sectors of the economy. Trade union organisations have often played a decisive role in this trend and workers in sectors with particularly well established unions generally enjoy better working conditions than those stipulated by law and, specifically, a longer rest period than the legal minimum.

(iv) Uniformity and respect for established traditions and customs

151. In the great majority of countries the requirement that the weekly rest period should be granted simultaneously to all workers is specified in national legislation. As a rule, the day fixed by law is determined by tradition. In some countries, the day of rest may take account of the various religious faiths.<sup>2</sup>

(b) Permanent exceptions

152. Under Article 7 of Convention No. 106, measures may be taken by the competent authority or through the appropriate machinery to apply special weekly rest schemes to specified categories of persons or establishments where, because of the nature of the work, the nature of the service performed by the establishment, the size of the population to be served or the number of persons employed, it is impossible to apply the normal scheme. Article 4, paragraph 1 of Convention No. 14 states in general terms that total or partial exceptions may be authorised, special regard<sup>3</sup> being had to all proper humanitarian and economic considerations.

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<sup>1</sup> In certain Moslem countries (for example, Algeria, Afghanistan, Bahrain, Democratic Yemen, Islamic Republic of Iran, Iraq, Jordan, Kuwait, Saudi Arabia, Yemen) the official day of rest is Friday.

<sup>2</sup> For example, China, Israel, Jordan, Morocco, Netherlands, Norway, Pakistan, Syrian Arab Republic, Tunisia, Zambia.

<sup>3</sup> During the preparatory work on Convention No. 14, the Subcommittee on Weekly Rest attempted to draw up a list of exceptions but, because of the differences of opinion of the various countries, a more flexible wording was adopted (see International Labour Code, 1951, ILO, Geneva), Article 343, pp. 278-279.

153. According to Article 7, paragraph 2, of Convention No. 106, all persons to whom such special schemes apply shall be entitled, in respect of each period of seven days, to rest of a total duration at least equivalent to the period provided for in Article 6, i.e. 24 hours. Thus, the following aspects of weekly rest can be modified to fit the circumstances: uniformity for all workers, choice of day, respect for traditions and customs, regularity and continuity. As regards the last two points, Recommendation No. 103 introduces certain restrictions: namely, that rest periods should not be postponed by more than three weeks and that rest periods that are split up should comprise not less than 12 hours of uninterrupted rest (Paragraph 3).

154. Here again, Convention No. 14 leaves ratifying countries somewhat greater latitude, inasmuch as Article 5 stipulates that "as far as possible" they shall make provision for compensatory periods of rest for the suspensions or diminutions made in virtue of Article 4.

155. Under Article 4 of Convention No. 14 and Article 7(4) of Convention No. 106, any exceptions to the norm should be authorised only after consultation with the representative employers' and workers' organisations, where such exist (save, in the case of Convention No. 14, in the case of exceptions which have already been made under existing legislation prior to the ratification of the Convention).

156. The possibility of applying special schemes is in most countries stipulated in provisions concerning specific establishments. When the provision authorising such exceptions is expressed in general terms, the law requires that the relevant rules or regulations be adopted by the competent authority.

157. The great majority of countries require occupational organisations to be consulted. In several cases the orders respecting the application of weekly rest provisions have been promulgated after consultation of tripartite advisory committees. In other countries<sup>2</sup> the occupational organisations participate in the drafting of the labour<sub>3</sub> legislation through permanent tripartite bodies. In certain cases, the special schemes are worked out by the trade union

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<sup>1</sup> For example, Chad, Comoros, Congo, Madagascar, Mali, Mauritania, Niger, Senegal.

<sup>2</sup> For example, Belgium, Finland, India.

<sup>3</sup> For example, Czechoslovakia, German Democratic Republic, Romania, USSR, Yemen.

organisations. Finally, in countries where working conditions are determined by collective agreements or arbitration awards, there is full consultation with the occupational organisations.

(i) Alternative rest day - rotation

158. The special arrangement that is closest to the norm and common to almost every country involves the choice of a day other than that established under the normal weekly rest scheme (usually Sunday or Friday). This kind of arrangement may concern the entire staff of an establishment or of a branch of the economy whose regular rest day is not the same as that stipulated for the rest of the workers in the country. This is the case with services that can only be provided when the other workers are absent (maintenance, surveillance) and with establishments whose services are mainly in demand when most of the community is not working (theatres and places of public entertainment).

159. More often, however, the choice of an alternative day of the week for the weekly rest is applied to part of the staff on a rotation basis. This type of arrangement is made when production cannot be interrupted, either because of the inherently perishable nature of the product (food industry) or because any interruption would cause the loss or deterioration of the product being manufactured. Establishments providing the population with essential services such as health (hospitals, pharmacies), energy (electricity, gas, water) and transport also follow this pattern. Among commercial establishments, it concerns the retail trade (especially food products). This system is also applied in certain other establishments providing services, such as hotels and restaurants. Finally, exceptions to the normal weekly rest scheme are sometimes based on economic considerations (better utilisation of capital-intensive means of production, employment creation).

160. When an alternative day is set for the weekly rest or when it is taken in rotation, the legislation of most countries requires that its duration should be the same as under the normal scheme.<sup>2</sup>

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<sup>1</sup> For example, agreements in a number of undertakings in Belgium have experimented with work-time arrangements mainly involving shift work, a shorter working week for the workers concerned and staff increases of up to 10 per cent.

<sup>2</sup> Certain countries permit a shorter rest period, however. For example, Bulgaria: the Labour Code authorises the legal duration of the rest period (36 hours) to be shortened to 24 hours where production cannot be interrupted or where work is in shifts. Italy: Act No.370 of 22 February 1934 provides that, where the weekly rest period is taken in rotation, the official duration may be reduced in the event of a shortage of staff.

161. The regularity of the rest period is normally guaranteed by national legislation which, generally speaking, stipulates that the rest day must be granted, if not on the normal day, then "on another day of the week". On the other hand, continuity may not be possible when the rest period has to be split up. This is usually the case when workers have half the official rest day on Sunday or Friday and another half-day's rest during the week (or a full day every two weeks). It is an arrangement which is used in retail establishments, especially those selling essential food products. However, the minimum rest period of 12 hours advocated in Recommendation No. 103 would seem to be respected.

162. Finally, there are a number of countries which require workers affected by a rotation system to be granted a certain number of days' rest under the normal scheme so that they can benefit from the same advantages.

(ii) Deferred rest period

163. Paragraph 3(a) of Recommendation No. 103 states that persons to whom the special schemes provided for by Article 7 of Convention No. 106 apply should not work for more than three weeks without a rest period.

164. Several countries have introduced this system for certain jobs in continuous process establishments.<sup>2</sup> In some sectors the calculation of the weekly hours of work and postponement of the weekly rest may be over a longer period - in the hotel and transport industries, for instance.<sup>3</sup> Finally, the distance of the place of work

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<sup>1</sup> For example, Hungary, Norway, Poland, Portugal, Romania.

<sup>2</sup> For example, Central African Republic, Chad, Comoros, Congo, France, Gabon, Niger, Senegal. As already noted, the exceptions permitted under Convention No. 14 are expressed in general terms. However, the Hours of Work (Industry) Convention, 1919 (No. 1), provides for special arrangements for workers employed on continuous processes (Article 4) and for the average number of hours worked by shifts to be calculated over a period of three weeks (Article 2(c)).

<sup>3</sup> For example, Belgium: Royal Decree of 6 May 1981 establishing that personnel employed in long-distance buses operating on Sundays must receive compensatory rest in the last quarter of the calendar year at the latest. Honduras: according to section 342 of the Labour Code, in the case of work that cannot be suspended, such as work on voyages on inland waterways or by sea, any rest days which the workers concerned are prevented from taking are carried over until the week following the conclusion of the work. Luxembourg: the Minister of

(footnote continued on next page)



from any large urban centre may also be grounds for postponing the rest day. The period of postponement varies from country to country and is sometimes more than the maximum period of three weeks advocated in Recommendation No. 103.<sup>2</sup>

165. In cases of deferment, workers normally continue to be entitled to a rest period equal in length to the official minimum. Accumulated rest days may also be taken as annual leave.

166. Generally speaking, special schemes meet the criteria laid down in the Conventions, particularly in Article 7 of Convention No. 106 which is more specific. This is also the case for national legislation which lists the establishments or jobs or defines the circumstances in which such schemes may apply. In certain sectors such as commerce, however, the trend could lead to the establishment of special schemes that might not<sup>3</sup> necessarily correspond to the terms of these international standards.

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Labour is authorised to extend to one year the reference period for calculating the hours of work of employees whose presence is essential for the normal running of hotel businesses. [Under Article 3, paragraph 1(a), of Convention No. 106, however, its application to establishments providing personal services is optional.] Switzerland: section 10 of the Federal Act of 8 October 1971 respecting employment in public transport undertakings.

<sup>1</sup> For example, Algeria: section 7 of Decree No. 82-184 of 15 May 1982. In its report, the Government states that rest periods are deferred in worksites in the southern part of the country. Romania: under section 124 of the Labour Code, rest periods may be deferred in the case of work at isolated sites.

<sup>2</sup> For example, Egypt: the period without rest may be no more than eight weeks. Japan: in its report, the Government states that certain national public servants may postpone their rest periods for four weeks. Thailand: rest periods may not be postponed for more than four weeks.

<sup>3</sup> For example, in Portugal, the General Confederation of Portuguese Workers has expressed some concern at the uninterrupted week worked by large commercial centres, which it says poses a threat to the five-and-a-half-day week to which commercial employees are entitled. See Michel Massé: "La fermeture hebdomadaire des établissements et l'évolution des techniques de commercialisation", in Droit social (Paris), No. 3, March 1979.

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(c) Temporary exceptions

167. In Convention No. 14 a single provision governs the establishment of special schemes and the possibility of temporary exceptions, which may therefore also be authorised with due regard for all proper humanitarian and economic considerations.

168. In Convention No. 106, on the other hand, Article 8 specifies the circumstances in which temporary exceptions may be authorised from the normal scheme defined in Article 6 and the special schemes established in accordance with Article 7. Such exceptions are permitted in the case of accident, force majeure or urgent work to premises and equipment, but only as far as may be necessary to avoid serious interference with the ordinary working of the establishment (paragraph 1(a)), in the event of abnormal pressure of work due to special circumstances in so far as the employer cannot ordinarily be expected to resort to other measures (paragraph 1(b)), and in order to prevent the loss of perishable goods (paragraph 1(c)).

169. Article 4 of Convention No. 14 and Article 8(2) of Convention No. 106 moreover require that the representative employers' and workers' organisations should be consulted on the subject. Convention No. 106 stipulates that such consultation is required to determine the circumstances in which temporary exemptions may be granted other than in the cases stipulated in Article 8(1)(a).

170. Occupational organisations have usually been consulted in connection with the adoption of texts establishing temporary exceptions. In some countries<sup>1</sup> the law also requires such consultation in regard to the application of specific temporary exemptions allowed.

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<sup>1</sup> For example, Bulgaria: under section 47 of the Labour Code, no overtime work in connection with national defence, and in the case of intensified seasonal work and work to be finished by a fixed date where there is a labour shortage, may be ordered without prior authorisation from the trade union. Iraq: under section 67(c) to (g) of the Labour Code, orders to work in cases of imminent danger, for the repairing or replacing of plant or equipment, to complete an unfinished job which could otherwise result in damage to materials or machinery, for stock-taking purposes, etc., and on special seasonal occasions or public holidays, are issued in agreement with the competent trade union organ or pursuant to collective industrial agreements. Romania: under section 118(2) of the Labour Code, work in excess of the normal hours of work in emergencies, to protect raw materials, equipment or products and to repair appliances or installations is undertaken on the basis of a decision taken by the management of the unit in agreement with the trade union committee.

171. In several countries,<sup>1</sup> temporary exceptions are subject to prior authorisation: the legislation also sometimes requires the document authorising the exception to be posted. In cases of emergency, a posteriori notification of the circumstances in which an exception is made and of the persons affected may likewise be required.

172. The circumstances giving rise to exemptions from weekly rest include increases in the workload for the preparation of balance sheets, stock-taking, seasonal sales, the prevention of the loss of perishable goods, the breakdown of machinery, natural disasters and danger to goods. In some countries the legislation is expressed in more general terms and allows work on a day of rest in "extraordinary circumstances",<sup>2</sup> in case of absolute necessity,<sup>3</sup> or if the work is necessary to increase production.<sup>4</sup> Exceptions are sometimes permitted for work connected with national defence or law and order.<sup>5</sup> As a rule, however, the circumstances under which temporary exceptions may be authorised are in line with the provisions of Convention No. 106.

(i) Compensatory rest

173. Both Conventions contain provisions for compensatory rest. However, whereas Article 5 of Convention No. 14 states that each Member shall make "as far as possible" provision for compensatory periods of rest, Article 8, paragraph 3, of Convention No. 106 provides that any person working on the weekly rest day must be granted compensatory rest. This provision is not always respected in national legislation and, of the countries that have ratified Convention No. 106, several have been the subject of comments by the Committee.<sup>6</sup>

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<sup>1</sup> For example, Algeria, Bulgaria, Indonesia, Iraq, Jordan, Romania.

<sup>2</sup> For example, Bolivia.

<sup>3</sup> For example, Kuwait.

<sup>4</sup> For example, Democratic Yemen.

<sup>5</sup> For example, Afghanistan, Bulgaria, Ethiopia, France, Israel.

<sup>6</sup> For example, Bolivia, Comoros, Cyprus, Djibouti, Egypt, Indonesia, Islamic Republic of Iran, Jordan, Lebanon, Morocco, Saudi Arabia, Suriname, Syrian Arab Republic. On the other hand, the Committee recently welcomed the steps taken by Kuwait to grant compensatory rest in all cases of work on the weekly rest day.

Some countries offer workers a choice between compensatory rest and cash compensation.<sup>1</sup> In many cases, however, the only form of compensation is a cash payment.<sup>2</sup> It should be noted that this provision of Convention No. 106 is sometimes mentioned in government reports as one of the obstacles to its ratification.

174. Though compensatory rest may not always be granted, several countries impose legal restrictions on exceptions. Some list the establishments that are entitled to suspend the weekly rest for abnormal pressure of work<sup>3</sup> or set a maximum of overtime<sup>4</sup> or on the number of days of rest that can be suspended.<sup>5</sup> The agreement or the health of the workers may also be taken into account. Usually, however, there is no limitation on the obligation to work on rest days in emergency situations.

175. There may be another type of restriction. Most countries make provision for higher rates of remuneration for work on the weekly rest day which may be as much as three times the normal rate;<sup>6</sup> this

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<sup>1</sup> For example, Bahrain, Cuba, Democratic Yemen, Egypt, Finland, Hungary, Islamic Republic of Iran, Lebanon, Romania.

<sup>2</sup> For example, Antigua and Barbuda, Australia, Guyana, Lesotho, Malaysia, Saudi Arabia, Swaziland, Syrian Arab Republic, Turkey, Yemen. Elsewhere, this is so only in certain cases: protection of machinery (Afghanistan), abnormal pressure of work in undertakings handling perishable goods, urgent work (France, Gabon, Morocco, Niger, Suriname, Switzerland).

<sup>3</sup> For example, Comoros, Ivory Coast, Niger.

<sup>4</sup> For example, Bulgaria, Lesotho, Norway, Romania.

<sup>5</sup> For example, Bahrain, Chad, Egypt, France, Saudi Arabia, Senegal.

<sup>6</sup> In some cases the wage increase varies according to whether the worker chooses compensatory rest or extra pay; for example, Islamic Republic of Iran, Israel, Luxembourg.

helps to discourage certain abuses and to limit such exceptions when the law does not actually impose compensatory rest. One Government states that employers, especially in the retail trade, prefer to take on outside help rather than pay the very high wages demanded by regular staff who have to work on the weekly rest day. In another country the Government states that the obligation to pay high rates protects workers against abuse. However, some countries distinguish between hours worked on the weekly rest day in cases of emergency, which are paid at the normal rate, and hours worked on rest days for other reasons, which are considered as overtime and paid accordingly.

176. Finally, Paragraph 4(2) of Recommendation No. 103 states that the temporary exceptions provided for under Article 8 of Convention No. 106 should not be applied to young persons under 18 years of age. Some countries prohibit any exemptions to the weekly rest rule<sup>4</sup> for young workers, either explicitly or by banning overtime. In several other cases, there are certain exceptions to such work by adolescents, especially in cases of emergency.<sup>5</sup> On the other hand, some countries ban work by adolescents in emergencies but, with certain limitations, authorise it in case of abnormal pressure of work or to prevent the loss of perishable goods.<sup>6</sup>

(d) Income protection

177. Article 9 of Convention No. 106 stipulates that, in so far as wages are regulated by laws and regulations or subject to the control of administrative authorities, there shall be no reduction of the income of persons covered by the Convention as a result of the

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<sup>1</sup> New Zealand.

<sup>2</sup> Australia.

<sup>3</sup> For example, United Republic of Cameroon, France, Singapore.

<sup>4</sup> For example, Honduras, Saudi Arabia.

<sup>5</sup> For example, Belgium, Luxembourg, Romania.

<sup>6</sup> For example, Chad, Comoros, Congo. However, work on the weekly rest day in these cases is restricted to a maximum of two days a month and six days a year.

application of measures taken in accordance with it. This provision is supplemented by Paragraph 7 of Recommendation No. 103, which states that, in cases in which Article 9 of Convention No. 106 is inapplicable, provision to this effect should be made by collective agreements or otherwise.

178. The great majority of countries grant a weekly rest day with pay, and several have adopted specific laws or regulations on the subject.<sup>1</sup> For workers paid by the month or week, however their wages are calculated, granting a rest day does not affect their earnings in any way.

179. The situation is quite different in the case of workers paid by the day or on piece rates. The point was raised during the general discussion of the report of the Committee on Weekly Rest, when it was proposed that this category of workers too should be guaranteed paid weekly rest,<sup>2</sup> but the proposal was rejected. Several countries<sup>3</sup> have adopted specific regulations on the matter; elsewhere, the actual situation of these workers is rather vague and often the Committee does not have enough information to go by.

(e) Supervision at the national level

180. Under Article 10 of Convention No. 106, the proper administration of regulations or provisions concerning the weekly rest shall be assured by means of adequate inspection or otherwise, accompanied by an appropriate system of penalties. Article 11 of Convention No. 14 requires Members ratifying it to take such action as may be necessary to render effective the provisions of the Convention, which likewise implies the existence of inspection services and suitable penalties.

181. Most countries have inspection services, usually attached to the authority responsible for enforcing the law. In several countries the inspection is carried on by both the competent

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<sup>1</sup> For example, Bahrain, Democratic Yemen, Iraq, Mexico, Pakistan, Peru.

<sup>2</sup> See the proposal by the Government member of Spain in Record of Proceedings, International Labour Conference, 40th Session, Geneva, 1957, p. 717, para. 46.

<sup>3</sup> For example, Ecuador, Egypt, Pakistan.

administrative authorities and the workers' organisations. The police may also co-operate, particularly in ensuring observance of the regulations concerning closing hours of shops and stores. Provision is generally made for penalties for violating weekly rest provisions, normally in the form of a fine, though in some cases, an establishment guilty of repeated violations may be closed down. Certain sectors tend to be more difficult to supervise than others, especially in the small retail trade.<sup>1</sup> Few reports, however, refer to the practical implementation of enforcement measures.

182. Finally, Article 7 of Convention No. 14 and Paragraphs 5 and 6 of Recommendation No. 103 provide for the keeping of records and the posting of hours of work as a means of ensuring the proper administration of weekly rest. Most countries have such arrangements, though in some cases they apply only when an establishment employs more than a certain number of workers.<sup>2</sup>

### Conclusions

183. The Committee's latest assessment of weekly rest confirms the fundamental conclusion reached in its 1964 general survey that weekly rest is certainly one of the best observed of workers' rights and a principle which has often been accepted from time immemorial.

