

**Report III  
(Parts 1, 2 and 3)**

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

# **Summary of Reports**

(Articles 19, 22 and 35 of the Constitution)

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ISBN 92-2-103724-X

ISSN 0074-6681

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*First published 1985*

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The publication of information concerning action taken in respect of international labour Conventions and Recommendations does not imply any expression of view by the International Labour Office on the legal status of the State having communicated such information (including the communication of a ratification or declaration), or on its authority over the territories in respect of which such information is communicated; in certain cases this may present problems on which the ILO is not competent to express an opinion.

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Printed by the International Labour Office, Geneva, Switzerland

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Part 1

Summary of reports on  
ratified Conventions

(articles 22 and 35 of the Constitution)



### Introduction

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

At its 204th (November 1977) Session, the Governing Body approved the following arrangements for the presentation by the Director-General to the Conference of summaries of reports submitted by governments under article 22 of the Constitution:

- (a) the practice of tabular classification of reports, without summary of their contents, which for a number of years had been followed in respect of reports subsequent to first reports after ratification, should be applied to all reports, including first reports;
- (b) the Director-General should make available, for consultation at the Conference, the original texts of all reports on ratified Conventions received; in addition, photocopies of those reports should be supplied on request to members of delegations.

Requests for consultation or copies of reports may be addressed to the secretariat of the Committee on the Application of Conventions and Recommendations.

The present summary refers to reports for the period ending 30 June 1984.

The report of the Committee of Experts on the Application of Conventions and Recommendations, which examines the report submitted under article 22 of the Constitution, is communicated separately to the Conference as Report III (Part 4A).





SUMMARY OF REPORTS ON THE APPLICATION OF RATIFIED CONVENTIONS RECEIVED

- A. First reports after ratification of the Convention concerned.
- B. Reports containing information on important changes in the implementation of Conventions, or information supplied in reply to observations or direct requests made by the Committee of Experts.
- C. Reports containing information on the practical effect given to Conventions, or on minor changes in their implementation.
- D. Reports merely repeating or referring to the information previously supplied.

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Afghanistan		13, 100, 111, 139, 141	137	140
Algeria		32, 62, 68, 77, 78 87, 91, 92, 98, 111, 119, 120, 122, 127		11, 58, 97
Angola		19, 81, 92, 100	68	7
Argentina		3, 9, 26, 35, 36, 68, 87, 105, 107, 111	1, 98	11, 15, 58, 115
Australia		29, 105, 111, 122, 144	9, 47, 87, 112, 137	7, 11, 15, 98
Norfolk Island		122		11, 47, 87, 98, 112
Austria		98, 100, 111, 122	103	
Bahamas		105		
Bahrain				14
Bangladesh		29, 87, 105, 107, 144	1	11, 15, 98, 111
Barbados		29, 87, 98, 102, 105, 111, 122, 128		7, 11, 97, 118

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Belgium	144	77, 81, 91, 97, 102, 111, 122	1, 5, 9, 10, 12, 14, 15, 19, 33, 43, 56, 68, 87, 88, 96, 98, 101, 112, 121	13, 58, 62, 120, 126
Belize		15	97, 98	7, 11, 58, 87
Benin		13, 29, 105, 111	18, 33, 100	5, 85
Bolivia		1, 30, 87, 95, 98, 102, 103, 136	5, 123, 131	19, 100, 106, 111
Brazil	142, 148	26, 29, 91, 92, 97, 98, 105, 107, 111, 117, 118, 122	19, 99	11, 58, 120
Bulgaria		3, 87, 111	35, 36, 37, 38, 39, 40	1, 9, 11, 20, 30, 43, 49, 68, 98, 120
Burkina Faso	150	13, 29, 81, 111, 129, 132, 143	18, 33	3, 5, 11, 14, 19, 97, 98, 100, 135
Burma			17, 52	1, 11, 15
Burundi		1, 14		11
Byelorussian SSR		29, 122, 138, 149	47, 103, 142	11, 16, 27, 32, 119, 120
Canada		111, 122	74	15, 58, 68
Cape Verde		105	100	81, 111
Central African Republic		29	100	19
Chad		13, 81, 87, 98, 111		5, 11, 14, 33, 100

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Chile		1, 2, 9, 26, 29, 30, 32, 34, 63, 111, 122	12, 17, 18, 24, 25	7, 11, 15, 16, 19, 20
China		7, 11, 15		
Colombia	6, 10	3, 9, 22, 111	1, 2, 7, 8, 14, 15, 17, 26, 30, 87, 88, 99	11, 24, 98
Comoros	77, 78, 81	1, 19, 87, 98, 100, 111, 122		11, 13
Congo		29, 119		5, 11, 13, 33
Costa Rica	1	131	87, 98	11, 111, 120
Cuba	152, 155	9, 67, 91, 105, 110, 111, 122, 148, 150	1, 11, 20, 30, 63, 92, 97, 98, 103, 131, 137, 145	87, 120
Cyprus	151	111, 119	97, 128, 143, 144	11, 15
Czechoslovakia	130	111, 124	35, 36, 37, 38, 39, 40	1, 11, 43, 49, 77, 78, 98
Denmark	142, 150, 151	29, 42, 87, 98, 111, 122, 141, 144	9, 120, 126	11, 15, 58, 112
Djibouti		9, 81, 87, 96, 120, 122, 125		1, 11, 15, 43, 49, 98
Dominican Republic		88, 95, 105, 119	87, 98	1, 7
Ecuador		11, 77, 78, 111, 120, 121, 142	87, 98, 103, 131	97, 112

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Egypt	62, 135, 139, 144	111	30, 87, 98	11, 100
El Salvador		105		
Ethiopia		111	98	11, 87
Finland	152	9, 81, 87, 111, 119, 145, 150, 151	120, 128, 137, 142	11, 30, 96
France	111, 144	22, 27, 29, 96, 100, 105, 122, 136, 137, 146	9, 53, 68, 74, 92, 97, 98, 120, 126, 145	11, 15, 32, 43, 49, 58, 87, 112
Overseas Departments:				
French Guiana	144	91, 98, 105	68, 74, 92, 126	9, 15, 27, 29, 43, 49, 58, 87, 112, 120, 136
Guadeloupe	144	91, 98, 105	68, 74, 92, 126	9, 11, 15, 27, 29, 43, 49, 58, 87, 112, 120, 136
Martinique	144	91, 98, 105	68, 74, 92, 126	9, 11, 15, 27, 29, 43, 49, 58, 87, 112, 120, 136
Réunion	144	91, 98, 105	68, 74, 92, 126	9, 11, 15, 27, 29, 43, 49, 58, 87, 112, 120, 136
St. Pierre and Miquelon	144	88, 91, 98, 105, 122	126	9, 11, 15, 29, 43, 49, 58, 87, 112, 120

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Overseas Territories: French Polynesia		3, 13, 29, 35, 36, 37, 38, 81, 105, 115, 120	91, 126	9, 11, 43, 49, 82, 87, 98
New Caledonia		3, 81, 96, 115, 120, 122	11, 35, 36, 37, 38, 91, 126	9, 15, 19, 43, 49, 58, 87, 98
Gabon		81, 87, 98, 111, 135, 150	3, 11, 52	13, 14, 33
German Democratic Republic		87, 111, 124	47, 103	11, 77, 78, 98, 120
Germany, Federal Republic of	150	3, 97, 100, 102, 111, 128	9, 92, 120, 126	11, 98
Greece	68, 73, 77, 78, 106, 115, 124, 144	3, 11, 23, 87, 90	1, 9, 98, 100	15, 58
Grenada		19, 58, 81, 98, 105		
Guatemala		26, 81, 94, 99, 105, 110, 111	30, 63, 87, 97, 119.	19, 58, 98, 112, 120
Guinea-Bissau		91		
Guyana		98, 105	87, 111	7, 11, 15, 97