184. Since 1964, there have been 29 new ratifications of Convention No. 14 and 28 of Convention No. 106, making a total of 97 and 49 respectively. One country (Sri Lanka) stated in its report under article 19 of the Constitution that ratification of Convention No. 106 had been approved; the instrument of ratification was subsequently received and ratification registered on 27 October 1983.

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<sup>1</sup> In Austria, the Congress of Austrian Chambers of Labour states there have been complaints concerning non-observance of provisions on weekly rest in the hotel sector, particularly in tourist centres; it indicates that there should be closer supervision in this respect, so that the phenomenon is not generalised. In Japan, in its comments the workers' organisation SOHYO states that there are only 3,202 labour inspectors for 3.5 million undertakings and that labour laws are therefore often violated by small and medium-sized establishments. The Government states in this connection that it aims at strengthening inspection by increasing the numbers of inspectors and also by certain reorganisational means.

<sup>2</sup> For example, Bahrain, Saudi Arabia.

One country (Liberia) has indicated that there should be no difficulty in ratifying Convention No. 14 and another (Sierra Leone) that it intends to investigate ways and means of applying its provisions so that it can ratify the Convention. One country (Mali) has stated that ratification of Convention No. 106 and acceptance of Recommendation No. 103 should be possible once the rules and regulations governing hours of work, which are now being drafted, have been adopted. Ratification of Convention No. 106 is also expected shortly in Rwanda. Two more countries (Democratic Yemen and Ethiopia) observe that there seems to be no obstacle to their ratifying Conventions Nos. 14 and 106 in the near future.

185. In practice, relatively few workers covered by the instruments discussed here are denied weekly rest. It has been found, however, that certain texts are restrictive, as they are based on the number or remuneration of the persons employed or the geographical location of the establishment, and that some collective agreements or arbitration awards may not necessarily cover all the workers covered by the Conventions.

186. Furthermore, arranging weekly rest so as to conform to Convention No. 106 may be something of a problem, especially in such sectors as the hotel industry (though application of the Convention to this sector is optional under Article 3) and the retail trade.

187. These problems are reflected in the attitude of certain countries towards ratification of Convention No. 106. The obligation to grant compensatory rest regardless of the nature of any exemption is an obstacle for some countries.<sup>2</sup> One country<sup>3</sup> emphasises the financial and administrative implications of applying Convention No. 106 to the entire national territory. Another country<sup>4</sup> likewise notes

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<sup>1</sup> In Finland, the employers' organisations STK and LTK consider that there is no reason to ratify Convention No. 106 since national legislation and practice are superior to the Convention; however, the workers' organisations SAK and TVK consider that ratification of Convention No. 106 should be examined at the national level taking into account Article 5, paragraph 1, of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), ratified in 1978.

<sup>2</sup> For example, Singapore, Sweden (a minor obstacle only).

<sup>3</sup> India.

<sup>4</sup> Somalia.



that the economic and administrative context does not yet permit ratifying Conventions Nos. 14 and 106. Another<sup>1</sup> mentions that one of the main obstacles to ratification of Convention No. 106 is the possibility for the social partners to make exceptions to the laws and regulations, albeit subject to certain conditions. Finally, one country<sup>2</sup> stresses that collective bargaining between the social partners guarantees more flexibility in respect of working conditions.

188. Despite these occasional disparities, the trend towards longer weekly rest periods, already apparent in 1964, has continued. It will be seen from table 1 that, although the legal minimum duration is 24 hours in most countries, in 16 countries it ranges from 32 to 48 hours.<sup>3</sup> In several countries, some sectors benefit from more favourable conditions than apply generally - for example, the public service (36 hours' weekly rest in two countries and 48 hours' rest in 18 countries)<sup>4</sup> and commercial establishments (36 hours in seven countries).<sup>5</sup>

189. The action of trade union organisations has been decisive in several countries and, moreover, explains the fact that the rest period may vary in different sectors or occupational categories within the same country, depending on the development of the trade union movement in each sector of the economy. The steps that certain countries have taken to reduce the working week have also contributed to this trend and partly explain the differences between individual countries.

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<sup>1</sup> Sweden.

<sup>2</sup> New Zealand.

<sup>3</sup> 32 hours: Finland, Yugoslavia; 35 hours: Argentina, Turkey; 36 hours: Bulgaria, Ghana, Israel, Lebanon, Netherlands, Norway, Poland, Spain, Sweden; 42 hours: Mongolia, USSR; 48 hours: German Democratic Republic.

<sup>4</sup> 36 hours: Burundi, India; 48 hours: Algeria, Australia, Bolivia, Brazil, Burma, Djibouti, Dominican Republic, Egypt, Finland, France, Guatemala, Mauritius, Mexico, New Zealand, Panama, Senegal, USSR, Uruguay.

<sup>5</sup> Afghanistan, China, Finland, Sri Lanka, Uruguay and, in certain areas or establishments, Bangladesh and India.

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190. Developments over the past 20 years suggest that the tendency for the weekly rest period not only to increase in length but also to be extended to new sectors will continue, probably in conjunction with special arrangements and exceptions such as are provided for in the Conventions themselves, in accordance with the particular needs and characteristics of each economic activity.

## CHAPTER III

### HOLIDAYS WITH PAY

#### Introduction

191. There has been considerable development during the past 50 years in the field of annual holidays with pay. The following figures give an idea of the progress achieved. In 1934 there were only 12 countries with holiday legislation applying to wage and salary earners in general and the minimum duration of annual leave was four days in three of these countries, one week in six others and two weeks in the other three. Today such legislation exists in the vast majority of member States of the ILO; moreover, in the member States for which information was available the minimum duration of annual holidays was less than two weeks in only about 10 per cent and was at least two weeks in some 45 per cent, at least three weeks in about 20 per cent and four weeks or more in about 25 per cent.

192. In this constantly changing situation, it is not surprising that the subject of annual holidays with pay has frequently come before the International Labour Conference and that many instruments on the subject have been adopted.

193. As regards general standards, i.e. which apply to the majority of workers, there was first of all the adoption in 1936 of Convention No. 52; this instrument, together with Recommendation No. 47, applied to workers in industry, commerce and offices and fixed the minimum duration of annual leave at six working days after one year of continuous service. This was followed in 1954 by the adoption of Recommendation No. 98; this instrument applied to all employed persons, with the exception of seafarers and agricultural workers, and it recommended an annual holiday of at least two working weeks in each 12 months of service. Finally, the Holidays with Pay Convention (Revised), 1970 (No. 132), which is the subject of the present survey, applies to all employed persons, with the exception of seafarers, and it establishes a minimum duration of three weeks of holiday for each

year of service. So far it has been ratified by 17 countries.<sup>1</sup> As regards agricultural workers, the Holidays with Pay (Agriculture) Convention (No. 101) and Recommendation (No. 93), 1952, were important landmarks in the standard-setting activities of the ILO in this sphere; the right of these workers to an annual holiday, the minimum duration of which, as laid down in the Recommendation, though not in the Convention, should be one working week (two weeks for workers under the age of 16 years) was recognised at the international level for the first time.

194. As regards seafarers, the only category of workers expressly excluded from the scope of Convention No. 132, the International Labour Conference has on four occasions adopted progressively improved standards regarding annual holidays (Conventions Nos. 54, 72, 91 and 146, adopted respectively in 1936, 1946, 1949 and 1976).<sup>2</sup>

195. Instruments with a more general scope adopted during the last ten years by the International Labour Conference also contain provisions on holidays with pay for the categories of workers which they concern.<sup>3</sup> As indicated in the general introduction, standards concerning annual holidays with pay are included in other instruments adopted in particular by the United Nations.

196. The present chapter is concerned with the Holidays with Pay Convention (Revised), 1970 (No. 132). It is divided into five sections. The first deals with the scope and methods of application. The second, which is the longest, examines various aspects related to the length of holidays: minimum length, method of calculation, extension of holidays for reasons of seniority, age or other factors.

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<sup>1</sup> United Republic of Cameroon, Federal Republic of Germany, Guinea, Iraq, Ireland, Italy, Kenya, Luxembourg, Madagascar, Norway, Portugal, Spain, Sweden, Upper Volta, Uruguay, Yemen, Yugoslavia. As regards Conventions Nos. 52 and 101, these have so far received 50 and 43 ratifications respectively (including, in each case, nine denunciations resulting from the ratification of Convention No. 132).

<sup>2</sup> Only Conventions Nos. 91 (21 ratifications) and 146 (eight ratifications) are in force.

<sup>3</sup> The Minimum Age Recommendation, 1973 (No. 146) recommends the granting of an annual holiday with pay of at least four weeks to young persons under the age of 18 and, in all cases, not shorter than that granted to adults. The Older Workers Recommendation, 1980 (No. 162) includes among the measures suggested to meet the difficulties related to advancement in age increasing holidays with pay on the basis of the length of service or of age.

The third section is devoted to the minimum period of service required for entitlement to holidays and the question of proportionate holidays for workers who have been employed for a shorter period than that required for entitlement to the whole period of leave. The fourth concerns holiday pay. The fifth section briefly touches upon other aspects of the subject such as the dates of the holiday, the restrictions placed on the division into parts or postponement of leave, relinquishment of holiday rights or the exercise of paid employment during such leave, holiday rights and the enforcement of holiday provisions applying to workers whose termination of employment coincides with the period of paid leave. Finally, this chapter sets forth the Committee's conclusions as to the situation in the various national contexts, identifying the main difficulties and trends and the ratification prospects of Convention No. 132.

### I. Scope and methods of application of Convention No. 132

#### (a) Scope

197. The scope of Convention No. 132 is extremely wide. It applies to all employed persons with the exception of seafarers (Article 2, para. 1).

198. However, a member State may at the time of ratification accept the obligations of the Convention separately in respect of (a) employed persons in economic sectors other than agriculture, and (b) employed persons in agriculture (Article 15). It may subsequently notify the ILO that it accepts the obligations of the Convention in respect of all persons to whom it applies. As can be seen from the use made of the provisions by member States,<sup>1</sup> the choice of procedure provided by Article 15 of the Convention was basically intended to meet the problems of ratification related to the difficulties of applying the provisions of the Convention to persons employed in agriculture.

199. The competent authority in each country may also exclude from the application of the Convention "limited categories of employed persons in respect of whose employment special problems of a substantial nature, relating to enforcement or to legislative or to constitutional matters, arise". However, this exclusion may be decided only after consultation with the employers' and workers' organisations concerned, where these exist. Furthermore, such exceptions may be made only in so far as they are necessary and each ratifying member State must give the reasons for such exclusion in its first report on the application of the Convention (Article 2, paragraphs 2 and 3).

<sup>1</sup> See below, para. 205.

200. The scope of national provisions on holidays with pay is in most cases also very wide. Indeed, such provisions are usually designed to guarantee the right to holidays of all workers in the main sectors of the economy, subject only to certain limited exceptions. In most countries, this right is enshrined in legislation - for example a labour code or a special act relating to annual paid leave - which applies in principle to all or most wage and salary earners. In defining the establishments concerned, this kind of text uses formulas such as "all establishments employing wage and salary earners", "industrial or commercial establishments" or "industrial and commercial establishments irrespective of their nature, whether public or private". Sometimes the categories of establishments to which it applies are enumerated in various degrees of detail. In other cases, the scope is determined in relation to the persons covered who are referred to as "workers" or "wage and salary earners", as the case may be, and defined as all persons who work for the account of another person and who are paid a remuneration in pursuance of a contract under which they are employed.

201. Sometimes several pieces of legislation exist regarding paid leave, each of which concerns a specific sector of industry or the economy. Thus in some countries<sup>1</sup> there are separate regulations for industry on the one hand and for commerce and offices on the other. In other countries,<sup>2</sup> separate regulations apply to workers in the public sector and to those in the private sector. Sometimes a special holiday scheme is more generous than that applicable to workers in general. This is often the case as regards public officials.

202. From an analysis of the legislative texts available it is not always possible to determine, in the various countries concerned, exactly which categories of workers are wholly excluded from the provisions in force regarding paid holidays. Indeed, a category may well have been expressly excluded from the scope of general regulations but subsequently covered by specific regulations, as is the case in particular in several countries for homeworkers<sup>3</sup> and domestic staff.<sup>4</sup>

203. Cases of total exclusion appear to be infrequent. Where such cases do exist, the categories of workers concerned are generally

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<sup>1</sup> For example, Bangladesh, India, Pakistan.

<sup>2</sup> For example, Japan, Uruguay.

<sup>3</sup> For example, Ecuador, Italy.

<sup>4</sup> For example, Peru.

homeworkers,<sup>1</sup> domestic staff,<sup>2</sup> seasonal workers<sup>3</sup> or agricultural workers other than those employed in plantations.<sup>4</sup> Sometimes the exclusion concerns certain kinds of establishment, such as small undertakings employing fewer than a specific number of workers<sup>5</sup> or establishments employing only members of the employer's family.<sup>6</sup>

204. An analysis of the development of national legislation shows a trend towards a widening of its scope by the progressive abandonment of exclusions. Thus, the exclusion of undertakings employing a small number of workers was repealed in Mexico in 1969 and in Portugal in 1976. The exclusion of workers employed in undertakings of a seasonal nature was ended in Luxembourg in 1976. In Rwanda, the new Labour Code of 1967 revoked the exclusion of agricultural workers. In Iraq, the Labour Code of 1970 also ended this exclusion as well as that of domestic staff and homeworkers. On the other hand, there is in some countries a tendency to standardise the holiday regulations applicable to various categories of workers. In Ireland, for example, agricultural workers have since 1977 benefited from the holiday scheme applicable to workers in general.

205. Finally, as regards the scope of national regulations, it should be noted that only three of the 17 countries which have ratified Convention No. 132 (Ireland, Spain and Yemen) made use, at the time of ratification, of the option provided under Article 15 of the instrument to accept its obligations only in respect of persons employed in economic sectors other than agriculture; furthermore, one of these countries (Ireland) subsequently notified the Office of its decision to accept the obligations of the Convention also in respect of agricultural workers. The option under Article 2, paragraph 2, of excluding from the application of the Convention other limited categories of employed persons has been only used by five of the first 15 countries which have transmitted to the Office their first report under article 22 of the Constitution (United Republic of Cameroon, Ireland, Norway, Sweden and Yemen). The categories of workers excluded are the members of the employer's family (Norway), persons employed in family undertakings (United Republic of Cameroon), domestic staff (Yemen), homeworkers or persons normally employed outside the undertaking (Ireland, Sweden), workers paid totally or partially in the

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<sup>1</sup> For example, Burma.

<sup>2</sup> For example, Egypt, Saudi Arabia.

<sup>3</sup> For example, Pakistan.

<sup>4</sup> For example, India, Malaysia, Pakistan.

<sup>5</sup> For example, Burma, India, Kuwait, Pakistan, Thailand.

<sup>6</sup> For example, Japan, Mexico, Nicaragua, Saudi Arabia.

form of profit-sharing (Norway), public servants (United Republic of Cameroon, Ireland, Norway), part-time workers (Norway) and temporary workers (Norway).

(b) Methods of application

206. The provisions of Convention No. 132, in so far as they are not otherwise made effective by means of collective agreements, arbitration awards, court decisions, statutory wage-fixing machinery, or in such a manner consistent with national practice as may be appropriate under national conditions, must be given effect by legislation (Article 1). Thus a large measure of freedom is left to member States which ratify regarding the methods of application. However, there is a residual obligation on them to legislate in the event that a provision of the Convention is not applied by other means or is not applied correctly.

207. At the national level, application by legislation is by far the most commonly used method and it is rare for a country not to have introduced basic legislation on holidays with pay. Very often the right to annual holidays, minimum duration, the period of service for entitlement or some other essential aspect are determined by a text of general scope (national Constitution, labour code, labour ordinance) supplemented in many cases by more detailed regulation of the methods of application. For example, national regulations on holidays have been amended or completed by new texts in some 50 countries<sup>1</sup> over the last 20 years.

208. In a large number of countries, collective agreements play an equally important role in the regulation of annual holidays. In a few cases they have remained the sole means of prescribing annual holidays in the private sector or the principal method by which the

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<sup>1</sup> For example, Algeria, Angola, Antigua and Barbuda, Argentina, Australia, Austria, Brazil, United Republic of Cameroon, Cape Verde, Colombia, Cuba, Cyprus, Democratic Yemen, Denmark, Djibouti, Egypt, Finland, France, Gabon, German Democratic Republic, Federal Republic of Germany, Greece, Guinea, Iraq, Ireland, Kenya, Luxembourg, Madagascar, Mali, Morocco, New Zealand, Norway, Pakistan, Panama, Peru, Portugal, Rwanda, Saudi Arabia, Spain, Sweden, Tanzania, Togo, Turkey, USSR, Upper Volta, Yemen, Zimbabwe.



right to holidays is guaranteed to workers.<sup>1</sup> But it is in countries with basic legislative provisions on paid holidays that collective agreements have most often proved to be useful, by improving such provisions, particularly as regards the duration of the holiday, facilitating their practical application at industry level or in the undertaking, and regulating questions not covered by legislation. Collective agreements on paid holidays are today very widespread in the industrialised market economy countries where they have often led to important improvements in legislation. They are also found relatively frequently in some developing countries, in particular in the Latin American region.<sup>2</sup>

## II. Length of holidays

### (a) Minimum length of holidays

209. Convention No. 132 stipulates that "the holiday shall in no case be less than three working weeks for one year of service" (Article 3, paragraph 3).

210. At the national level, the minimum length of holidays according to information available is indicated in table 1. This shows that, for the 140 or so countries in which basic holidays are fixed by legislation, in over 60 cases the length is now equal to or greater than the minimum established by Convention No. 132, i.e. three weeks; nearly half of these countries are in the African region,<sup>3</sup> one-third in

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<sup>1</sup> For example, United Kingdom, United States. In the case of the Isle of Man, the United Kingdom Trades Union Congress indicates that the legislation does not lay down any holiday entitlement: while workers with whom the Transport and General Workers' Union are involved have a minimum of three weeks holiday, there are, according to the TUC comments, many private employers who do not give this minimum, so that legislation is necessary to underpin workers' rights to negotiate collective agreements in this respect.

<sup>2</sup> For example, in Mexico, according to the Confederation of Mexican Workers, where undertaking-level agreements often improve on the legislation as regards paid holidays.

<sup>3</sup> Including Algeria, Angola, Benin, United Republic of Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Congo, Djibouti, Egypt, Equatorial Guinea, Gabon, Guinea, Ivory Coast, Kenya, Madagascar, Mali, Mauritania, Morocco, Niger, Sao Tomé and Príncipe, Senegal, Seychelles, Tanzania, Togo, Uganda, Upper Volta.

Europe,<sup>1</sup> and the rest in Asia and the Pacific<sup>2</sup> and the Americas.<sup>3</sup> Furthermore, the minimum holidays established by collective agreements are sometimes well above those prescribed by the law. This is the case, for example, in Italy, Nigeria, Philippines, Switzerland and Venezuela where the minimum holidays established by collective agreement are two weeks longer than those fixed by legislation. In India, a national agreement concluded in the iron and steel industry for the years 1979 to 1983 prescribed that the length of holidays would be ten working days longer than that established by legislation. For its part, the Government of the USSR has indicated in its report that the length of holidays has been extended in recent years, in particular by means of collective agreements, for workers in various economic sectors (iron and steel, non-ferrous metals, railways, industrial energy, building, agriculture, etc.).

211. Table 2 shows a number of cases where there have been developments between 1964 and 1983 as regards the minimum length of annual holidays.

212. Improvements made between 1964 and 1983 in the minimum legal holidays have sometimes been substantial. In Angola and Cape Verde, for example, the minimum duration is now equal to 30 calendar days whereas in 1964 in the industrial and commercial sectors it was only ten working days for white-collar workers and six working days for other wage earners. In Tanzania, it tripled during the period under review. In Spain, the minimum duration rose from two weeks to one month, in France, from three to five weeks, and in Greece, from two to four weeks.