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Haiti		5, 100	14, 81, 106	30, 107
Honduras		111, 122	87	98
Hungary		62, 111, 122	87	7, 15, 98, 145
Iceland		29, 100, 105, 111		11, 87, 98
India		1, 29, 111	144	11, 15, 115
Indonesia		29		
Iran, Islamic Republic of		19, 122		
Iraq	139, 145, 149, 150	15, 22, 23, 29, 78, 81, 92, 105, 111, 115, 118, 132, 136, 137, 140, 142	8, 17, 19, 59, 77, 88	13, 14, 16, 27, 58, 89, 98, 100, 106, 135
Ireland		29, 100, 105, 118, 122, 138, 142, 144	69, 102	11, 16, 27, 32, 45, 68, 74, 96
Israel		136, 142, 150		20, 87, 97, 98
Italy	129, 132, 134, 135, 136, 137, 138, 139, 143	26, 29, 81, 92, 105, 127, 142	68, 111, 119, 120	9
Ivory Coast		3, 52, 111, 136	87, 98	11, 14, 110
Jamaica		29, 65, 81, 100, 111, 122	117	11
Japan		29	9, 15, 58, 87, 98, 102, 119	

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Jordan		29, 81, 100, 105, 106, 119, 135	118, 142	
Kenya	135, 137, 138, 140, 141, 142, 143	81	19	2, 11, 14, 16, 27, 32, 88, 97, 98, 118
Kuwait		87, 111, 119	105, 117	
Lao People's Democratic Republic		29		4, 6
Lesotho		19		5, 29
Liberia	108	105		
Libyan Arab Jamahiriya			103	
Luxembourg		28, 29, 100, 103	19, 102	1, 9, 11, 20, 30, 87, 98, 105, 132
Madagascar		29, 81, 119	87, 123	11
Malawi				111
Malaysia		119		11
Sabah				15
Sarawak				7, 15
Mali		87, 111		11, 98
Malta		111	35, 36	7, 11, 15, 87, 98

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Mauritania		29, 53, 62		3, 5, 11, 13, 14, 15, 19, 33, 89, 91, 96, 106, 118
Mauritius		15, 58		11, 84, 97, 98
Mexico	150, 152	9, 110, 120, 144	131	11, 30, 58, 87, 105, 111
Mongolia	123	111		
Morocco		29, 30, 52, 81, 111, 119, 136, 145, 146	100	11, 15, 98
Mozambique		11, 30, 111		1
Nepal		100, 111		
Netherlands		87, 100, 102, 103, 111, 114, 122, 128, 129, 140, 146, 150	9, 44, 97, 121, 137, 144, 145	11, 68, 126, 135
Netherlands Antilles		81	17	10, 29, 33, 74, 87
New Zealand		122	1, 9, 11, 30, 68, 145	8, 15, 23, 58,
Niue Island				11, 14, 29, 50, 65, 82, 84, 105
Tokelau		29	105	82



Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Nicaragua		9, 28, 29, 63, 87, 111, 119, 131, 142	3, 98	11
Niger	81		11, 100	13, 14, 135
Nigeria		81		11, 123
Norway	152, 156	91, 111, 128, 142, 143, 145, 150	68, 87, 92, 97, 119	11, 98, 120, 126, 137
Pakistan		107, 111		1, 11, 15
Panama		3, 52, 53, 68, 92, 119, 126	20, 43, 112	11, 26, 58, 87, 98, 120
Papua New Guinea		105	42	
Paraguay		29, 81, 105, 107, 111, 119, 120, 122		11, 26, 59, 60, 87, 98, 99, 100, 123
Peru		1, 20, 26, 67, 68, 105, 139, 151	87, 98, 99	9, 11, 19, 58, 112, 113
Philippines		110, 111, 122	77, 87	98
Poland	151	9, 11, 91, 92, 103, 111, 122, 137, 145, 149	2, 12, 17, 18, 24, 25, 35, 36, 37, 38, 39, 40, 42, 119	62, 68, 113, 120, 140
Portugal	117, 122, 132, 137, 142, 144, 148, 150, 151	26, 29, 68, 81, 87, 92, 97, 98, 105, 111, 143	8	7, 11, 91
Qatar		81		
Romania		111, 122, 134		1, 3, 9, 11, 29, 129, 137