213. Table 2 also shows that these improvements have been obtained in both developing and industrialised countries. Today, the basic holiday is already one month in over a dozen developing countries.<sup>4</sup>

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<sup>1</sup> Including Austria, Belgium, Denmark, Finland, France, German Democratic Republic, Federal Republic of Germany, Greece, Iceland, Ireland, Luxembourg, Malta, Netherlands, Norway, Portugal, Spain, Sweden, Yugoslavia.

<sup>2</sup> Including Australia, Bahrain, Democratic Yemen, Jordan, New Zealand, United Arab Emirates, Yemen.

<sup>3</sup> Including Barbados, Brazil, Cuba, Panama, Peru.

<sup>4</sup> For example, Algeria, Angola, Brazil, Cuba, Djibouti, Guinea, Madagascar, Mali, Panama, Peru, Sao Tomé and Príncipe, Togo, United Arab Emirates, Upper Volta.

214. Some countries recently adopted legislation or collective agreements providing for a progressive extension of basic holidays.<sup>1</sup> In others, initiatives designed to prolong the minimum legal holidays have been put forward and are under discussion (in Switzerland, for example).

(b) Methods of calculating holidays

215. The length of the holiday enjoyed by workers depends not only on the prescribed minimum, but also on the terms in which the holiday is defined, and the days which, for one reason or another, may be deducted from holidays.

(i) Terms in which length of holiday is defined

216. Convention No. 132 uses the concept of the working week to define the minimum length of holidays. This term was preferred to that of the working day because the number of working days in the working week varies from one country to another, or even within a country, and because it was desirable at the international level to establish a uniform minimum period of rest even if it represented a different number of working days in different countries.

217. The most widespread term used in national legislation to express the length of annual paid holidays is that of the working day or simply the day. Thus, for the countries in which the legal basic holiday is indicated in table 1, the holiday is defined in terms of working days in a third and in days in as many again. The term "week" is used in about half as many countries. The use of the working day as a unit of measure permits of greater precision, in particular as regards days of weekly rest and public holidays which fall within the holiday period, and it offers various practical advantages under schemes where the holiday is proportional to the period worked; on the other hand, it does risk creating inequitable distinctions between workers employed for the same number of hours per week according to whether the latter are spread over a week of five or six working days. The concept of a working week makes it possible to avoid this risk; furthermore, it has the advantage of clarifying the position regarding the holidays of part-time workers who are employed on certain days of the week only or on half-days only. The calculation of holidays simply in terms of days has often

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<sup>1</sup> In Austria, under legislation adopted in 1983, the basic holiday, which is currently 24 working days, will be progressively increased to 30 working days by 1986. In Finland, according to the Government's report, holidays should reach five weeks in 1984. In Norway, an Act of 1981 provides for the introduction by stages of a fifth week of paid holidays over a period of four years.

led to difficulties in countries whose legislation does not specify sufficiently clearly how account is to be taken of weekly rest and the public holidays which fall within the period of annual holiday with pay.

(ii) Days not counted as annual leave

218. Convention No. 132 stipulates that public and customary holidays, whether or not they fall during the annual holiday, and periods of incapacity for work resulting from sickness or injury may not be counted as part of the minimum annual holiday with pay (Article 6). The prohibition is absolute in the case of public holidays. As regards interruptions of work related to illness or accident, the prohibition is applied in conditions to be determined by the competent authority or the appropriate body in each country. Furthermore, the prohibition refers only to the minimum holiday formally prescribed by the Convention, i.e. three working weeks: anything beyond this minimum is a matter for the countries concerned which have ratified the Convention to decide. In some countries, the number of public holidays may be greater than in others; this is another factor to be borne in mind in making any comparisons between countries on the basis of the information contained in the tables.

219. The principle that public or customary holidays which fall outside the period of annual holiday should not result in the reduction of the latter and that those which fall within the period should extend it is one which is now accepted in almost all countries. Its application is implicit in the numerous countries in which holidays are defined in terms of working days. In those countries in which annual paid holidays are measured simply in terms of days or weeks, the prohibition against deducting public holidays from the annual holiday or counting them as days of leave is often expressly provided for by legislation,<sup>1</sup> but this prohibition does not apply in some cases to unpaid public holidays.<sup>2</sup> Moreover, in a very small number of countries, public holidays which fall within the period of annual paid leave are counted as annual holiday.<sup>3</sup> In their reports, some governments have indicated that official and customary public holidays do not extend the annual holidays of persons employed in certain sectors.<sup>4</sup> Sometimes, although these days are not normally counted as part of the annual leave, it is accepted that agreements may provide for the contrary.<sup>5</sup>

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<sup>1</sup> For example, Belgium, Czechoslovakia, Denmark.

<sup>2</sup> For example, France.

<sup>3</sup> For example, Bangladesh, Cuba.

<sup>4</sup> For example, India (plantations, civil service), Zimbabwe (civil service).

<sup>5</sup> For example, Uruguay.

220. Absences from work or interruptions on account of illness or accident, apart from being generally assimilated to days of actual work and therefore included in the period of service used for calculating the length of the holiday, are in a large number of countries the subject of specific provisions designed to ensure that they do not jeopardise holiday rights of workers who have acquired them and fulfilled the necessary requirements for their exercise. In those countries where there are no legislative provisions to prohibit the inclusion in the holiday of periods of incapacity resulting from illness or accident, the prohibition is sometimes incorporated in collective agreements<sup>1</sup> or applied in practice.<sup>2</sup>

221. National provisions in this respect vary considerably, as does the protection provided to workers. Very often provisions do not clearly distinguish the effect of the illness or accident on the minimum period of service giving entitlement to the holiday and the effect on the length of the holiday; or they do not clearly stipulate the measures to be applied when the illness or accident occurs outside the period of the holiday; or they do not clearly lay down the limits of the protection provided, in particular as regards the length of the period of incapacity taken into consideration. This lack of clarity gives rise to numerous difficulties.

222. In many countries legislative provisions or collective agreements endeavour to ensure that interruptions of work other than those mentioned above do not reduce the annual paid holiday to which a worker is entitled. Without going into a detailed analysis of these provisions, it may be noted that the other interruptions to be excluded from the annual paid holiday, where applicable within determined limits, concern essentially maternity leave and absences from work on account of illness resulting from pregnancy or childbirth,<sup>3</sup> family reasons,<sup>4</sup> force majeure,<sup>5</sup> military service obligations,<sup>6</sup>

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<sup>1</sup> For example, Italy, Spain.

<sup>2</sup> For example, Barbados.

<sup>3</sup> For example, Cyprus, France, German Democratic Republic, Japan, Madagascar, Panama, USSR.

<sup>4</sup> For example, Bahrain, Bulgaria, Togo, Turkey.

<sup>5</sup> For example, Greece, Luxembourg.

<sup>6</sup> For example, France, Netherlands, Poland, Romania.

civic duties<sup>1</sup> or trade union functions<sup>2</sup> and those considered justified or which are authorised<sup>3</sup> or which are the result of a strike or lock-out<sup>4</sup> or participation in further vocational training or political training.<sup>5</sup>

(c) Extension of holidays

223. Almost all the ILO instruments on annual paid holiday, including the first adopted in 1936, contain provisions for an extension of holidays for workers who fulfil certain conditions. The main categories of workers concerned by these provisions are young workers and those with long service, but Recommendation No. 98 also makes provision for increasing the length of holidays "by reason of other factors" (Paragraph 6). On the other hand no provision to this effect appears in Convention No. 132.<sup>6</sup> However, the following outline shows that the granting of longer holidays to specific categories of workers is current practice in a very large number of countries.

(i) Increase with length of service

224. In a large number of countries, legislation or collective agreements contain provisions for an increase in holidays based on length of service.

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<sup>1</sup> For example, Bulgaria, Luxembourg, Romania, Switzerland.

<sup>2</sup> For example, Singapore.

<sup>3</sup> For example, France, Luxembourg, Netherlands.

<sup>4</sup> For example, Greece, Luxembourg, Netherlands.

<sup>5</sup> For example, German Democratic Republic.

<sup>6</sup> The draft Convention based on the conclusions adopted after the first discussion by the Conference established the right of persons below the age of 18 years to holidays of longer duration than the statutory minimum. Following the observations received from governments on the proposed text, this provision was not retained. See International Labour Conference, 54th Session, Geneva, 1970, Report IV(2): Holidays with pay, p. 23.

225. By far the most widespread system is that which establishes a progressive extension of holidays on the basis of seniority.<sup>1</sup>

<sup>1</sup> For example, Argentina: 7, 14 and 21 extra days of holiday respectively after 5, 10 and 20 years of service; Bulgaria: 2 and 4 extra days respectively after 10 and 15 years of service; Canada: 1 to 3 weeks extra holiday after a variable number of years of service; Chile: after 10 years of service, 1 extra day for each period of 3 years; Czechoslovakia: 1 extra week after 5 years of service, 1 further week after 15 years; Democratic Yemen: 2 extra days for each period of 5 years of service; Djibouti: 2, 4 and 6 extra days respectively after 20, 25 and 30 years of service; Ecuador: after 5 years, 1 extra day for each year of service (up to a maximum of 15 extra days but including the possibility of granting further days by individual contract or collective agreement and with the option for the employer of paying cash compensation in lieu and place of extra holidays); Gabon: 2 extra days after 5 years, and 1 day per additional year of service beyond 5 years; Honduras: 2, 5 and 10 extra days respectively after 2, 3 and 4 years of work; Iraq: 2 extra days for each period of 5 years; Japan: 1 extra day for each year after the first year of service; Liberia: 1 extra week after 3 years of service, 1 further week after 5 years; Mali: 2, 4 and 6 extra days respectively after 15, 20 and 25 years; Mexico: after the first year, 2 extra days for each year and after the fourth year, 2 days for each period of 5 years of service (up to a maximum of 12 extra days); Paraguay: 6, 14 and 24 extra days respectively after 3, 8 and 12 years of continuous service; Poland: 3 extra days after 3 to 6 years and 4 days after 10 years of service; Romania: after 5 years, 1 extra day for each period of 3 years between the 6th and 17th year of service, 2 extra days for the period between the 18th and 20th year and 3 days for each period of 3 years after the 20th year (total of 9 days), with the maximum authorised length of holiday being 30 working days per year; Rwanda: 1 extra day for each period of 3 years of service; Sierra Leone: 1 extra week after 3 years of service and a further week after 5 years; Turkey: 6 extra days after 5 years of service, 6 further days after 15 years; United States: 1 to 3 weeks' extra holiday after a variable number of years of service; Upper Volta: 2, 4 and 6 extra days respectively after 20, 25 and 30 years of service; USSR: 1 extra day after 3 years of service, subsequently 1 extra day every 2 years; Uruguay: 1 extra day for each year of service after the first 5 years. (In the case of Japan the workers' organisation SOHYO states that the National Personnel Authority has proposed cutting the basic leave entitlement for civil servants to 12 days a year instead of 20, one day being added for each year of seniority up to the 20 level. Under these proposals, SOHYO states that this would run against the current international trend for protection of workers.)

226. In a few countries the increase occurs only once during the career of a worker after a specific number of years of service, in the form of extra days of paid holiday each year. In Finland, for example, the law grants an extra week of holiday to all workers who have completed at least three years in the undertaking. In Egypt, Singapore and in Somalia, workers are entitled after ten years of service to nine, seven and six extra days of holiday respectively.

227. In some countries the main legislation simply states that the increase in holidays for length of service will be determined by regulations or collective agreements,<sup>1</sup> or that the duration of the holiday may be increased for length of service in accordance with methods to be determined by collective agreement.<sup>2</sup> Elsewhere the social partners have taken the initiative to include such provisions in the collective agreements which they negotiate.<sup>3</sup>

228. The practice of extending holidays by reason of length of service can be found both in countries in which the minimum basic holiday is short or average and in those in which it is relatively high. This is true of both developing and industrialised countries. Further, the time at which the first increase for length of service is granted varies considerably from one country to another: whereas in some cases it occurs during the early years of a worker's service, in others it is granted only after 10, 15, 20 or even 25 years of service. The same is also true of the rate at which holidays are increased: sometimes extensions are made at very close intervals (for example, each year or two years), in other cases the intervals may be relatively long (for example, five years).

229. The time at which the first increase is made and the rate of increase of holidays are clearly very important from the point of view of the workers concerned. When it is decided to introduce provisions of this kind into national regulations, it is important to know whether their purpose is to allow the worker to increase his annual holidays progressively and thus to benefit him over a long period, or whether the increase is essentially or solely to be considered as a reward for loyalty to the employer or undertaking after a long period of service. If the former is the principal objective, the pertinent provisions should then establish that the first increase is made very early on and that the holiday will be extended at relatively short intervals. Such provisions could be particularly appropriate in countries which have not yet been able to conform to the standards of Convention No. 132 as regards the minimum holidays for one year's service (three working weeks).

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<sup>1</sup> For example, Guinea.

<sup>2</sup> For example, France.

<sup>3</sup> For example, Canada, Italy, United Kingdom, United States.



230. National regulations do not always clearly stipulate whether the extra days of holiday for length of service are working days or not. As regards the period of service required for entitlement, it is not always made clear whether this refers to continuous service or service with one or more employers. In the same way, there is sometimes no indication whether the periodic increase of holidays is unlimited or the increase ceases after a given number of years. This lack of clarity may give rise to disputes between the undertaking and its workers.

(ii) Extension of holidays on grounds of age

231. The Minimum Age Recommendation, 1973 (No. 146) states that special attention should be given to "the granting of an annual holiday with pay of at least four weeks and, in any case, not shorter than that granted to adults" to young persons under the age of 18 years (Paragraph 13(1)(d)).

232. When Recommendation No. 146 and Convention No. 138 concerning minimum age, also adopted in 1973, were examined in the Committee's 1981 General Survey,<sup>1</sup> a number of governments supplied information on the duration of the annual paid holidays of young persons. This information shows that (a) workers under the age of 18 benefited in a number of countries<sup>2</sup> from an annual paid holiday equal to and sometimes greater than that set by the Recommendation; (b) in a large number of countries<sup>3</sup> the standard of four weeks had not yet been achieved; (c) in certain countries,<sup>4</sup> young workers under the age of 16 or 18 years enjoyed a longer annual holiday than their adult workmates.

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<sup>1</sup> International Labour Conference, 67th Session, 1981, Report III (Part 4B): Minimum Age. General Survey by the Committee of Experts on the Application of Conventions and Recommendations, pp. 132-143.

<sup>2</sup> For example, Bahrain, Federal Republic of Germany, Italy, Mongolia, Netherlands, Norway, USSR.

<sup>3</sup> For example, Argentina, Burundi, Chile, Colombia, Cyprus, Dominican Republic, Ecuador, German Democratic Republic, Islamic Republic of Iran, Israel, Mexico, New Zealand, Paraguay, Portugal, Rwanda, Turkey, Uruguay, Zaire.

<sup>4</sup> For example, Argentina, Bahrain, Burundi, Central African Republic, Cyprus, Dominican Republic, Ecuador, France, German Democratic Republic, Hungary, India, Islamic Republic of Iran, Israel, Italy, Ivory Coast, Libyan Arab Jamahiriya, Luxembourg, Mexico, Mongolia, Morocco, Netherlands, Niger, Norway, Paraguay, Poland, Portugal, Romania, Rwanda, Spain, Turkey, USSR and Zaire.

233. The Older Workers Recommendation, 1980 (No. 162) sets forth a series of measures designed to help workers overcome difficulties of adaptation specially related to ageing. It recommends, inter alia, "increasing annual holidays with pay on the basis of length of service or of age" (Paragraph 14(c)).

234. At the national level, the practice of granting longer holidays to workers who have reached a certain age, rare at the beginning of the 1960s, is today to be found in a number of countries.<sup>1</sup> The length of this supplementary holiday varies from a few days to several weeks according to the country and sector of activity. In some cases, the number of extra days granted to the worker is the same each year once he has reached a given age. In others, the number increases as the worker approaches the statutory age of retirement.<sup>2</sup> In some countries, the granting of extra holiday to older workers is expressly prescribed by the law.<sup>3</sup>

<sup>1</sup> For example, in Federal Republic of Germany, Netherlands and Switzerland where numerous sectoral collective agreements concluded in recent years grant extra days of holiday to workers of a certain age (generally 45 or 50 years). The Government of the Netherlands stated in its report that extra holidays based on age are also granted to public officials.

<sup>2</sup> For example, a collective agreement applied in 1979 in an iron and steel undertaking in the Netherlands increased the basic holiday (22 working days) by 1 working day per period of 5 years from the age of 35 years with the increase becoming more marked from the age of 60 since the holiday then became 34 working days, with 38 days at the age of 61, 42 days at the age of 62, 46 days at the age of 63 and 50 days at the age of 64. In Canada, a collective agreement which is in force in an iron and steel undertaking stipulates that workers are entitled after their 60th birthday to an extra week of holiday each year.

<sup>3</sup> For example, recent legislation grants an extra week of paid holiday to workers over the age of 50 in Czechoslovakia and to those aged 60 or more in Norway. In Egypt, the minimum legal paid holiday is normally 21 days, but for workers over the age of 50 it is one month or 45 days depending on whether they work in the private or public sectors respectively. In Yemen, public officials are entitled to 15 extra days' holiday from the age of 50. In France, the law recognises the principle of longer holidays based on age, but the determination of its methods of application is left to collective agreements; thus the collective agreement applied to the staff of a large automobile undertaking states that at the age of 59 workers are entitled to 11 extra days' holiday a year and women workers to 22 days.

(iii) Extension of holidays by  
reason of other factors

235. Other factors are sometimes considered to be a justification for longer holidays.

236. In several countries it is the professional or hierarchical position or the occupation of the worker which is taken into account by legislation or collective agreements in the granting of longer holidays or extra days of holiday. The categories most often concerned are teachers,<sup>1</sup> public officials,<sup>2</sup> managerial and supervisory staff of undertakings.<sup>3</sup>

237. In some countries, legislation or collective agreements contain provisions stipulating that workers employed in particularly arduous working conditions or carrying out work considered to be particularly unhealthy, dirty or dangerous are entitled to extra holiday. The number of extra days, the methods of application and the categories or types of employment considered vary considerably from one country to another.<sup>4</sup>

238. Sometimes extra holidays are based on natural factors of an arduous nature. Thus, in various countries<sup>5</sup> legislation or collective agreements contain provisions for the granting of extra or longer holidays to workers employed in remote places or regions in which the climatic conditions are particularly harsh.

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<sup>1</sup> For example, Czechoslovakia.

<sup>2</sup> For example, United Republic of Cameroon, India, Japan, Mexico, Tanzania.

<sup>3</sup> For example, Tunisia.

<sup>4</sup> For example, workers carrying out work which is particularly arduous, unhealthy or dangerous are entitled each year to an extra paid holiday of 1 to 5 working days in German Democratic Republic, 7 days in Egypt, 10 in Iraq, and up to 22 days in Bulgaria. In Chile, 15 extra days are granted to persons working in mines or in ore processing undertakings, and in Colombia, to persons employed in private health establishments for tuberculosis patients as well as persons employed in radiology examinations. In Czechoslovakia, workers employed for 1 year in the same undertaking in underground ore extraction work or in tunnel or gallery drilling work are entitled to an extra week's holiday.

<sup>5</sup> For example, Algeria, Chile, Czechoslovakia, Egypt, German Democratic Republic, USSR.

239. Another practice which is apparently becoming more common through legislation, or more often by collective agreement, particularly in industrialised countries is the granting of extra holidays to workers employed at night, principally on shift work.<sup>1</sup> The length of this extra holiday as well as the conditions in which it is granted depend on various factors such as the time spent on night work during the year or the shift-work systems used.<sup>2</sup>

240. In some countries, extra days' holiday are granted by legislation or collective agreement to women workers with dependent children<sup>3</sup> (often one or two days per child), workers looking after a member of their family who is seriously ill or disabled,<sup>4</sup> workers suffering from physical impediments,<sup>5</sup> workers who donate blood,<sup>6</sup> to those following first-aid courses,<sup>7</sup> workers exposed to radiations,<sup>8</sup> to persons with long working days or whose working day is not regulated,<sup>9</sup>

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<sup>1</sup> For example, Austria, France, Federal Republic of Germany, Italy, Luxembourg, Netherlands, Sweden, Switzerland.

<sup>2</sup> For example, in German Democratic Republic, shiftworkers are granted an extra holiday of 8 or 10 working days depending on whether there are two or three shifts per day. In Federal Republic of Germany an agreement concluded in the post office and telecommunications sector entitles night workers to 1, 2, 3 or 4 extra days' holiday depending on whether they carry out 150, 300, 450 or 600 hours of night work per year, and gives shiftworkers the same number of days depending on whether the total of their hours of night work is 110, 220, 330 or 450 hours. In Austria, the law grants 2 to 6 days of extra holiday to workers who carry out a certain number of hours of night work during the course of the year as well as to building workers employed in rotating shifts on underground work or the building of tunnels.

<sup>3</sup> For example, Djibouti, Gabon, Guinea, France, German Democratic Republic, Upper Volta.

<sup>4</sup> For example, Belgium, German Democratic Republic, Norway.

<sup>5</sup> For example, Luxembourg.

<sup>6</sup> For example, Ivory Coast, United Kingdom.

<sup>7</sup> For example, United Kingdom.

<sup>8</sup> For example, Colombia, France, Romania.

<sup>9</sup> For example, USSR.

as well as to those who for reasons of service are not granted sufficiently long uninterrupted periods of weekly rest.<sup>1</sup>

241. Sometimes extra holidays are granted to workers who have shown exceptional assiduity in their work.<sup>2</sup> In Islamic countries, an extension of holidays may be granted for pilgrimage to the Holy Places.<sup>3</sup> In Switzerland, the regulations applicable to workers in the public sector allow them to convert their long-service gratuity into paid holidays.

### III. Qualifying period of service for holidays and proportionate holidays

242. For workers who cannot be employed all the working days of the qualifying year (for example because the work is seasonal or occasional) the national provisions adopted concerning a minimum period of service for entitlement to holidays or proportionate holidays are clearly of great importance: they may limit the right to a holiday in terms of actual work done, for instance.

243. In this respect, one of the principal merits of Convention No. 132 in comparison with the first two Conventions concerning paid holidays (Nos. 52 and 101) is to establish the right of workers to proportionate holidays. Article 4 states that a person whose length of service in any year is less than that required for the full entitlement shall be entitled in respect of that year to a holiday with pay proportionate to the length of service during that year. However, this right must be interpreted in the light of Article 5 which states that a minimum period of service may be required for entitlement to any annual holiday with pay; the length of this "qualifying period" and the way it is calculated are to be determined by the competent authority or through the appropriate machinery in the country concerned. The Convention includes two important restrictions however: first, the length of the qualifying period must in no case exceed six months; second, under conditions to be determined in each country, absence from work for reasons beyond the control of the employed person concerned, such as illness, injury or maternity, shall be counted as part of the minimum period of service.

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<sup>1</sup> For example, Luxembourg.

<sup>2</sup> For example, Bulgaria.

<sup>3</sup> For example, Egypt.

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(a) Proportionate holidays

244. At the national level, three kinds of situation may be summarised regarding the minimum period of service and proportionate holidays.

245. In one group of countries, the legislation makes the right to annual holiday dependent on the completion of a minimum period of service without stipulating what conditions apply to workers who have not completed the minimum period.

246. A second group includes countries where the notion of a qualifying period of service is laid down by legislation, and at the same time workers who have not completed the whole of this period are entitled to proportionate holidays.<sup>2</sup>

247. The third group comprises countries in which annual paid leave is not conditional on minimum periods of service and where the length of service in the year is simply a means of calculating the length of the holiday on a pro rata basis.<sup>3</sup>

248. In the first two groups of countries, the duration of the minimum period of service varies between one month<sup>4</sup> and 12 months.<sup>5</sup>

249. An analysis of the amendments made to national legislation over the past 20 years shows a clear relaxation of the prescribed conditions regarding the minimum period of service for entitlement to annual holidays and the granting of proportionate holidays. This development is an important achievement given the large number of workers who, whether voluntarily or not, are employed for less than the normal working hours per year (part-time workers, workers recruited through temporary employment agencies, seasonal workers, workers whose employment relationship begins during the course of the qualifying year, etc.). In 1964 the Committee noted that many countries had already abandoned systems whereby holiday entitlement was conditional on the

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<sup>1</sup> For example, Bangladesh, Colombia, Democratic Yemen, Egypt, Gabon, Guyana, Liberia, Pakistan, Romania, Saudi Arabia, Zambia.

<sup>2</sup> For example, Czechoslovakia, Djibouti, Federal Republic of Germany, Greece, Kenya, India, New Zealand, Peru, Rwanda, Upper Volta.

<sup>3</sup> For example, German Democratic Republic, Portugal, Spain.

<sup>4</sup> For example, France, Ireland.

<sup>5</sup> For example, Barbados, Pakistan, Sierra Leone.

completion of a full year or even more of service, in many cases without interruption with the same employer. Most of the laws adopted since that time have strengthened this trend towards more relaxed conditions in this respect, either by requiring a period of service which is less than one year<sup>1</sup> or by instituting a system of holidays in proportion to the period of service completed during the year in question.<sup>2</sup>

(b) Interruptions of work during period of service

250. Since the period of service is the basis for calculating the length of the holiday, it is extremely important, especially in countries which require a minimum period of service for entitlement to annual paid holidays, for legislation to state clearly that interruptions of work are to be assimilated to effective working time for purposes of entitlement to holidays and the calculation of their length, as well as the extent to which such assimilation is authorised.

251. In some countries where requirements for the qualifying period of service are considered to have been complied with when the worker has worked a given number of days during the period, once this number of days of work has been reached entitlement to paid leave is not affected by interruptions of work, whatever their reasons.<sup>3</sup>

252. In most cases, holiday legislation specifies various interruptions of work included in the qualifying period of service, and the degree to which they are applied. The interruptions allowed are almost everywhere only involuntary ones.

253. These include first of all absence from work due to sickness or accident:<sup>4</sup> such absence can generally only be counted for purposes of determining holiday entitlement or length for up to a given

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<sup>1</sup> Iraq (Labour Code, section 72); Zambia (Employment Act, 1965, section 15).

<sup>2</sup> For example, Portugal (Legislative Decree of 28 December 1976, section 3); Sweden (Act of 9 June 1977, section 7).

<sup>3</sup> For example, Finland (14 days a month), Guatemala (150 days a year), Ireland (120 hours of work in a month), Japan (80 per cent of total working days).

<sup>4</sup> For example, Bulgaria, Burma, United Republic of Cameroon, Cyprus, Denmark, Djibouti, Finland, Greece, Guatemala, Guinea, Iraq, Japan, Kenya, Liberia, Luxembourg, Madagascar, Mexico, Nicaragua, Pakistan, Panama, Peru, Rwanda, Togo, Turkey, Upper Volta, Yemen, Yugoslavia, Zimbabwe.

number of days, weeks or months during the qualification period.<sup>1</sup> This maximum is often longer for absences due to occupational disease or industrial accident.<sup>2</sup> The specific methods of counting absence occasioned by sickness or accident are often provided by collective agreements.

254. In a number of countries<sup>3</sup> legislation provides that interruptions of work arising out of maternity are included in the period of service for entitlement to holidays. When these provisions fix a maximum for such interruptions it is generally the legally established maternity leave.

255. In a few countries<sup>4</sup> absence from work for family reasons, such as birth, marriage or death or looking after a sick member of the family is assimilated in some cases to periods of actual work for purposes of annual leave. In some countries,<sup>5</sup> absences resulting from military obligations are also included, either wholly or in part, in the qualifying period of service. Sometimes, interruptions occasioned by the exercise of civic rights or duties are expressly assimilated to periods of effective work for the purpose of calculating the minimum period of service or the length of the holiday.<sup>6</sup> The same is true in several countries of absence from work arising out of the exercise of trade union activities.

256. National regulations regarding holidays frequently state that interruptions due to intermittent involuntary unemployment should not affect holiday rights.<sup>8</sup> Sometimes the period of unemployment counted is limited or the inclusion is applicable only if the worker remains at the disposal of the employer or the employment service.

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<sup>1</sup> For example, Brazil (six months), Denmark (four months), Panama (maximum of 144 hours a year).

<sup>2</sup> For example, Djibouti, Gabon, Mali, Panama.

<sup>3</sup> For example, Norway, Sweden. In Austria, according to the Congress of Austrian Chambers of Labour, legislation is less favourable than the Convention on this point.

<sup>4</sup> For example, Mali.

<sup>5</sup> For example, Greece, New Zealand, Turkey.

<sup>6</sup> For example, Bulgaria.

<sup>7</sup> For example, Democratic Yemen, Peru, Turkey.

<sup>8</sup> For example, Burma, India, Nicaragua, Pakistan, Rwanda, Spain.



257. In some countries other interruptions of work are also included in the qualifying period of service or considered as periods of effective work, wholly or in part. <sup>2</sup> These include for example days lost because of strikes<sup>1</sup> or lock-outs,<sup>2</sup> the period of the annual paid leave itself,<sup>3</sup> national holidays or days of mourning,<sup>4</sup> weekly rest,<sup>5</sup> compensatory rest,<sup>6</sup> lay-offs,<sup>7</sup> or imprisonment not followed by conviction,<sup>8</sup> authorised absences or absences due to legitimate reasons,<sup>9</sup> absences attributable to the employer,<sup>10</sup> periods of suspension for disciplinary reasons,<sup>11</sup> or absences for the purposes of study or participation in courses.<sup>12</sup>

258. An examination of legislation over the past 20 years shows a trend towards closer definition of interruptions of work assimilated to periods of actual work for purposes of calculating the minimum qualifying period of service or the length of the holiday; this may

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<sup>1</sup> For example, Bangladesh, Burma, Greece, Luxembourg, Peru, Rwanda.

<sup>2</sup> For example, Bangladesh, Burma, Greece, India, Pakistan.

<sup>3</sup> For example, Bangladesh, Bulgaria, Cuba, Denmark, France, Saudi Arabia.

<sup>4</sup> For example, Bangladesh, Bulgaria, Panama, Turkey.

<sup>5</sup> For example, Panama.

<sup>6</sup> For example, France.

<sup>7</sup> For example, Bangladesh, Rwanda.

<sup>8</sup> For example, Rwanda.

<sup>9</sup> For example, Burma, Luxembourg, Nicaragua, Pakistan, Panama, Peru, Saudi Arabia.

<sup>10</sup> For example, Saudi Arabia.

<sup>11</sup> For example, Peru.

<sup>12</sup> For example, Bulgaria, Cuba.

occur through a detailed enumeration of such interruptions<sup>1</sup> or by an extension of the list of interruptions hitherto authorised.<sup>2</sup> The maximum period of assimilation of interruptions of work due to sickness or accident has also been increased in a number of countries.<sup>3</sup>

#### IV. Holiday remuneration

259. Article 7 of Convention No. 132 provides that a worker shall receive in respect of the full period of the holiday to which he is entitled at least his normal or average remuneration (including the cash equivalent of any part of the remuneration which is paid in kind and which is not a permanent benefit continuing whether or not the person concerned is on holiday). This remuneration must be calculated in a manner to be determined by the competent authority or through the appropriate machinery in each country. Finally, the amounts due must be paid to the person concerned in advance of the holiday, unless otherwise agreed.

##### (a) Basis of calculation

260. Most countries have accepted the principle that holiday pay may not be less than the "usual remuneration" of the person employed. However, the practical application of this principle often involves problems when no clear rules have been defined regarding the method of computing the "usual remuneration" for the purposes of holiday pay, in particular in cases where earnings fluctuate or the amounts received by workers are markedly influenced by components other than the basic salary.

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<sup>1</sup> For example, in Algeria, a 1981 Act stipulates that the period of service used as a basis for the calculation of the duration of annual paid leave includes days effectively worked, the period of leave, authorised absences, absences due to occupational illness or industrial accidents, the days of weekly rest, public paid holidays, maternity leave.

<sup>2</sup> For example, in Brazil, a Legislative Decree of 1977 completed its list by including periods of annual leave, leave in the event of a death, marriage or birth in the worker's family, maternity leave and the period of preventive detention of a worker provided that the charges are subsequently dismissed or the worker is acquitted.

<sup>3</sup> For example, from three months to four months in Denmark in 1970 and from 30 days to 60 days in Peru in 1979.

261. There is great diversity in the methods of calculating holiday remuneration, even within a given country. However, two main methods are used. The first, which is becoming more widespread, is to take the average earnings over a given period; the second is to take the ordinary remuneration as at the time when the holidays begin. As a rule, the second method is applied to workers paid on time rates and the first generally applies to those whose remuneration fluctuates during the year or depends upon productivity.

262. When the basis of holiday pay is the ordinary remuneration of the worker at the time when the holidays begin, provisions vary. In some cases,<sup>1</sup> they provide for holiday pay equal, equivalent or similar to what would have been received for work during the holiday period. In other cases,<sup>2</sup> holiday pay is based on the wage received at the time when the worker begins his holiday or on the most recent wage. Sometimes<sup>3</sup> holiday pay is based on remuneration of a normal working week.

263. In some cases,<sup>4</sup> legislation defines holiday as "ordinary", "average" or "complete" remuneration or "full", "normal" or "average" wages or simply "wages", without stipulating how this remuneration is calculated. Since these general terms may give rise to conflicting interpretations and thus to abuse, they should ideally be defined in greater detail.

264. Where calculations are based on average earnings over a given period, the period varies from one country to another (for example, three months in Bahrain, Chile, Greece and Pakistan, 13 weeks in the Federal Republic of Germany and Ireland, six months in Nicaragua, eight months in Bulgaria and one year in the United Republic of Cameroon,

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<sup>1</sup> For example, Poland, Finland.

<sup>2</sup> For example, Bahrain, Bangladesh, Guinea.

<sup>3</sup> For example, in Ireland, such a system is applied in all cases in which payments are based wholly on time rates, or on a fixed rate or wage, and in all other cases in which payments do not depend on the work performed. The determination of the amount of holiday pay is based on the amount due (including any regular bonus or allowance, but excluding pay for overtime) for the working week immediately preceding annual leave or the termination of employment.

<sup>4</sup> For example, Antigua and Barbuda, Burma, Democratic Yemen, German Democratic Republic, Guatemala, Iraq, Japan, Kenya, Mexico, Rwanda, Saudi Arabia, Singapore.

Colombia, Egypt and Romania). The period used in a given country sometimes varies according as categories of worker are paid time rates or on the basis of other criteria.

265. To overcome common difficulties in applying the general provisions on holiday pay to workers whose earnings are hard to evaluate or vary considerably, various countries have adopted special provisions for making the calculations. The workers most frequently concerned by these special provisions are those paid, either wholly or in part, at piece rates, on a percentage or commission basis, in the form of profit-sharing, by time-bonus systems, temporary or seasonal workers, and homeworkers. As a rule, the holiday remuneration paid to these workers is based on their average earnings over a relatively long period.<sup>2</sup> Sometimes a special procedure is used to fix holiday remuneration.<sup>3</sup>

(b) Elements taken into consideration

266. The elements included in the earnings or remuneration taken into account in the calculation of holiday pay directly affect the amount paid to the worker, irrespective of the general methods of calculation referred to above.

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<sup>1</sup> For example, in Guatemala, it is three months for agricultural workers and 12 months for other workers. In Luxembourg, the period is three months for workers paid on time rates and 12 months for those paid at variable rates.

<sup>2</sup> For example, in Bulgaria, for workers paid at piece rates (based on productivity) or in accordance with a time-bonus system, it is calculated on the basis of the average remuneration of the eight calendar months which precede the holiday. In Luxembourg, for wage earners whose remuneration is fixed as a percentage of the turnover or subject to marked variations, holiday pay is calculated on the basis of the remuneration of the 12 preceding months. In Peru, holiday pay is calculated (a) for workers paid by results, and for those whose remuneration is difficult to evaluate, on the basis of the average daily wage received during the four weeks which immediately precede the holiday; (b) for homeworkers employed on a regular and continuous basis the remuneration in question is equal to one-twelfth of the total amount of the wages received during the year.

<sup>3</sup> For example, in Togo, for workers whose remuneration represents a fixed percentage of sales, the scale of holiday remuneration is fixed by collective agreement or, in the absence of such agreement, by the Minister of Labour.

267. Numerous constant or variable elements may be included: those mentioned most often in national legislation are family allowances, cost-of-living allowances, overtime pay, various kinds of bonuses, and remuneration in kind.

268. Remuneration in kind, of which special mention is made in Article 7 of Convention No. 132, is included in many countries. In some cases,<sup>1</sup> legislation counts all remuneration in kind: in others,<sup>2</sup> only some are counted. Benefits or bonuses in terms of housing and food are often included; sometimes housing allowances are excluded.<sup>3</sup> In a few countries the method or machinery to be used to determine the cash equivalent of remuneration paid in kind is laid down.<sup>4</sup>

269. As regards the other components of a worker's income, practice varies from country to country. In some countries<sup>5</sup> virtually all forms of reumeration are included in the calculation of the holiday pay. In most cases, however, legislation stipulates the regular or variable components included or excluded. Thus increased pay for overtime is included in some countries,<sup>6</sup> and excluded in others.<sup>7</sup> Elements of a constant nature are generally included; variable ones are included in some cases and excluded in others. However, there is a tendency to include all elements, subject to a few exceptions.

270. Another important improvement has been made in some countries by increasing the percentage where holiday pay is a specific percentage of the total wage received during the qualifying year. In Denmark, for example, the percentage rose in 1979 from 10 to 12.5 per cent. In Norway, where it was 9.5 per cent, it was increased to 9.9 per cent in 1981 and is expected to be progressively increased to 12 per cent in 1985. In France, since 1982, holiday pay has been equal to one-tenth

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<sup>1</sup> For example, Antigua and Barbuda, Czechoslovakia, New Zealand, Spain.

<sup>2</sup> For example, Barbados, Ireland.

<sup>3</sup> For example, Bulgaria.

<sup>4</sup> For example, Bulgaria, Denmark, Mali.

<sup>5</sup> For example, United Republic of Cameroon, Chile, Cuba, Denmark, France, Greece, New Zealand.

<sup>6</sup> For example, Cuba, Ecuador, France and Gabon.

<sup>7</sup> For example, Barbados, Bulgaria, Colombia, India and Pakistan.

instead of one-twelfth of the total remuneration. Another kind of improvement which is becoming increasingly common in both industrialised and developing countries is to pay a supplementary allowance in addition to holiday pay, to help cover the additional expenditure of the holiday or to take greater advantage of it. By way of example, this sum represents 25 per cent of holiday pay in Mexico. In Greece, it may be as much as half the wage for workers entitled to a 13th month and 13 days' wages for those paid by the day. In Belgium and Portugal, it is equivalent to the holiday pay.

271. In most countries holiday remuneration is paid directly by the employer. In others, the payment is made for all workers, or for those in certain sectors, by special institutions such as "holiday funds". As a general rule, the employer pays these institutions a contribution equal to a given percentage of the worker's wage at regular intervals. These institutions ensure a better application of the regulations regarding holiday pay and offer the additional advantage of facilitating the granting of holidays and holiday pay to workers who, because of their status or activity, are obliged to change their employer frequently.

272. Collective agreements often play an important role in the sphere of holiday pay either by improving the provisions established by legislation or by defining the rules which govern the calculation of holiday pay, thus ensuring better protection for workers.