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Rwanda	111	11		12, 14, 17, 19
Saint Lucia	29	19, 87, 105		5, 7, 8, 11, 14, 16, 101
Sao Tome and Principe	19, 81, 100			
Saudi Arabia		29, 105, 106, 111		
Seychelles		29		8, 11
Sierra Leone		15, 125	8	58, 87, 98
Singapore		29	5, 81	7, 8, 11, 15, 87
Somalia		22, 29, 84, 105, 111		15, 19, 85
South Africa		2		19
Spain		29, 44, 68, 87, 92, 97, 98, 105, 111, 119, 120, 122, 131, 137, 140, 142, 147, 148	1, 20, 30, 126	9, 11, 27
Sri Lanka		96	18, 135	11, 15, 58, 98
Suriname	150, 151	19, 29, 41, 81, 105, 106, 112, 118, 122, 135	11, 14, 96	13, 27, 62
Swaziland	100, 111			
Sweden	47, 143, 152, 155	92, 111, 120, 122, 128, 137, 150	9, 15, 58, 102, 119, 144, 146	11, 98

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Switzerland		102, 111, 120, 128	2	11, 15, 58, 87, 153
Syrian Arab Republic		87, 88, 98, 100, 105, 106, 119, 129, 136, 139		11, 123, 135
Tanzania, United Republic of Zanzibar			97	11, 15, 98  7, 58
Thailand		123		14, 19, 29, 105
Togo		84		11, 87
Trinidad and Tobago		29, 105, 125		19, 85, 97
Tunisia		29, 58, 87, 91, 111, 119, 122		
Turkey		11, 96, 102, 111, 119, 122		15, 58
Uganda				11, 50, 65, 86
Ukrainian SSR		111, 122, 149	47, 103, 142	11, 16, 100, 119, 120, 126
USSR		111, 122	47, 103, 119	11, 120, 126
United Kingdom		68, 92, 122, 144, 150, 151	35, 36, 37, 38, 39, 40, 97, 120	7, 11, 15
Anguilla				11, 14, 85, 101
Bermuda		105	19	7, 11, 15, 58, 84, 87, 98

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
British Virgin Islands				11, 14, 82, 85
Gibraltar			142	11
Guernsey	148, 151	98, 122	35, 36, 37, 38, 39, 40	7, 11, 15, 87
Hong Kong	122, 148	3, 64, 97	14, 19, 42, 81, 84, 98, 101, 142	2, 5, 8, 10, 11, 12, 15, 16, 32, 45, 58, 59, 82, 108, 115, 141, 144, 150, 151
Jersey			35, 36, 37, 38, 39, 40	7, 11, 15, 87, 98
Isle of Man		122	35, 36, 39, 40, 97	7, 11, 15, 37, 38, 92
Montserrat			59, 87, 97, 98	7, 11, 15, 58, 84, 85
St. Helena				11, 15, 58, 84, 87, 98, 150
United Arab Emirates	1			
United States				55, 58
American Samoa			58	
Guam			58	
Uruguay	137	63, 87, 98, 103, 110, 122, 130, 131, 132, 134, 136, 139, 149	1, 9, 30, 67, 97	11, 43, 119

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Venezuela		98	26	1, 7, 11
Yemen		111		
Yugoslavia		9, 29, 48, 111, 122, 126	103, 143	11, 15, 58, 87, 91, 97, 98, 112, 119
Zaire		29, 98, 119		11, 84, 120
Zambia	149	29, 103, 111, 148, 150	97	11, 123



Part 2

Summary of reports on Conventions Nos. 81 and 129  
and on Recommendations Nos. 81, 82 and 133

(article 19 of the Constitution)

Labour inspection





### Introduction

Article 19 of the Constitution of the International Labour Organisation provides that Members shall "report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body" on the position of their law and practice in regard to the matters dealt with in unratified Conventions and Recommendations. The obligations of Members as regards Conventions are laid down in paragraph 5(e) of the above-mentioned article. Paragraph 6(d) deals with Recommendations, and paragraph 7(a) and (b) deals with the particular obligations of federal States. Article 23 of the Constitution provides that the Director-General shall lay before the next meeting of the Conference a summary of the reports communicated to him by Members in pursuance of article 19, and that each Member shall communicate copies of these reports to the representative organisations of employers and workers.