273. In the past the Committee has made a number of observations or direct requests to governments regarding the application of Conventions Nos. 52 and 101 concerning holiday pay, in particular as regards benefits in kind and the payment of their cash equivalent. As a result various governments have taken measures to bring their legislation or national practice into line with the international standards.

(c) Date of payment

274. As required under Article 7 of Convention No. 132, most countries provide that holiday remuneration must be paid in advance of the holiday and few do not now cover this point.<sup>2</sup> In some cases,

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<sup>1</sup> For example, Belgium, Cyprus.

<sup>2</sup> For example, in their respective reports the Governments of Antigua and Barbuda, Chile and Cyprus have pointed out that such provisions do not exist in their legislation.

the remuneration must be paid at the latest on the day before<sup>1</sup> or three days before the holiday.<sup>2</sup> Sometimes payment in advance of the holiday is compulsory only if requested by the worker.<sup>3</sup> Elsewhere it is stipulated that the worker should receive an advance or a fixed sum<sup>4</sup> or only half of the remuneration.<sup>5</sup>

## V. Other aspects

### (a) Date, continuity and postponement of holidays

#### (i) Timing of holidays

275. The purpose of holidays, which is to grant workers a minimum period of rest and leisure, is best attained when they are granted at a time which suits the worker. On the other hand, although it is important to try and satisfy workers' preferences, other factors must be borne in mind, in particular production requirements at the level of the undertaking. In this connection Article 10 of Convention No. 132 provides that the time at which the holiday is to be taken should, after consultation with the employed person concerned, be determined by the employer unless it is fixed by regulation, collective agreement, arbitration award or other means consistent with national practice. Article 10 also states that in fixing the time at which the holiday is to be taken, work requirements and the opportunities for rest and relaxation available to the employed person should be taken into account.

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<sup>1</sup> For example, Barbados, Bulgaria, United Republic of Cameroon, Cuba, Mali.

<sup>2</sup> For example, Panama.

<sup>3</sup> For example, Czechoslovakia, German Democratic Republic. In Austria, according to the Congress of Austrian Chambers of Labour, there may be practical inconveniences in making payment at the beginning of the holiday, so that the regular pay day is often kept.

<sup>4</sup> For example, Turkey.

<sup>5</sup> For example, Pakistan.

276. Some national legislation empowers the employer to fix the timing of the holiday, although in their reports some governments<sup>1</sup> have indicated that in practice employers often consult the workers concerned. The obligation on the employer to consult workers or to take decisions only in agreement with them or their representatives is frequently expressly provided for by the law.<sup>2</sup> In some cases,<sup>3</sup> consultation or agreement are required only if the timing of the holiday has not been fixed by regulation, collective agreement, arbitration award or in the employment contract. In several countries national legislation also states that, when deciding the date of holiday or the annual holiday plan within the undertaking, account must be taken of both production requirements and the wishes of the staff.<sup>4</sup>

277. Often it is expressly stated that holidays must be granted, wholly or in large part, during a specified period of the year, which generally includes the summer months and a part of spring and autumn.<sup>5</sup>

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<sup>1</sup> For example, Barbados, Liberia, Uruguay.

<sup>2</sup> For example, Antigua and Barbuda, United Republic of Cameroon, Democratic Yemen, Madagascar, Portugal, Spain, Sweden.

<sup>3</sup> For example, New Zealand, Nicaragua.

<sup>4</sup> For example, Federal Republic of Germany, Ireland. In Japan, according to the legislation, employers (including public authorities) must grant holidays in the season required by the worker, subject to preservation of normal operations; the workers' organisation SOHYO states that in some 78 per cent of cases employers order the timing of holidays to be changed, or they reject or suspend them and that employers in the public sector sometimes abuse leave rights.

<sup>5</sup> For example, in France, the Labour Code stipulates that annual paid holidays must in all cases be possible between 1 May and 31 October. It requires that (a) staff must be informed of the holidays at least two months before they begin; (b) the order and dates of departure established by the employer may not be altered in the month which precedes the date of departure fixed, except in exceptional circumstances; (c) the date on which the undertaking closes down for annual holidays must be fixed in consultation with the works council and staff delegates; (d) in the event of such closure, workers who do not fulfil the conditions required to benefit from the total holiday period may claim allowances on an individual basis for partial loss of employment; (e) in fixing the date of individual holidays, account should be taken, inter alia, of the family situation and the holiday opportunities available to the spouse in the event that he or she is also employed.



278. In countries where holidays may be spread out over the year, it is often stipulated that the dates must be fixed by agreement between the parties and that the holiday plan, which is generally established at the beginning of the year, must be posted up in the undertaking.<sup>1</sup> Frequently legislation also obliges the employer to inform his workers of the dates of their annual holiday with sufficient advance warning, the minimum duration of which varies from country to country from two weeks<sup>2</sup> to two months.<sup>3</sup>

(ii) Restrictions on the division  
of holidays into parts

279. Since the purpose of an annual holiday is to provide the worker with a sufficient period of free time to ensure physical and mental rest after a long period of work, restrictions must necessarily be placed on the opportunities for dividing the annual holiday into parts. In this connection, although Convention No. 132 stipulates that the division of the annual holiday into parts may be authorised by the competent authority or through the appropriate machinery in each country, when the length of service of the person concerned entitles him to such a period, one of the parts shall, unless otherwise provided in an agreement applicable to the employer and the employed person concerned, consist of at least two uninterrupted working weeks (Article 8).

280. In most countries there are provisions designed to ensure some degree of continuity in annual holidays or restricting the possibility of dividing them into parts. In several countries, the division of the holiday into parts has been restricted by stipulating that it must include a specific number of consecutive days or weeks. In general, the obligatory continuous holiday is at least one week<sup>4</sup> or two weeks.<sup>5</sup> It is sometimes longer,<sup>6</sup> for example three or even

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<sup>1</sup> For example, Czechoslovakia, Italy, Romania, USSR.

<sup>2</sup> For example, Barbados, Colombia, Czechoslovakia, Liberia, Togo.

<sup>3</sup> For example, France, Panama, Spain.

<sup>4</sup> For example, Antigua and Barbuda, Colombia, Egypt, Liberia, Mexico, Peru.

<sup>5</sup> For example, Barbados, Djibouti, Ecuador, France, Mali, New Zealand, Rwanda, Turkey.

<sup>6</sup> For example, in Denmark, where the division of holiday into parts is prohibited if the holiday is less than 18 days, the continuous part is 18 days, but it may be reduced to 12 days by collective or individual agreement. As regards work of a seasonal nature, derogations are possible by the same means or with the authorisation of the labour inspectorate.

four weeks.<sup>1</sup> In cases where there are no legislative provisions regarding the remainder of the holiday, the procedure to be followed is often determined by collective agreements.

281. In some countries<sup>2</sup> the division of holidays into parts is authorised only in exceptional circumstances and the derogations authorised by collective agreements or by the labour inspectorate are limited to particular trades, work or sectors and granted at the request of the worker or the employer when necessary.

282. Special rules are sometimes applied to young workers regarding the division of the holiday into parts, either prohibiting it<sup>3</sup> or making the period of compulsory continuous holiday longer for them than for adult workers.<sup>4</sup>

283. In some countries<sup>5</sup> where the holiday is longer than four weeks, legislation or collective agreements have made the division of the holiday into parts compulsory after a certain number of consecutive days of holiday. Under these provisions, the uninterrupted holiday may not exceed three or four weeks, in particular when the undertaking closes down for collective holidays. The aims are to encourage the staggering of holidays or to prevent high production losses as a result of prolonged closure of the undertaking.

284. In some countries relatively recent legislation, designed principally to increase the minimum basic holidays, has at the same time amended the rules applicable to the division of holidays into parts<sup>6</sup> or made it possible to divide the holiday in new

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<sup>1</sup> For example, German Democratic Republic, Sweden.

<sup>2</sup> For example, Bulgaria, Cuba, Czechoslovakia, Guatemala, Luxembourg, Romania.

<sup>3</sup> For example, Egypt.

<sup>4</sup> For example, in Czechoslovakia, in cases where the division of the holiday into parts is authorised on exceptional grounds, one of the parts must be at least one week for adult workers and two weeks for young workers.

<sup>5</sup> For example, Finland, France, Italy.

<sup>6</sup> For example, in Brazil, a Legislative Decree of 1943 set the minimum duration of basic holidays at 15 working days and stipulated that in exceptional cases, the holiday could be granted in two periods, it being understood that neither of these two periods could be less than seven days. Further legislation in 1977, which increased the basic holiday to 30 calendar days, established the same rule as regards the number of periods comprising the holiday but fixed the minimum duration of either of these periods at 10 calendar days.

ways.<sup>1</sup> On the other hand, the rules governing the division of holidays into parts have apparently undergone no change in other countries<sup>2</sup> even though new legislation has extended the basic holiday. On the whole, new legislation in the last ten years has opted in favour of greater flexibility in the application of the principle of the continuity of holidays.

285. The methods of dividing the annual holiday into parts are regularly determined by collective agreements in a number of countries. In Spain, the Workers' Charter of 1980 stipulates that the employer and worker may agree on the division of the holiday into two parts but does not lay down a minimum duration for them. Collective agreements have filled this gap by requiring that one of the parts must be of at least two weeks. In Italy, collective agreements seek rather to limit the uninterrupted part of the holiday - to three weeks in most cases. In the Netherlands, according to the government report, 46 collective agreements in force for 1,329,500 workers fix the minimum uninterrupted part of the holiday at ten days and 16 other agreements applicable to 210,000 workers fix it at 15 days.

(iii) Restrictions on the postponement  
or accumulation of holidays

286. It is important to ensure that the worker takes at least a part of the annual holiday to which he is entitled each year and that the remainder of the holiday is not postponed indefinitely. For this reason paragraph 1 of Article 9 of Convention No. 132 provides that the uninterrupted part of the annual holiday with pay shall be granted and taken no later than one year, and the remainder of the annual holiday with pay no later than 18 months, from the end of the year in respect of which the holiday entitlement has arisen.

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<sup>1</sup> For example, in the Federal Republic of Germany, the Act of 1963 which fixed the minimum holidays at 15 working days stipulated that the holiday must be granted together. The Act of 1974 extended the minimum holidays to 18 working days and stated that in cases where for serious reasons the holiday cannot be granted together or where it is greater than 12 days, one of the parts must be of at least 12 consecutive days.

<sup>2</sup> For example, in Luxembourg, the minimum holiday for one year of service was increased in 1975 from 18 to 25 working days but the rules governing the division into parts remained the same, i.e. the holiday must be taken in one part "unless the needs of the service or the justified wishes of the wage earner require that the holiday be divided into parts, in which case one part of the holiday must be of at least 12 continuous days ..." (Act of 22 April 1966).

287. National legislation rarely requires the total annual holiday to be taken immediately after the right to it is acquired, in other words, prohibits its postponement absolutely. In a number of cases, however, it establishes a limit within which the holiday entitlement must be exercised in its entirety. This limit is generally set at one year.<sup>1</sup> It is more strict in some cases<sup>2</sup> and wider in others.<sup>3</sup> Sometimes, the maximum postponement is not specified.<sup>4</sup>

288. In several countries legislation specifies a minimum holiday to be taken each year and authorises the postponement of the remainder of the holiday.<sup>5</sup>

289. In some countries<sup>6</sup> postponement of the holiday is possible only in exceptional circumstances or for clearly defined reasons<sup>7</sup> such as illness, maternity, looking after a sick member of the family, military service obligations, the fulfilment of certain public functions, arrest not followed by conviction. In some cases these postponements are authorised only for certain categories of worker.<sup>8</sup>

290. National legislation sometimes provides for accumulation of holidays not taken during a given year with the leave of the following year after agreement between the employer and the worker concerned.<sup>9</sup>

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<sup>1</sup> For example, Iraq, Kenya, Switzerland, Uruguay.

<sup>2</sup> For example, Czechoslovakia, German Democratic Republic, Mali.

<sup>3</sup> For example, three years in Bahrain, Madagascar and Zambia.

<sup>4</sup> For example, Bangladesh, Barbados, Burma, India.

<sup>5</sup> For example, Madagascar, New Zealand, Portugal.

<sup>6</sup> For example, Federal Republic of Germany, United Kingdom.

<sup>7</sup> For example, Romania, Poland, USSR.

<sup>8</sup> For example, Colombia (technicians, workers in positions of trust or foreign workers employed far from their homes), Mauritius (workers in the public sector), USSR (workers employed in the Far North).

<sup>9</sup> For example, Cyprus, Rwanda, Togo.

291. Legislation recently adopted shows a tendency to strengthen provisions regarding the postponement or accumulation of holidays. In some cases, postponement or accumulation of leave has simply been eliminated.<sup>1</sup> In others, where previously the holiday could be postponed in its entirety, amendments made to legislation have made it obligatory for a minimum holiday to be actually taken each year.<sup>2</sup>

(b) Relinquishment of holiday rights

292. In order to ensure that workers effectively enjoy their acquired holiday rights, Article 12 of the Convention provides that any agreements to relinquish the right to the minimum annual holiday with pay prescribed (not less than three working weeks for one year of service) or to forgo such a holiday, for compensation or otherwise, shall, as appropriate to national conditions, be null and void or be prohibited.

293. In most countries national legislation includes provisions designed to prohibit or render null and void any agreement for the relinquishment of holiday rights, in some cases in the form of general labour legislation nullifying provisions which are contrary to the law or which attempt to exclude its application. More frequently, legislation expressly makes the waiving of holiday rights null and void by stipulating either that the worker may not relinquish his annual holiday leave<sup>3</sup> or that he should not lose the holiday entitlement even if he has not exercised it.<sup>4</sup> Sometimes any agreement for the relinquishment of holiday rights is null and void even though compensation is paid to the worker<sup>5</sup> or when the termination of the work relationship is the only case in which the holiday may be

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<sup>1</sup> For example, Guinea.

<sup>2</sup> For example, Mali, Peru.

<sup>3</sup> For example, Ecuador, Poland, Saudi Arabia, Turkey.

<sup>4</sup> For example, Bulgaria.

<sup>5</sup> For example, Antigua and Barbuda, Bahrain, Greece. In Japan, according to the Government, abandonment of the holiday with pay is prohibited, whether or not in exchange for money; according to the workers' organisations DOMEI and SOHYO, however, the percentage of holidays taken is low (58 per cent, or an average of 8.7 days per year, in the words of SOHYO): SOHYO states further that some employers discriminate against workers who take their leave entitlement in assessment of good attendance allowances, bonuses, promotions, etc.

replaced by the payment of cash compensation.<sup>1</sup>

294. Legislation nullifying agreements to forgo holiday rights sometimes includes exceptions. In some countries only a part of the holiday is protected and it is possible to replace part by compensation.<sup>2</sup> Elsewhere, legislation sometimes<sup>3</sup> allows part of the holiday to be compensated in cash but only in exceptional circumstances (production demands, recruitment difficulties, marriage, confinement, death, illness, study travel, etc.). But very few countries have legislation<sup>4</sup> enabling the worker, in agreement with his employer, to forgo holiday rights in order to continue working during the holiday period and receive an increased remuneration, or allowing the employer, with the agreement of the worker, to pay a wage in compensation for the holiday due.

(c) Engagement in gainful activity during holidays

295. In order to guarantee that workers rest during the holiday period and do not use their holidays as a means of acquiring supplementary income, Article 13 of the Convention says that special rules may be laid down by the competent authority or through the appropriate machinery in each country in respect of cases in which the employed person engages, during the holiday, in a gainful activity conflicting with the purpose of the holiday.

296. This question is covered by legislation or collective agreements in a large number of countries. In several cases,<sup>5</sup> regulations prohibit the worker from engaging in gainful activity which conflicts with the purpose of the holiday as a general rule. In others,<sup>6</sup> when this prohibition has not been respected, the employer may refuse to pay the worker his holiday pay or demand reimbursement

(footnote continued from previous page)

The Government of Japan states that there is no prevailing custom of uninterrupted long vacation in summer as in some northern European countries; and that holidays with pay are not adequately taken by workers; the Government confirms the figures given by SOHYO in this connection.

<sup>1</sup> For example, Djibouti, Gabon, Togo. See also paras. 219 ff on holiday rights in the event of the termination of the work relationship.

<sup>2</sup> For example, Nicaragua.

<sup>3</sup> For example, Colombia, Cuba, Czechoslovakia, Democratic Yemen, German Democratic Republic.

<sup>4</sup> For example, Liberia, Zambia.

<sup>5</sup> For example, Algeria, Democratic Yemen, Federal Republic of Germany, Finland, Guatemala, Iraq.

<sup>6</sup> For example, Bahrain, Luxembourg, Saudi Arabia, Spain, Turkey.

when it has already been paid. In some countries<sup>1</sup> legislation simply makes provision for this sanction and the prohibition is therefore implicit. Sometimes, legislation provides for sanctions against both the worker and the person employing him during his holiday.<sup>2</sup>

297. Some governments<sup>3</sup> have indicated in their reports that their legislation does not contain any provisions in this respect.

(d) Holiday rights on termination  
of employment

298. Article 11 of Convention No. 132 stipulates that an employed person who has completed the minimum period of service corresponding to that which may be required for entitlement to annual paid leave shall, upon termination of employment, receive a holiday with pay proportionate to the length of service for which he has not received such a holiday, or compensation in lieu thereof, or the equivalent holiday credit (which relates to the transfer of a worker's accumulated holiday rights when he changes employment).

299. In most countries legislation conforms to this Article and of the three possibilities, that of compensation is the most frequently applied. In various countries<sup>4</sup> legislation states that the compensation may be paid in place of the proportionate holiday only in cases where the worker is not given the opportunity to take the days of leave due to him before the termination of his employment contract. Equivalent holiday credit is applied in a smaller number of countries.<sup>5</sup>

<sup>1</sup> For example, Egypt, Greece, Switzerland.

<sup>2</sup> For example, in France, by Ordinance of 1982, a worker who engages in gainful activity during the period of his paid holiday, thus depriving unemployed persons of work which may have been offered to them may be sued for damages payable to the unemployment fund. Claims must be brought either by the mayor of the commune concerned or by the prefect, and the damages may not be less than the compensation due to the worker in respect of his paid holiday. An employer who knowingly recruits a worker who has received holiday pay may also be sued for damages on the same conditions. Furthermore, if he is the habitual employer of the worker, he is considered as not having granted the legal holiday, even if the work has been performed outside the undertaking.

<sup>3</sup> For example, Mauritius, New Zealand.

<sup>4</sup> For example, Egypt, France, Panama, Romania, Somalia, USSR.

<sup>5</sup> For example, Cuba, Czechoslovakia, Romania, Sweden, USSR.

300. As a general rule, recognised holiday rights upon termination of employment are not subject to restrictions. In some countries legislation specifically points out that they are acquired rights irrespective of the reasons for which the employment is terminated.<sup>1</sup> Sometimes these rights are also said to cover the part of the preceding year for which the worker has not taken his holiday<sup>2</sup> or the unused holiday remaining from the two previous years.<sup>3</sup>

301. Any restrictions imposed generally consist in the cancellation of a worker's entire holiday rights on termination of employment for serious misconduct,<sup>4</sup> abandonment of the job<sup>5</sup> or failure to give proper notice to the employer.<sup>6</sup>

(e) Supervision of the application  
of provisions on holidays

302. Article 14 of Convention No. 132 says that effective measures appropriate to the manner in which effect is given to the provisions of the Convention shall be taken to ensure the proper application and enforcement of regulations or provisions concerning holidays with pay, by means of adequate inspection or otherwise.

303. At the national level, one of the principal means used to supervise the practical application of holiday provisions is to make it compulsory for undertakings to keep personal holiday records of all workers. In some cases, these details are recorded in a special

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<sup>1</sup> For example, Cuba, Greece.

<sup>2</sup> For example, Denmark.

<sup>3</sup> For example, Guatemala.

<sup>4</sup> For example, Bahrain, France, German Democratic Republic, Singapore.

<sup>5</sup> For example, Peru.

<sup>6</sup> For example, Poland. In Austria, according to the Congress of Austrian Chambers of Labour, legislation is less favourable than the Convention in that there is loss of holiday compensation in the event of early departure.



holiday register,<sup>1</sup> whilst in other cases the register includes information on various other aspects of the work relationship such as the type of work contract or remuneration.<sup>2</sup> Legislation sometimes specifies what information must be included in the register such as the date of entry into service of each worker, the duration of the holiday to which he is entitled, the dates at which the annual holiday is taken, or the remuneration paid in respect of the holiday.<sup>3</sup>

304. In a large number of countries failure to apply holiday provisions results in the application of sanctions in the form of fines and/or imprisonment. Legislation frequently lays down the penalty of imprisonment only in the event of a repetition of the offences<sup>4</sup> although the competent authority can sometimes apply either fines or imprisonment or both at the same time.<sup>5</sup> In most cases, sanctions apply to employers but sometimes they are also applicable to workers.<sup>6</sup> In some countries<sup>7</sup> legislation obliges an employer who obstructs the exercise by a worker of his right to holiday to pay him triple wages for the holiday not taken. By giving the worker a financial interest in the disregarding of his right to a holiday, such measures could lead to extensive violations of the legislation if there is no accompanying system of appropriate sanctions against employers.

305. In the vast majority of countries there are labour inspection services which operate in various ways and whose duties include the guarantee to workers in general of the application of legal provisions regarding holidays. In a number of cases, the means available to these services, in particular as regards staffing, appear to be significantly limited, given the large number of establishments which must be inspected and the number of workers to be protected.

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<sup>1</sup> For example, Colombia, Greece.

<sup>2</sup> For example, United Republic of Cameroon, Gabon, Ireland, Peru, Saudi Arabia.

<sup>3</sup> For example, Colombia, Djibouti, Greece, Somalia, Togo.

<sup>4</sup> For example, United Republic of Cameroon.

<sup>5</sup> For example, Barbados.

<sup>6</sup> For example, in New Zealand, recent legislation stipulates that any person who infringes the Act in question will be subject to a fine of up to a maximum of \$500, with a further maximum of \$100 per day of infringement in the event of a repetition: see also para. 296 above.

<sup>7</sup> For example, Peru, Portugal.

### Conclusions

306. Of all the facets of the larger problem of the reduction and arrangement of working time, annual paid leave has shown important developments over the last two decades in most countries.

307. First of all, the progress made regarding the length of holidays is all the more important because of the large number of countries concerned in this basic aspect of the subject. The general trend towards prolongation which was already noted by the Committee in 1964 has continued and become even more marked in a number of cases. It has appeared in both industrialised and developing countries, although it has been clearer in the former. As a result, legislation in more than 60 countries now conforms to the standard set by Convention No. 132 as regards the minimum length of basic holiday (three working weeks for one year of service). In a number of cases, collective agreements concluded at the sector, industry or undertaking level have improved on the legal minimum, sometimes substantially. Furthermore, the trend towards extra days of holiday for reasons of seniority, age, special working conditions or other factors has become accentuated, whether by legislation or collective agreement. It now covers categories of workers who 20 years ago were not accorded preferential treatment in this respect, for instance, shiftworkers and workers regularly employed at night. The practice of increasing holidays by reason of seniority is by far the most widespread formula used: it has sometimes resulted in holidays twice as long as the standard or longer.

308. Significant progress has also been recorded in a number of countries regarding the minimum period of service required for entitlement to annual paid holidays. For a long time, it was traditional to insist on a full year's service. The trend towards a more flexible approach or shorter periods referred to by the Committee in 1964 has subsequently become more marked. In a number of countries the minimum period of service required is now less than one year. Elsewhere this requirement has been simply eliminated and the length of services provided during the qualifying period is the sole basis for calculating the length of the holiday, on the principle of proportionality. At the same time, progress has also been made through legislation or collective agreements which establish the effect on holiday rights and the duration of holidays of work interruptions occurring during the qualifying period. The interruptions which may be assimilated to a period of effective work for the purposes of the holiday have been specified or extended in several countries. In others, the period of assimilation, in particular in the event of interruptions by reason of illness, has been extended.

309. In another interesting development, the scope of national holiday provisions has in several countries been extended to a growing number of establishments and workers by the gradual elimination of authorised exceptions.

310. Annual paid leave is a field in which many countries have regularly developed the body of their laws and regulations over the last two decades. In the same way, collective agreements have often played a decisive role by endeavouring to improve on the legislation on various points (duration of the holiday, holiday pay), facilitating the practical application of the provisions of legislation or regulating details for which provision has not been made. In some cases, the progress achieved by collective agreements has led to important amendments to basic holiday legislation.

311. Other positive trends have appeared in several countries during the same period. First of all, measures have been taken more and more frequently to increase holiday pay by including in the calculation various components or by the payment of special bonuses or gratuities to help workers cover the extra expenditure resulting from their holiday or enable them to make better use of their holiday. Secondly, provisions have been improved preventing or restricting the division of holidays into odd days, postponement from one year to the next, and the exercise of gainful activities during the holiday period. This helps to ensure that the purpose of annual holidays, which is to provide each worker every year with a suitable opportunity to recuperate from the physical and mental fatigue resulting from his occupational activity is duly respected. Other improvements should also be mentioned, in particular those regarding the consultation of workers or their representatives in the taking of decisions on the period of the holidays and the protection of holiday rights acquired upon termination of employment.

312. A number of countries which have not yet ratified Convention No. 132 have called attention to a few points in their legislation or national practice which they believe to be contrary to the provisions of this Convention and which are therefore obstacles to its ratification. The first of these is the minimum length of basic holidays which has remained shorter than the standard set by Convention No. 132 in the legislation of more than half of the ILO member States. The other difficulties mentioned in the government reports concern the following aspects: the scope of national provisions (India, Suriname); the minimum period of service required for entitlement to holiday rights (Chile, Congo, India, Mauritius, Turkey); proportionate holidays (Australia, Mauritius); the assimilation to effective work of interruptions due to sickness, accident or maternity for the purposes of entitlement to holiday rights or the calculation of their length (Cyprus, Cuba, New Zealand, Zimbabwe); the exclusion from the holiday period of official and customary public holidays

(El Salvador, India, Zimbabwe), or days of incapacity resulting from an illness or accident (Cuba, Djibouti); restrictions placed on the division of holiday into parts or the accumulation of holidays (Antigua and Barbuda, Australia, Cyprus, Mauritius, Morocco, New Zealand); the prohibition against exercising gainful activity during the holiday (Antigua and Barbuda, Australia); the nullifying of agreements on the forfeiture of holiday rights (Cyprus); and, holiday rights upon termination of employment (Turkey, Zimbabwe).

313. Some of the difficulties mentioned in government reports are more important than others. There are, first, the difficulties resulting from differences between national provisions and the fundamental provisions of Convention No. 132 - such as those concerning the minimum length of basic holidays, the minimum period of service required for entitlement to holiday, and proportionate holidays - which are serious obstacles to the ratification of the Convention. The other difficulties mentioned cannot be said to be insuperable obstacles to ratification given the degree of flexibility in which the relevant Articles of the Convention are couched and the considerable account taken of the diversity of national conditions. It may well be appropriate in cases where governments have doubts on such questions or wish for clarifications as to the meaning of certain provisions of the Convention for them to seek the advice of the International Labour Office either through an informal opinion or otherwise.

314. There are other difficulties which, although not mentioned in the government reports, are no less real and important, for example, the lack of clarity in legal provisions on annual paid holidays in a number of countries. This often gives rise to divergencies in their interpretation and consequently to disputes. This lack of clarity is evident above all in the terms used to define entitlement to holidays; and in the provisions governing the relationship between public holidays and annual leave, the period of service used as a basis for holiday rights or in fixing the length of the holiday, or concerning the determination of holiday pay. There is a need to establish clearer and more explicit rules in this respect.

315. Another major difficulty which once again is not mentioned in the government reports concerns the application in practice of the national provisions on paid holidays. It is of course true that the scope of these regulations has been progressively broadened. However, in many countries, in particular in the developing regions, large numbers of workers who may not be excluded formally from the scope of such provisions are so in practice because of their inadequate application and the serious shortage of means of supervision, in particular in the labour inspection services. This applies especially to agricultural workers and workers in the informal sector of industry, commerce and services.

316. In their reports, some governments have pointed out that they have no immediate plans to amend their legislation on annual paid leave or to improve the recognised rights of workers in this respect because of the difficulties in meeting the additional costs which would result (Guyana), the priority to be accorded to other more urgent problems (Somalia), the stage of economic and social development of the country (Turkey) or the need to increase production (Mexico).

317. However, it seems likely that the already large number of countries whose legislation conforms to the standards set by Convention No. 132 regarding the minimum length of basic holiday will continue to increase in coming years and that this progress - coupled with improvements in other aspects such as the minimum period of service required and proportionate holidays - will result in a number of ratifications. In this connection, the reports of several governments of countries which have not yet ratified the Convention (Cuba, Czechoslovakia, Djibouti, Finland, Greece, Guatemala, Mali, Saudi Arabia, Switzerland) show the intention of amending their legislation on annual paid holidays or have taken measures towards ratification (Finland).

## GENERAL CONCLUSIONS

318. For various reasons the Committee welcomes the selection by the Governing Body of the five instruments under consideration for review in a general survey on working time. It has, first, given the governments of member States the occasion to focus attention on their policies, practices and legislation on the three major aspects of working time covered by ILO standards - normal hours of work, weekly rest, and annual paid leave. Secondly, it has at the international level enabled an examination of the developments in this area in the 20 years since the Committee's last, separate, general surveys on these questions. The Committee feels that a periodic survey of various aspects of working time which are undergoing constant evolution and review at the national, regional and international levels is very desirable.

319. The preceding chapters have noted a prevailing trend in many countries towards continuing reductions of working time through combined action on its three components, that is to say reductions of normal hours, and extensions of weekly rest and annual paid holidays. This important, indeed basic, aspect of working conditions, namely the amount of time spent at the workplace, has thus continued to show improvement in the same way that the Committee's general surveys of 1964 and 1967 had already indicated. This progress should, however, not be allowed to obscure the existence of certain important problems.

320. First the relevant provisions of legislation may leave outside their scope various sectors, activities or categories of workers. Where it is collective bargaining rather than legislation which fixes a maximum level for normal working hours or a minimum level for weekly rest or annual paid leave, there are likely to be numbers of workers not covered by the relevant collective agreements. Thus, for example, in a number of developing countries the majority of workers may not have the benefit of either statutory or collective bargaining provisions concerning working time, whether in the rural or the urban informal sectors. Secondly, the figures available for normal working hours and rest and leave periods as fixed by statutory or other methods must be seen in relation to actual practice. It has been pointed out in one ILO study that the figure of an average 40-hour week in a given country does not in itself exclude the possibility that over 25 per cent of all workers

work 48 hours or more.<sup>1</sup> In the cases where no figures are available there is no information as to the extent of application of national provisions.

321. The degree of practical application of standards will in any event depend to a large extent on attitudes of employers, the effectiveness and assiduity of trade unions and the adequacy of inspection services. The problems are particularly serious in developing countries. Another recent ILO study has pointed out, for instance, that, in several developing countries which have adopted a normal working week of 40 hours, there is in practice frequent failure to observe the relevant standards; moreover, the 40 hours norm may be subject to a great many exceptions of the kind discussed in Chapter I above (as well as the notion of "equivalent time") and disregard of prescribed standards may be somewhat too widely tolerated.<sup>2</sup> Similarly in respect of annual holidays with pay, a recent ILO report concerning the African region noted that the proportion of wage earners who enjoy annual leave is relatively low, especially in the predominant small enterprises, commerce and other services.<sup>3</sup> The difficulty of ensuring the application of national provisions for annual paid leave in the agricultural sector (which is, of course, included in the scope of Convention No. 132) is particularly acute in developing countries, although it may also be present in industrialised ones. Whilst both the standards and the conditions for their implementation may, by and large, be more favourable in industrialised countries, it should be remembered that there may also be significant disparities between the conditions of working time of different sectors or activities or categories of workers.

322. The role of employers' and workers' organisations is, therefore an important one in helping to ensure that the national standards adopted are implemented as widely as possible. As regards the application of the relevant international labour standards, too, the active interest of these organisations in several countries has been demonstrated in the comments made by them concerning the Article 19 reports of their respective governments<sup>4</sup> - a factor which the Committee finds particularly useful in its task of assessing the degree of implementation of these standards.

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<sup>1</sup> A.E. Evans: Hours of Work in Industrialised Countries (Geneva, ILO, 1975).

<sup>2</sup> Marić, *op. cit.*, p. 132.

<sup>3</sup> Sixth African Regional Conference, Tunis, October 1983, Report III (Conditions of work and the working environment), p. 12. In at least one industrialised country (see Chapter III, paras. 213-215) annual leave may frequently not be taken.

<sup>4</sup> See General Introduction, para. 6.

323. In the setting of national standards on working time, moreover, employers and workers and their organisations in many countries have a very decisive primary role through the collective bargaining process. As the governments' reports and the other information referred to in this survey have shown, collective agreements in this area have not only improved on the minimum standards laid down in national legislation; they have also given a lead to governments in various countries over the years in raising the national minimum standards themselves.

324. Naturally, the national and international economic circumstances in which working time is fixed - and particularly the employment situation - have in any event evolved considerably in the last 20 years. From the point of view of employers and their organisations, it has become all the more essential in a period of recession to maintain and increase competitiveness and productivity: to do this, they consider that a high degree of flexibility is required as regards working time so that the undertaking can make the most effective use of plant and machinery and adapt quickly to market fluctuations. From the point of view of workers and their organisations, there is an overwhelming requirement of higher levels of employment in the very many countries where unemployment has risen to much higher levels than 20 years ago, coupled with claims for greater flexibility in working hours, so that individual aspirations can be better accommodated in the distribution and reduction of weekly and annual working time. It is these concerns, as well as the national interests in economic production and competitiveness of industry and the pursuit of social programmes for the improvement of living and working conditions, which governments must take into consideration in determining their own policies and measures to be adopted in this area.

325. As regards the need for flexibility, the Committee has noted that in the international instruments under consideration the approach has, particularly in the more recent ones, been one of allowing a great deal of room for national conditions and practice and the circumstances governing different activities, while at the same time laying down the minimum standards or longer-term goals which are considered appropriate for the body of the working population. The Committee has noted with interest the efforts made in some countries - through enabling legislation or collective bargaining, particularly at the plant level - to establish a flexibility in the arrangement of work schedules which is capable both of improving performance in terms of productivity and of reducing the time spent at the workplace; at the same time, of course, the basic guarantees in respect of working time contained in international labour standards should be respected.



326. An important but difficult question concerns the effects of reductions in working time on employment and unemployment. Very little information has been provided linking a reduction of weekly or annual working time on the one hand and a decrease in unemployment on the other, although the possibility that there may be an effect at least of employment preservation is not excluded. Theoretical studies and measures advocated in some countries have certainly been oriented towards an interplay between reduction of working time and employment creation and have also considered the possible effects on income levels.<sup>1</sup> It is no doubt appropriate that further consideration should be given to this question, for instance in the context of the possible new employment policy standards referring to, amongst other things, the role of collective bargaining in the reduction and reorganisation of working time.<sup>2</sup>

327. One aspect of working time which is sometimes regarded as having potentially the closest relation to employment is the limitation of overtime. Certain countries have express provisions restricting overtime in favour of the engagement of additional workers, where possible.<sup>3</sup> While a number of factors are involved, such as the relative cost of the alternative solutions, the availability of suitable, especially skilled, manpower, and the need to adjust responses to demands, this may be another aspect of working time to which further attention should be given by governments, and employers' and workers' organisations. A further way in which working time is limited in some countries, and which may deserve closer consideration in others, is by the provision of compensatory leave for overtime work. In limiting overtime, there may be delicate balances to be found both for employers - between increased costs due to overtime remuneration and the need to retain sufficient flexibility to respond to short-term production demands - and for workers - whose collective interests are at the same time to maintain the income of those already in employment (including premium rates deriving from overtime) and yet to provide employment for greater numbers of workers.

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<sup>1</sup> See above Chapter I, section II(d).

<sup>2</sup> Conclusions of the Committee on Employment (Points 9(c) and 23(c)) of the 69th (1983) Session of the International Labour Conference (see ILC, 70th Session, 1984, Report IV(1)).

<sup>3</sup> See above, Chapter I, section V.

328. Numerous improvements in various countries since the 1960s have been referred to in this general survey, leading to a reduction in the normal hours of work overall, or the extension of weekly rest or annual leave - including improvements in the coverage of the measures existing and attenuations of the conditions attaching to them. Some of these improvements have taken place, it should be remembered, in a recessionary context in the world economy. The nonetheless positive achievements are perhaps due to a large extent to the importance given to this aspect of working conditions on the side of the workers' organisations, and the way in which employers have found that their own interests in productivity and efficiency may coincide with the interests of the workers.

329. The Committee wishes finally to point to the far-reaching consequences - both economic and social, going beyond the scope of this general survey - of the kind of developments in the reduction of working time discussed in this general survey. Although the regulation of working time has always been a major preoccupation of the workers, it has in recent years perhaps taken on new dimensions. With technological progress and economic growth in industrialised countries, methods of production have changed, leisure time has been increased for far greater numbers of workers than before, and patterns of working time (flexible hours, partial employment) have in turn thus been changing.

330. Discussions in this area in future might therefore include not only the daily, weekly and yearly time worked, but also the related aspect of leisure and the still larger question of work during the span of human lifetime. Indeed, some of these aspects (such as the minimum age for employment, the question of retirement and the provision of social security in various circumstances) are already the subject of international labour standards. It may be precisely in the difficult economic conditions of today that further advances along these lines become essential and the possibilities for improvements should continue to be explored, especially with a view to reducing unemployment.

331. For the present, the Committee has been encouraged by the extent to which the instruments it has examined in this survey are increasingly reflected in the legislation and practice of member States of the ILO. The trends noted - both as regards progress and shortcomings - should, it is hoped, give some guidance as to the directions which future efforts might take.



## APPENDIX I

### MAIN LEGISLATION EXAMINED

#### Afghanistan

Regulations to govern the employment of persons in industrial establishments in Afghanistan, 16 Jan. 1946 (L.S. 1946 - Afghan. 1).

Civil Service Law, 1971.

Decision of the Central Committee of the Government, 19 May 1974.

#### Algeria

Ordinance No. 76-97 of 22 Nov. 1976 respecting the promulgation of the Constitution of the Democratic People's Republic of Algeria.

Act No. 78-12 of 5 Aug. 1978 to make provision for workers' conditions of employment (L.S. 1978 - Alg. 1).

Ordinance No. 75-31 of 29 Apr. 1975 respecting general conditions of work in the private sector (L.S. 1975 - Alg. 2).

Decree No. 82-184 of 15 May 1982 respecting statutory rest periods.

Act to prescribe statutory hours of work, 1981 (L.S. 1981 - Alg. 1).

Act respecting annual leave, 1981 (L.S. 1981 - Alg. 3).

#### Angola

General Labour Act, 1981 (L.S. 1981 - Ang. 1).

Decree to regulate hours of work, 1982 (L.S. 1982 - Ang. 2).

Antigua and Barbuda

Labour Code, No. 14, of 1975.

Argentina

Act to approve the rules governing contracts of employment, 1974 (L.S. 1974 - Arg. 2).

Act to approve nation-wide rules governing agricultural work, 1980 (L.S. 1980 - Arg. 1).

Act respecting the eight-hour day, 1929 (L.S. 1929 - Arg. 1), as amended.

AustraliaCommonwealth

Conciliation and Arbitration Act, 1904-83; Public Service Act, 1922.

New South Wales

Industrial Arbitration Act, 1940; Annual Holidays Act, 1944; Public Service Act, 1979.