Pursuant to the above-mentioned provisions, the Governing Body selects each year the instruments on which Members are requested to supply reports. Since 1950 the summaries of these reports have been submitted each year to the Conference.

At its 218th (November 1981) Session, the Governing Body decided to discontinue the publication of summaries of reports on unratified Conventions and on Recommendations and to publish only a list of reports received, on the understanding that the Director-General would make available for consultation at the Conference the originals of all reports received and that copies of reports would be available to members of delegations on request.

Requests for consultation or copies of reports may be addressed to the secretariat of the Committee on the Application of Conventions and Recommendations.

The reports which are listed below concern the Labour Inspection Convention, 1947 (No. 81); the Labour Inspection (Agriculture) Convention, 1969 (No. 129); the Labour Inspection Recommendation, 1947 (No. 81); the Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82); and the Labour Inspection (Agriculture) Recommendation, 1969 (No. 133).

The governments of member States were requested to send their reports to the International Labour Office by 1 July 1984.

The report of the Committee of Experts on the Application of Conventions and Recommendations which will be submitted to the Conference at its 71st (1985) Session, will include a general survey on the reports on the above-mentioned Conventions and Recommendations (Report III, Part 4B).



Summary of reports on Conventions Nos. 81 and 129  
and Recommendations Nos. 81, 82 and 133

Member State	Convention No. 81	Convention No. 129	Recommendation No. 81	Recommendation No. 82	Recommendation No. 133
Afghanistan	-	-	-	-	-
Algeria	R	-	-	-	-
Angola	R	-	-	-	-
Antigua and Barbuda	R	X	X	X	X
Argentina	R	-	-	-	-
Australia	R	X	X	X	X
Austria	R	X	X	X	X
Bahamas	R	X	-	-	-
Bahrain	R	X	X	X	X
Bangladesh	R	X	X	X	X
Barbados	R	X	-	X	X
Belgium	R	X	-	X	X
Belize	R	X	-	X	X
Benin	X	X	-	X	-
Bolivia	R	R	X	X	X
Botswana	X	-	X	-	X
Brazil	X	X	-	X	X
Bulgaria	R	X	X	X	X
Burkina Faso	R	R	-	-	-
Burma	X	X	X	X	X
Burundi	R	X	X	X	X
Byelorussian SSR	X	X	X	X	X
Cameroon	R	X	X	X	-
Canada	X	X	X	X	X
Cape Verde	R	X	-	X	X
Central African Republic	R	-	-	-	-
Chad	R	X	X	X	X
Chile	X	X	X	X	X
China	X	X	X	X	X
Colombia	R	R	X	X	X
Comoros	R	X	X	X	X
Congo	X	X	X	X	X
Costa Rica	R	R	X	X	X
Cuba	R	X	X	X	X
Cyprus	R	X	X	X	X
Czechoslovakia	X	X	X	X	X
Democratic Yemen	-	-	-	-	-
Denmark	R	R	X	X	X
Djibouti	R	-	-	-	-
Dominica	R	-	-	-	-
Dominican Republic	R	-	-	-	-
Ecuador	R	X	X	X	X
Egypt	R	X	X	X	X
El Salvador	X	X	-	X	X
Equatorial Guinea	X	-	-	-	-
Ethiopia	X	X	X	X	X
Fiji	-	-	-	-	-
Finland	R	R	X	X	X
France	R	R	X	X	-
Gabon	R	X	-	X	X
German Democratic Republic	X	X	X	X	X