Victoria

Public Service Act, 1974; Industrial Relations Act, 1979.

South Australia

Industrial Conciliation and Arbitration Act, 1972-83).

Queensland

Industrial Conciliation and Arbitration Act, 1961-83.

Western Australia

Industrial Arbitration Act, 1979-82; Factories and Shops Act, 1963-65, Public Service Arbitration Act, 1966-75; Public Service Act, 1904-75.

Tasmania

Public Service Act, 1973; Industrial Relations Act, 1975; Shop Trading Hours Act, 1981.

Northern Territory

Annual Leave Act, 1981.

General

Various awards.

Austria

Federal

Hours of Work Act, 1969 (L.S. 1969 - Aus. 4A).

Holidays Act, 1976.

Act of 16 Jan. 1895 on weekly rest and public holidays in industry.

Act of 15 May 1919 relating to the minimum period of rest, closing time and Sunday rest in commercial establishments and other undertakings (L.S. 1919 - Aus. 8).

Bahamas

Fair Labour Standards Act, 1970.

Bahrain

Labour Law for the Private Sector, Amiri Decree No. 23 of 16 June 1976 (L.S. 1976 - Bah. 1).

Regulations concerning the public service, No. 601 of 15 Dec. 1978.

Bangladesh

Factories Act, 1965 (L.S. 1965 - Pak. 2).

Shops and Establishments Act, 1965.

Tea Plantations Labour Ordinance, 1962 (L.S. 1962 - Pak. 1).

Road Transport Workers Ordinance, 1961 (L.S. 1961 - Pak. 1).

Ministerial circular No. ESTAB/R1/H-1/72-8 of 1972.

#### Barbados

Factories Act, 1956.

Domestic Employees Act and Order, 1982.

Shops Order, 1969.

Holidays with Pay Act, Cap. 348, as amended.

#### Belgium

Labour Act, 16 Mar. 1971 (L.S. 1971 - Bel. 2) (as amended) (and various Royal Decrees making compulsory collective agreements).

Act of 12 Apr. 1965 respecting the protection of workers' remuneration (L.S. 1965 - Bel. 2).

Act of 3 July 1978 respecting contracts of employment (L.S. 1978 - Bel. 1).

Royal Decrees of 28 June 1971 (L.S. 1971 - Bel. 4), 30 Mar. 1967, 27 June 1967 and 28 June 1967 concerning annual holidays.

Royal Decree of 6 May 1981 concerning weekly rest for certain transport workers.

#### Belize

Labour Ordinance, No. 15 of 1959, as amended.

Government Workers Rules, 1964.

#### Benin

Labour Code, 1967 (L.S. 1967 - Dah. 1).

General collective agreement for the private sector, 1974 (L.S. 1974 - Dah. 2).

Act No. 79-31 of 1979 respecting the public service.

Bolivia

Labour Code, 1939 (L.S. 1939 - Bol. 1).

Supreme Decree of 11 Aug. 1952 concerning paid holidays (L.S. 1952 - Bol. 1).

Supreme Decrees of 10 May 1957 and 12 July 1957 concerning weekly rest in commerce.

Supreme Decree of 29 June 1965 concerning the public administration.

Botswana

Employment Law, 1963 (L.S. 1963 - Bech. 1).

Shop Hours Proclamation, cap. 158 of 1941.

Brazil

Labour Consolidation Law, 1943 (L.S. 1943 - Bra. 1), as amended.

Act to make provisions regarding weekly rest with pay, etc., 1949 (L.S. 1949 - Bra. 1).

Legislative Decree relating to leave, etc., 1977 (L.S. 1977 - Bra. 1).

Government Draft Consolidation of Labour Laws, 1979.

Bulgaria

Labour Code, 1951, as amended (L.S. 1951 - Bul. 2; L.S. 1957 - Bul. 2).

Ordinance on hours of work and rest of wage and salary earners, 1958 (L.S. 1958 - Bul. 3), as amended.

Burma

Factories Act, 1951 (L.S. 1951 - Bur. 6).

Employment and Training Act, 1951 (L.S. 1951 - Bur. 4).

Shops and Establishments Act, 1951 (L.S. 1951 - Bur. 5).

Notification No. 4/82 of October 1982.

Leave and Holidays Act, 1952 (L.S. 1952 - Bur. 1).



Burundi

Labour Code, 1966.

Ministerial Ordinance No. 110/172 of 1971.

Byelorussian SSR

Labour Code, 1972.

United Republic of Cameroon

Labour Code, 1974 (L.S. 1974 - Cam. 1).

Order of 27 May 1969 concerning the application of weekly rest.

Decree of 15 Mar. 1972 concerning leave of public officials.

Decree of 10 Jan. 1975 concerning the application of paid holidays.

CanadaFederal

Canada Labour Code, 1970, as amended; Lord's Day Act, 1970; Fair Wages and Hours of Labour Act, 1970, as amended.

Newfoundland

Labour Standards Act, 1977.

New Brunswick

Vacation Pay Act, 1973; Minimum Employment Standards Act, 1973; Minimum Wage Act, 1973.

Nova Scotia

Labour Astnadards Code, 1972, as amended.

Quebec

Labour Standards Act, 1979.

Ontario

Employment Standards Act, 1980, as amended; One Day's Rest in Seven Act, 1980.

Manitoba

Employment Standards Act, 1970, as amended; Vacation with Pay Act, 1979, as amended.

Saskatchewan

Labour Standards Act, 1978.

Alberta

Employment Standards Act, 1980.

British Columbia

Employment Standards Act, 1980, as amended.

Yukon

Labour Standards Ordinance, 1971.

Cape Verde

Legislative Decree No. 1330 of 1957, as amended to 1978.

Decree No. 579 of 6 Nov. 1937.

Decree No. 2463 of 13 June 1942.

Central African Republic

Labour Code (Act No. 61/221) of 1961.

Act No. 62-315 to prescribe legal public holidays, 1962 (L.S. 1962 - CAR. 1).

Chad

Labour and Social Welfare Code, 1966 (L.S. 1966 - Chad 1).

Decree No. 56/PR/MTJS/DTMOPS of 1969 concerning the application of weekly rest.

Chile

Legislative Decree No. 2200 to make provision for contracts of employment and the protection of workers, 1978 (L.S. 1978 - Chile 1).

People's Republic of China

Constitution, 1982.

Resolutions of the State Council on Work and Employment, 1952.

Colombia

Labour Code, 1950 (L.S. 1950 - Col. 3A).

Act No. 6 of 1981.

Act No. 20 of 1982.

Decree No. 13 amending the Labour Code as to hours of work and leave, 1966 (L.S. 1967 - Col. 1A).

Decree No. 995 of 1968.

Comoros

Overseas Labour Code, 1952 (L.S. 1952 - Fr. 5).

Decree No. 58-129/IT/C of 6 June 1958 concerning holidays with pay.

Decree No. 54-148 of 21 July 1954 concerning hours of work.

Decree No. 54-90 of 12 May 1954 concerning hours of work.

Decree No. 5-87/C of 12 May 1954 concerning weekly rest.

Congo

Labour Code, 1975.

Decree No. 78/364 of 12 May 1978 concerning weekly rest.

Costa Rica

Labour Code, 1943 (L.S. 1943 - C.R. 1).

Act No. 1948, concerning annual leave, 1955 (L.S. 1955 - C.R. 1).

Cuba

Act No. 1240 of 1972.

Decrees of 19 Sep. 1933 (L.S. 1933 - Cuba 4A), 19 Oct. 1933 (L.S. 1933 - Cuba 4B).

Resolution No. 476 of 1 July 1980, concerning hours of work.

Decrees of 2 Dec. 1933 (L.S. 1933 - Cuba 4D), 4 Jan. 1934 (L.S. 1934 - Cuba 1), 28 Aug. 1934 (L.S. 1934 - Cuba 8) concerning weekly rest.

Decree No. 81 of 10 Mar. 1981 respecting leave with pay (L.S. 1981 - Cuba 1).

Cyprus

Hours of Employment Law and 1961 Order.

Hotel Employees Regulations, 1972-78.

Shop Assistants Law, 1942, as amended 1979.

Law to provide for annual holidays with pay, 1967 (L.S. 1967 - Cyp. 1), as amended 1980.

Czechoslovakia

Labour Code, 1975 (L.S. 1975 - Cz. 2), as amended.

Notification concerning reduction of weekly work (L.S. 1968 - Cz. 1).

Democratic Yemen

Labour Code, 1978 (Law No. 14).

Law No. 24 of 1981 relating to the rights and duties of trade union committees.

Denmark

Act respecting the working environment, 1975 (L.S. 1975 - Den. 1).

Notification No. 372 of 15 Aug. 1980 concerning rest periods and rest days.

Vacation Leave Act, 1970 (L.S. 1970 - Den. 2).

Annual leave (codification), 16 Feb. 1978 (L.S. 1978 - Den. 1).

Notification No. 623 of 22 Dec. 1980.

Djibouti

Overseas Labour Code, 1952 (L.S. 1952 - Fr. 5).

Order No. 984 of 4 Aug. 1953 concerning hours of work.

Order No. 1372 of 12 Nov. 1953 concerning overtime.

Order No. 1545 of 23 Dec. 1953 concerning weekly rest.

Order No. 73-1602/59/T of 15 Nov. 1973 concerning paid holiday.

Dominican Republic

Labour Code, 1951 (L.S. 1951 - Dom. 1).

Decree No. 5681 of 15 Apr. 1960 concerning hours of work in public services.

Dominica

Labour Standards Act, No. 2 of 1977.

Shop Hours Ordinance, 1961.

Ecuador

Labour Code, 1978 (L.S. 1978 - Ec. 1).

Decree No. 43 of 11 Aug. 1980 concerning 40-hour week.

Act No. 412 of 1964 concerning the public service.

Egypt

Labour Code, 1981 (L.S. 1981 - Egypt 2).

Act No. 48 of 1978 concerning the public sector.

Act No. 47 of 1978 concerning holidays with pay in the public sector.

El Salvador

Labour Code, 1963 (L.S. 1963 - Sal. 1).

Equatorial Guinea

General Labour Act No. 11/1.979 of 1979.

Ethiopia

Labour Proclamation, 1975 (L.S. 1975 - Eth. 1).

Proclamation No. 16 of 1975 to provide for public holidays and rest day.

Fiji

Employment Ordinance, 1964.

Wages Councils Ordinance, cap. 81.

Building and Engineering Order, 1969.

Finland

Hours of Work Act, 1946 to 1979.

Hours of Work in Commercial Establishments and Offices Act, 1978.

Annual Holidays with Pay Act, 1973 to 1979.

France

Labour Code (updated 1983) (L.S. 1981 - Fr. 1).

Ordinance No. 82-41 of 16 Jan. 1982 respecting hours of work and leave with pay (L.S. 1982 - Fr. 1B).

Act to institute a system of leave to enable parents to bring up children, 1977 (L.S. 1977 - Fr. 2).

Circular No. 4 of 23 Feb. 1982.

Ordinance No. 82-283 of 26 Mar. 1982.

Gabon

Labour Code, 1978 (L.S. 1978 - Gab. 1).

Decree No. 273/PR of 5 Dec. 1962 concerning weekly rest.

Circular No. 525 of 9 Dec. 1978 concerning holidays with pay.

Order No. 0031 of 21 Nov. 1980 concerning holidays with pay.

Order No. 254 of 8 Feb. 1954 concerning hours of work.

German Democratic Republic

Labour Code, 1977 (L.S. 1977 - Ger.D.R. 1).

Vacation Leave Ordinance (L.S. 1978 - Ger.D.R. 1) and implementing regulations 1978, 1980.

Ordinance of 29 July 1976 respecting the progressive introduction of a 40-hour working week.

Order No. 4 of 20 July 1967 concerning hours of work and vacation.

Federal Republic of Germany

Hours of Work Order, 1938 (L.S. 1938 - Ger. 6).

Federal Leave Act, 1963 (L.S. 1963 - Ger. F.R. 1), as amended 1974.

Industrial Code, 1869.

Young Persons (Protection of Employment Act), 1960 (L.S. 1960 - Ger. F.R. 2), as amended 1963, 1968.

Shop Closing Act, 1956, as amended 1969.

Ghana

Labour Regulations, 1969 (L.S. 1969 - Ghana 1C).

Greece

Decree of 27 June 1932 concerning the eight-hour working day (L.S. 1932 - Gr. 2A), as amended L.S. 1935 - Gr. 3A, L.S. 1959 - Gr. 1, and extended to industries in general by Decree of 10 Sep. 1937 (L.S. 1937 - Gr. 3D).

Act No. 4504/1966 (L.S. 1966 - Gr. 1); RD748/1966; and Circular No. 164092 of 1967 concerning weekly rest.

Act No. 539 of 5 Sep. 1945 respecting the granting of annual holidays with pay to employees (L.S. 1945 - Gr. 2).

Act of 1945 as amended 19 May 1982 concerning holidays with pay.

Grenada

Wages Regulation Orders of 1961 (Minor Industrial Undertakings) and 1968 (Clerks).

Guatemala

Labour Code, 1961 (L.S. 1961 - Gua. 1).

Decree No. 1748 concerning the public service.

Basic Government Statute (No. 24-82, as amended by No. 36-82) of 29 Apr. 1982.



Guinea

Labour Code, 1960 (L.S. 1960 - Gui. 1).

Decrees Nos. 50/PRG of 8 Feb. 1966 and 202/PRG of 31 July 1972.

Guinea Bissau

Legislative Decree No. 1509 of 26 May 1951, as amended by No. 1874 of 20 May 1969, concerning hours of work and weekly rest.

Decree No. 44309 of 27 Apr. 1962.

Guyana

Labour Act, cap. 98-01.

Labour (Conditions of Employment of Certain Workers) Act, 1978.

Factories Act, cap. 95.08.

Shops (Consolidation) Act, 1958.

Holidays with Pay Act, No. 3 of 1952, as amended 1954, 1955, 1961.

Haiti

Labour Code, 1961 (L.S. 1961 - Hai. 1).

Honduras

Labour Code, 1959 (L.S. 1959 - Hon. 1).

Hungary

Labour Code, 1967 (L.S. 1967 - Hun. 2).

Decree No. 29 of 1 Dec. 1979 (L.S. 1979 - Hun. 1).

Decree No. 6 of 8 Oct. 1967 concerning hours of work (L.S. 1967 - Hun. 2D).

Resolutions of Council of Ministers of 12 July 1967 (industry and construction), 15 Apr. 1973 (civil servants), and 4 July 1974 concerning hours of work.

Iceland

Vacations Act, No. 87 of 24 Dec. 1971.

India

Factories Act, 1948 (L.S. 1948 - Ind. 4).

Mines Act, 1952 (L.S. 1952 - Ind. 3), as amended 1959.

Railway Servants (Hours of Employment) Rules, 1961.

Plantations Labour Act, 1951 (L.S. 1951 - Ind. 5).

Various Shops and Establishments Acts of federated states.

Indonesia

Labour Law, 1948 (L.S. 1951 - Indo. 1).

Islamic Republic of Iran

Labour Act, 1959 (L.S. 1959 - Iran 1).

Iraq

Labour Code, 1970 (L.S. 1970 - Iraq 1), as amended 1973 (L.S. 1973 - Iraq 1B).

Ireland

Shops (Conditions of Employment) Act, 1938 (L.S. 1938 - Ire. 1).

Conditions of Employment Act, 1936 (L.S. 1936 - IFS 1).

Conditions of Employment (Prescribed Abstract) Regulations, 1946.

Holidays (Employees) Act, 1973 (L.S. 1973 - Ire. 3).

Holidays (Agricultural Workers) Regulations, 1977.

Israel

Act respecting hours of work and rest, 1951 (L.S. 1951 - Isr. 2).

Act respecting annual holidays, 1951 (L.S. 1951 - Isr. 3).

Italy

Legislative Decree No. 692 of 15 Mar. 1923 concerning the limitation of hours of work (L.S. 1923 - It. 1, L.S. 1923 - It. 7).

Act of 30 Oct. 1955 concerning overtime (L.S. 1955 - It. 4).

Decree of 13 Nov. 1924 (L.S. 1924 - It. 3), Act of 17 Oct. 1967 (L.S. 1967 - It. 1) concerning holidays with pay.

Act of 22 Feb. 1934 concerning weekly rest.

Ivory Coast

Labour Code, 1964 (L.S. 1964 - IC 1).

Implementing Decree No. 67.265 of 2 June 1967.

Act No. 75-496 to amend the Labour Code, 1975 (L.S. 1975 - IC 1).

Jamaica

Shops and Offices Law, 1957 (L.S. 1957 - Jam. 1).

Minimum Wage Act (Orders 1975, 1980).

Holidays with Pay Order, 1973.

Japan

Labour Standards Law, 1947 (L.S. 1947 - Jap. 3) and Ordinance No. 23, 1947.

Law concerning Compensation of Employees in the Regular Service, 1950.

Order concerning Working Hours and Holidays, No. 6 of 1922.

Jordan

Labour Code, 1960 (L.S. 1960 - Jor. 1), as amended 1965 (L.S. 1965 - Jor. 1).

Civil Service Rules, 1982.

Kenya

Regulation of Wages and Conditions of Employment Act, 1975 (cap. 229):  
Regulation of Wages (General) Order, 1975.

Employment Act, 1976 (L.S. 1976 - Ken. 1).

Kuwait

Act No. 38 of 1964 concerning labour in the private sector.

Acts of 1960 and 1979 concerning the public sector.

Decree No. 54/1982 concerning weekly rest.

Lao Republic

Labour Code, 1971 (L.S. 1971 - Laos 1).

Lebanon

Labour Code, 1946 (L.S. 1946 - Leb. 1).

Decree No. 6110 of 10 Feb. 1961 concerning the public service.

Lesotho

Employment Act, 1967 (L.S. 1967 - Les. 1), as amended 1977.

Ordinance concerning conditions of employment, 1978, as amended 1981.

Liberia

Labour Practices Law, Title 19-A, Part II, Ch. 9.

Libyan Arab Jamahiriya

Labour Code, 1970 (L.S. 1970 - Libya 1).

Luxembourg

Act of 9 Dec. 1970 reducing and regulating hours of work.

Act of 21 Aug. 1913 concerning weekly rest; consolidated 1 June 1981.

Consolidated text of Act of 22 Apr. 1966 to make uniform provision for annual leave with pay of employees in the private sector, 1979 (L.S. 1979 - Lux. 2).

Madagascar

Labour Code, 1975 (L.S. 1975 - Mad. 1).

Decree No. 62-150 of 1962 concerning holidays (L.S. 1962 - Mad. 1).

Decree No. 60-124 of 1960 concerning leave of civil servants.

Malawi

Regulation of Wages and Conditions of Employment Ordinance: Wages (General) Order, 1965.

Retail Shops (Amendment) Act, 1969.

Malaysia

Employment Act, 1955, and General Orders.

Mali

Labour Code, 1962 (L.S. 1962 - Mali 1).

Decree No. 57 PG RM of 1967 concerning leave.

Ordinance No. 33 of 1975 concerning annual leave.

Malta

Conditions of Employment (Regulation) Act, 1952 (L.S. 1952 - Malta 1).  
(Wage Regulation Orders - various).

Mauritania

Labour Code, 1963 (L.S. 1963 - Mau. 1).  
Orders of 2 July 1953 and 2 June 1965 concerning weekly rest.

Mauritius

Labour Act, 1975 (L.S. 1975 - Maur. 3).  
(Remuneration Orders - various).

Mexico

Federal Labour Act, 1969 (L.S. 1969 - Mex. 1).  
Federal Civil Service Law.

Mongolia

Labour Code, 1975.

Morocco

Dahirs of 18 June 1936 (L.S. 1936 - Mor. 1), 15 Mar. 1937, and 2 July 1947 (L.S. 1947 - Mor. 1) concerning hours of work.  
Dahir of 21 July 1947 (L.S. 1947 - Mor. 2), Order of 25 July 1947 concerning weekly rest.  
Dahirs of 9 Jan. 1946 (L.S. 1946 - Mor. 1A), as amended, and 24 Apr. 1973 concerning holidays with pay.

Mozambique

Decree No. 1.595 of 1956.

Nepal

Factories and Factory Workers Act, 1959, and Rules, 1963, as amended.

Netherlands

Labour Act, 1919 (L.S. 1919 - Neth. 2), as amended (L.S. 1953 - Neth. 2, L.S. 1962 - Neth. 1, L.S. 1977 - Neth. 1, L.S. 1979 - Neth. 2).

General Civil Service Regulations (ARAR) and Contracts of Employment Decree (AOB), concerning hours of work.

Civil Code.

(Decrees on hours of work - various).

New Zealand

Industrial Relations Act, 1973 (L.S. 1973 - NZ 1).

State Services Conditions of Employment Act, 1977.

Shop Trading Hours Act, 1977.

Factories and Commercial Premises Act, 1981 (L.S. 1981 - NZ 2).

Holidays Act, 1981 (L.S. 1981 - NZ 1).

Nicaragua

Labour Code, 1945 (L.S. 1945 - Nic. 1), as amended (L.S. 1962 - Nic. 1).

Niger

Labour Code, 1962.

Act No. 61-23 to prescribe legal public holidays, 1961 (L.S. 1961 - Niger 1).

Decree No. 67-126/MFP/T of 7 Sep. 1967 (concerning weekly rest).

Nigeria

Labour Decree, No. 21 of 1974 (L.S. 1974 - Nig. 1).

Norway

Working Environment Act, 1977 (L.S. 1977 - Nor. 1).

Act respecting Vacation, 1947 (L.S. 1947 - Nor. 1, L.S. 1952 - Nor. 2, L.S. 1964 - Nor. 1) (as amended 1981).

Pakistan

Factories Act, 1934 (L.S. 1946 - Ind. 1), as amended.

Mines Act, 1923 (L.S. 1923 - Ind. 3).

Railway Act, 1890-1930 (L.S. 1930 - Ind. 1).

West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 (L.S. 1968 - Pak. 1).

West Pakistan Shops and Establishments Ordinance, 1969 (L.S. 1969 - Pak. 1).

Panama

Labour Code, 1971 (L.S. 1971 - Pan. 1).

Papua New Guinea

Native Employment Ordinance, as amended 1971.

Employment Act, No. 54 of 1978.

Paraguay

Labour Code, 1961 (L.S. 1961 - Par. 1).

Civil Service Act, No. 200 of 1970.

Peru

Act No. 3010 of 26 Dec. 1918 prohibiting work on Sundays and public holidays.

Presidential Resolution No. 11-DT of 3 Feb. 1952, and Presidential Decree No. 002-TR of 10 Mar. 1970.



Annual Leave Acts, 1933 (L.S. 1933 - Per. 1A), 1940, 1961 (L.S. 1961 - Per. 2).

Decrees of 26 Nov. 1957, 30 Apr. 1957 (L.S. 1957 - Per. 1A), 24 Oct. 1961, 15 July 1976, 20 Feb. 1979, 30 Apr. 1980 concerning paid holidays.

Act to fix the hours of work of women and children, 1918 (L.S. 1918 - Per. 1).

Presidential Decree of 15 Jan. 1919 to fix hours of work.

Resolution of 2 Nov. 1936 concerning overtime.

#### Philippines

Labour Code, 1974 (L.S. 1974 - Phi. 1A).

Civil Service Decree, No. 807 of 1975.

Decree No. 985 concerning paid holidays.

#### Poland

Labour Code, 1974 (L.S. 1974 - Pol. 1A).

Orders concerning hours of work, etc. of 21 Dec. 1974, 30 Dec. 1982, 23 Aug. 1982, 18 Dec. 1981.

#### Portugal

Legislative Decree No. 874/76 respecting leave, public holidays and absence from work, 1976 (L.S. 1976 - Por. 5).

Legislative Decree No. 49.408 of 21 Nov. 1969 concerning employment contracts (L.S. 1969 - Por. 3).

Legislative Decree No. 409 to establish new statutory provisions respecting hours of work, 1971 (L.S. 1971 - Por. 1).

#### Qatar

Collection of labour laws, 1962-75.

Labour Act No. 3 of 1962, as amended 1974.

Romania

Labour Code, 1972 (L.S. 1972 - Rom. 1).

Act No. 26 respecting the grant of vacation leave to employed persons, 1967 (L.S. 1967 - Rum. 1).

Rwanda

Labour Code, 1967 (L.S. 1967 - Rwa. 1).

Ordinance No. 641/06 of 13 Aug. 1981 concerning hours of work.

Law Decree No. 15/78 of 14 Aug. 1978 concerning paid holidays.

Saint Lucia

Shops (Hours) Ordinance, 1941.

Factories Regulations, 1948.

San Marino

Act No. 7 respecting the protection of labour and workers, 1961 (L.S. 1961 - SM 1).

Sao Tomé and Principe

Rural Labour Code, 1962 (L.S. 1962 - Por. 1).

Legislative Decree No. 507 of 1958 concerning labour.

Regulation No. 2.552.

Saudi Arabia

Labour Code, 1969 (L.S. 1969 - Sau. Ar. 1).

Rules concerning labour inspection, 7 July 1970.

Senegal

Labour Code, 1961 (L.S. 1962 - Sen. 2B) (affirms Overseas Labour Code, 1952 (L.S. 1952 - Fr. 5)).

Decrees Nos. 70-917 of 20 July 1970, 70-183 of 20 Feb. 1970, 76-122 of 3 Feb. 1976 concerning hours of work and weekly rest.

Act No. 71-06 to amend the Labour Code, 1971 (L.S. 1971 - Sen. 1A).

#### Seychelles

Ordinance on Outlying Islands, 1945.

Schedules - wage rates, 1972, 1981.

#### Sierra Leone

Regulation of Wages and Industrial Relations Act, No. 18 of 1971, and various collective agreements thereunder.

#### Singapore

Employment Act, 1968 (L.S. 1968 - Sin. 1).

Employment (Salary of Employees) Notification, 1980.

#### Somalia

Labour Code, 1972 (L.S. 1972 - Som. 1).

#### Spain

Act No. 8 to promulgate a Workers' Charter, 1980 (L.S. 1980 - Sp. 1).

Labour Contracts Act, 1974.

Decree concerning working hours and rest, 28 July 1983.

Decree No. 2764/67 concerning the civil service.

Act No. 4 of 29 June 1983 concerning paid holidays.

#### Sri Lanka

Shop and Office Employees (Regulation of Employment and Remuneration) Act, 1954 (L.S. 1954 - Cey. 1, as amended L.S. 1957 - Cey. 2).

Factories (Amendment) Act, 1961.

Wages Boards Ordinance, 1941.

Sudan

Individual Labour Relations Act, 1981.

Public Service Ordinance, 1975.

Suriname

Holiday Act, 1975.

Labour Ordinance, No. 163 of 19 Dec. 1963.

Swaziland

Wages Proclamation, No. 16 of 1964 (L.S. 1964 - Swa. 1).

Regulation of Wages (Manufacturing and Processing Industries) Order, 1978.

Employment Act, 1980.

Sweden

Hours of Work Act, 1982 (L.S. 1982 - Swe. 2).

Working Environment Act, as amended 1982.

Annual Leave Act, 1977 (L.S. 1977 - Swe. 2).

Switzerland

Labour Act, as amended 1980.

Code of obligations, as amended 1971 (L.S. 1971 - Swi. 1).

Act of 8 Oct. 1971 respecting employment in public transport undertakings.

Syrian Arab Republic

Labour Code, 1959 (L.S. 1959 - UAR 1).

Law Decree No. 74 of 1971, Decision No. 131 of 1960 concerning weekly rest.

Law No. 41 of 5 Nov. 1972 concerning paid holidays.

Tanzania

Employment Ordinance cap. 366, as amended 1975.

Regulation of Wages and Terms of Employment Ordinance, cap. 300, and Order, 1972 (Government Notice No. 152 of 1972).

Thailand

Announcement No. 103 of 16 Mar. 1972 (L.S. 1972 - Thai. 1).

Announcement respecting labour protection, 16 Apr. 1972 (L.S. 1972 - Thai. 2).

Togo

Labour Code, 1974.

Order No. 278-54/ITLS of 19 Mar. 1954 concerning weekly rest.

Decree No. 57-86 to make provision for a scheme of annual leave with pay, 1957 (L.S. 1957 - Tog. 2).

Decree No. 69-112 of 28 May 1969 concerning paid holidays.

Orders Nos. 612-53/IT of 22 Aug. 1953, 627-53/IT of 29 Aug. 1953, 256-54/ITLS of 13 Mar. 1954, 397-54/ITLS of 28 Apr. 1954 concerning hours of work.

Trinidad and Tobago

Wages Regulation Orders concerning grocery trade (1960), laundries (1959), catering (1958).

Tunisia

Labour Code, 1966 (L.S. 1966 - Tun. 1).

Orders of 12 July 1968 concerning weekly rest, Act No. 68-12 of 3 June 1968 concerning workers in the public sector.

Turkey

Constitution of 7 Nov. 1982.

Labour Act, 1967 (L.S. 1967 - Tur. 1).

Acts of 2 Jan. 1925, 27 Apr. 1972, 17 Mar. 1981 concerning weekly rest.

Labour Act No. 1475 of 25 Aug. 1971.

Uganda

Employment Decree, 1975 (L.S. 1975 - Ug. 1).

Ukrainian SSR

Labour Code, 1971.

USSR

Constitution, 1977.

Fundamental principles governing the labour legislation of USSR and Union Republics.

Labour Code of RSFSR, 1971 (L.S. 1971 - USSR 1).

Order No. 275/17-99, 1981, concerning homeworkers (L.S. 1981 - USSR 1).

Ukases concerning employment of seasonal and temporary workers (L.S. 1974 - USSR 3A/3B).

United Arab Emirates

Federal Law to regulate employment relationships, No. 8 of 1980 (L.S. 1980 - UAE 1).

United Kingdom

Factories Act, 1961 (L.S. 1961 - UK 1), as amended.

Health and Safety at Work Act, 1974 (L.S. 1974 - UK 2).

Shops Act, 1957.

Wages Councils Act, 1979.

Hong Kong

Employment Ordinance, cap. 57, 1968 (L.S. 1968 - HK 1).

Factories and Industrial Undertakings Regulations, cap. 59, 1955.

Gibraltar

Conditions of Employment (Annual and Public Holidays) Ordinance and Order (cap. 139).

Shop Hours Ordinance (cap. 144).

Guernsey

Sunday Trading Law, 1973.

Isle of Man

Shop Hours Acts, 1953-74.

Jersey

Termination of Employment - Minimum Periods of Notice Law, 1974.

Montserrat

Labour Ordinance, cap. 314.

Shops Regulation Ordinance, cap. 286.

Employment Ordinance, No. 19 of 1979.

St. Helena

Shops Regulations, 1953.

Lord's Day (Observance) Ordinance, 1849 (cap. 65).

United States

Fair Labour Standards Act, 1938, as amended [as in 1966: L.S. 1966 - USA 1].

Public Contracts Act, 1936, as amended, Title 41 US Code, sections 35-46.

Contract Work Hours Act, 1962, as amended, Title 40 US Code, sections 327-333.

Upper Volta

Labour Code, 1962, as amended 1973.

Order No. 1244/FPT/DGTLS of 1976 concerning weekly rest.

Order No. 931/FPT/DGTLS of 1976 concerning paid holidays.

Order No. 1243/FPT/DGTLS of 1976 concerning hours of work.

Uruguay

Acts Nos. 11.887 of 2 Dec. 1952, 14.320 of 17 Dec. 1974 concerning weekly rest.

Acts Nos. 10.667 of 9 Nov. 1945, 11.146 of 23 Nov. 1948, 11.577 of 14 Oct. 1950 concerning hours of work.

Acts Nos. 13.566 of 26 Oct. 1966, 14.328 of 19 Dec. 1974; Decree No. 26/04/962; Resolutions of 2 Jan. 1973 and 27 July 1979 concerning paid holidays.

Venezuela

Constitution, as amended 1983.

Labour Act, as amended 1983.



Implementing regulations concerning weekly rest, No. 1631 of 1973.

Act No. 49 of 1977 concerning civil servants.

Yemen

Labour Code, 1970.

Yugoslavia

Constitution, 1974 (L.S. 1974 - Yug. 1).

Associated Labour Act, 1976.

Zaire

Labour Code, 1967 (L.S. 1967 - Congo (Kin) 1).

Order No. 68/12 of 17 May 1968 concerning weekly rest.

Ordinance No. 79/154 of 23 June 1979 concerning paid holidays.

Zambia

Employment Act, 1965 (L.S. 1965 - Zam. 2).

Minimum Wages and Conditions of Employment Act, 1982.

Zimbabwe

Industrial Conciliation Act, cap. 267.

Employment Act, 1980 (L.S. 1980 - Zim. 1).

Employment (Hours of Work) Regulations, 1981.

Public Service Regulations, 1971, 1979.

(Various sectoral regulations).

APPENDIX II

REPORTS RECEIVED ON  
CONVENTIONS Nos 14, 106, 132 AND RECOMMENDATIONS Nos 103, 116

Member States	Recommendation No. 116	Convention No. 14	Convention No. 106	Recommendation No. 103	Convention No. 132
Afghanistan	-	R	R	-	-
Algeria	X	R	X	X	X
Angola	-	R	R	-	X
Antigua and Barbuda	X	-	-	X	X
Argentina	X	R	X	X	X
Australia	X	X	X	X	X
Austria	X	X	X	X	X
Bahamas	-	R	-	-	-
Bahrain	X	R	X	X	X
Bangladesh	X	R	R	X	X
Barbados	X	X	X	X	X
Belgium	X	R	-	X	X
Belize	-	-	-	-	-
Benin	-	R	X	-	X
Bolivia	-	R	R	-	-
Botswana	-	-	-	-	-
Brazil	X	R	R	X	X
Bulgaria	X	R	R	X	X
Burma	X	R	X	X	X
Burundi	X	R	X	X	X
Byelorussian SSR	X	R	R	X	X
Cameroon, United Republic of	X	R	X	X	R
Canada	X	R	X	X	X
Cape Verde	X	X	X	X	X
Central African Republic	X	R	X	-	X
Chad	X	R	X	X	X
Chile	X	R	X	X	X
China	-	X*	X	X	-
Colombia	X	R	R	X	X
Comoros	X	R	R	X	X
Congo	X	R	X	X	X
Costa Rica	-	-	R	-	-
Cuba	X	R	R	X	X
Cyprus	X	X	R	X	X
Czechoslovakia	X	R	X	X	X
Democratic Kampuchea	-	-	-	-	-
Democratic Yemen	X	X	X	X	X
Denmark	X	R	R	X	X
Djibouti	X	R	R	X	X
Dominica	-	-	-	-	-
Dominican Republic	X	X	R	X	X
Ecuador	X	X	R	X	X
Egypt	X	R	R	X	X
El Salvador	X	X	X	X	X
Equatorial Guinea	-	X	-	-	X
Ethiopia	X	X	X	X	X
Fiji	-	-	-	-	-
Finland	X	R	X	X	X
France	X	R	R	X	X
Gabon	X	R	R	X	X

Member States	Recommendation No. 116	Convention No. 14	Convention No. 106	Recommendation No. 103	Convention No. 132
German Democratic Republic	X	X	X	X	X
Germany (Federal Republic of)	X	X	X	X	R
Ghana	-	R	R	-	-
Greece	X	R	R	-	X
Grenada	-	R	-	-	-
Guatemala	X	X	R	X	X
Guinea	-	R	-	-	R
Guinea-Bissau	X	R	R	X	X
Guyana	X	X	X	X	X
Haiti	-	R	R	-	-
Honduras	-	R	R	-	-
Hungary	X	R	X	X	X
Iceland	-	-	-	-	-
India	X	R	X	X	X
Indonesia	X	X	R	X	X
Iran, Islamic Republic of	-	R	R	-	-
Iraq	-	R	R	-	R
Ireland	-	R	-	-	R
Israel	X	R	R	X	X
Italy	X	R	R	X	R
Ivory Coast	-	R	-	-	-
Jamaica	X	X	X	X	X
Japan	X	X	X	X	X
Jordan	-	-	R	-	-
Kenya	-	R	-	-	R
Kuwait	-	-	R	-	-
Lao Republic	-	-	-	-	-
Lebanon	-	R	R	-	-
Lesotho	-	R	X	X	X
Liberia	X	X	X	X	X
Libyan Arab Jamahiriya	X	R	X	X	X
Luxembourg	X	R	-	-	R
Madagascar	X	R	X	X	R
Malawi	-	-	-	-	-
Malaysia	X	R	X	X	X
Mali	X	R	X	X	X
Malta	X	X	X	X	X
Mauritania	-	R	-	-	-
Mauritius	X	R	X	X	X
Mexico	X	R	R	X	X
Mongolia	X	X	X	X	X
Morocco	X	R	R	X	X
Mozambique	X	R	X	X	X
Namibia	-	-	-	-	-
Nepal	-	-	-	-	-
Netherlands	X	R	R	X	X
New Zealand	X	R	X	X	X
Nicaragua	X	R	X	X	X
Niger	-	R	-	-	-
Nigeria	X	X	X	-	X
Norway	X	R	X	X	R
Pakistan	X	R	R	-	X
Panama	X	X	X	X	X
Papua New Guinea	-	-	-	-	-

Member States	Recommendation No. 116	Convention No. 14	Convention No. 106	Recommendation No. 103	Convention No. 132
Paraguay	-	R	R	-	-
Peru	X	R	X	X	X
Philippines	X	X	X	X	X
Poland	X	R	X	X	X
Portugal	X	R	R	X	R
Qatar	-	-	-	-	-
Romania	X	R	X	X	X
Rwanda	X	R	X	X	X
Saint Lucia	-	R	-	-	-
San Marino	-	-	-	-	-
Sao Tome and Principe	-	-	-	-	-
Saudi Arabia	X	R	R	X	X
Senegal	X	R	X	X	X
Seychelles	-	-	-	-	-
Sierra Leone	X	X	X	X	X
Singapore	X	X	X	X	X
Somalia	X	X	X	X	X
Spain	X	R	R	X	R
Sri Lanka	X	X	X	X	X
Sudan	X	X	X	X	X
Suriname	-	R	R	-	X
Swaziland	-	R	-	-	-
Sweden	X	R	X	X	R
Switzerland	X	R	X	X	X
Syrian Arab Republic	-	R	R	-	-
Tanzania	X	X	X	X	X
Thailand	X	R	X	X	X
Togo	X	R	X	X	X
Trinidad and Tobago	-	-	-	-	-
Tunisia	X	R	R	-	X
Turkey	X	R	X	X	X
Uganda	X	X	X	X	X
Ukrainian SSR	X	R	R	X	X
United Arab Emirates	-	-	-	-	-
United Kingdom	X	X	X	X	X
United States	X	X	X	X	X
Upper Volta	X	R	X	X	R
Uruguay	X	R	R	X	R
USSR	X	R	R	X	X
Venezuela	X	R	X	X	X
Viet Nam	-	R	-	-	-
Yemen	-	R	-	-	R
Yugoslavia	X	R	R	X	R
Zaire	-	R	-	-	-
Zambia	X	X	X	X	X
Zimbabwe	X	X	X	X	X

**Note:** A total of 38 reports has also been received in respect of the following non-metropolitan territories : United Kingdom: Bermuda, Brunei\*\*, Gibraltar, Guernsey, Hong Kong, Jersey, Isle of Man, Montserrat, St Helena.

R = Ratified Conventions

X = Report received

- = Report not received

\* This Convention was ratified by China on 17 May 1934.

\*\* Since receipt of the reports, Brunei acceded to independence on 1 January 1984.