Member State	Convention No. 81	Convention No. 129	Recommendation No. 81	Recommendation No. 82	Recommendation No. 133
Germany, Federal					
Republic of	R	R	X	X	X
Ghana	R	-	-	-	-
Greece	R	X	-	-	X
Grenada	R	-	-	-	-
Guatemala	R	X	X	X	X
Guinea	R	-	-	-	-
Guinea-Bissau	R	-	-	-	-
Guyana	R	R	X	X	X
Haiti	R	-	-	-	-
Honduras	R	-	-	-	-
Hungary	X	X	X	X	X
Iceland	-	-	-	-	-
India	R	X	X	X	X
Indonesia	-	-	-	-	-
Iran, Islamic					
Republic of	X	X	X	X	X
Iraq	R	X	X	X	X
Ireland	R	-	-	-	-
Israel	R	-	-	-	-
Italy	R	R	-	X	X
Ivory Coast	X	X	X	X	X
Jamaica	R	-	-	X	-
Japan	R	X	X	X	X
Jordan	R	X	X	X	X
Democratic Kampuchea	-	-	-	-	-
Kenya	R	R	X	X	X
Kuwait	R	X	X	X	X
Lao People's					
Democratic Republic	-	-	-	-	-
Lebanon	R	-	-	-	-
Lesotho	-	-	-	-	-
Liberia	-	-	-	-	-
Libyan Arab Jamahiriya	R	-	-	-	-
Luxembourg	R	X	X	X	X
Madagascar	R	R	X	X	X
Malawi	R	R	-	-	-
Malaysia	R	X	X	X	X
Mali	R	X	X	X	X
Malta	R	X	-	X	X
Mauritania	R	-	-	-	-
Mauritius	R	X	-	X	X
Mexico	X	X	X	X	X
Mongolia	X	X	X	X	X
Morocco	R	R	X	X	X
Mozambique	R	X	-	X	X
Namibia	-	-	-	-	-
Nepal	X	X	X	X	X
Netherlands	R	R	X	X	X
New Zealand	R	X	X	X	X
Nicaragua	-	-	-	-	-
Niger	R	-	-	-	-
Nigeria	R	X	-	X	X
Norway	R	R	X	X	X
Pakistan	R	X	X	X	-
Panama	R	X	X	X	X

Member State	Convention No. 81	Convention No. 129	Recommendation No. 81	Recommendation No. 82	Recommendation No. 133
Papua New Guinea	-	-	-	-	-
Paraguay	X	X	-	-	-
Peru	R	X	-	X	X
Philippines	X	X	X	X	X
Poland	X	X	X	X	X
Portugal	R	R	X	X	X
Qatar	R	X	X	X	X
Romania	R	R	X	X	X
Rwanda	R	X	X	X	X
Saint Lucia	-	-	-	-	-
San Marino	-	-	-	-	-
Sao Tomé and Príncipe	X	X	X	X	X
Saudi Arabia	R	X	X	X	X
Senegal	R	-	-	-	-
Seychelles	-	-	-	-	-
Sierra Leone	R	-	-	-	-
Singapore	R	X	X	X	X
Somalia	X	X	X	X	X
Spain	R	R	X	X	X
Sri Lanka	R	X	-	X	X
Sudan	R	-	-	-	-
Suriname	R	X	-	X	X
Swaziland	R	-	-	-	-
Sweden	R	R	X	X	X
Switzerland	R	X	X	X	X
Syrian Arab Republic	R	R	-	-	-
Tanzania, United Republic of	R	X	X	X	X
Thailand	-	-	-	-	-
Togo	X	X	X	X	X
Trinidad and Tobago	X	X	X	X	X
Tunisia	R	X	-	X	X
Turkey	R	X	X	X	X
Uganda	R	X	X	X	X
Ukrainian SSR	X	X	X	X	X
USSR	X	X	X	X	X
United Arab Emirates	R	-	-	-	-
United Kingdom	R	X	X	X	X
United States	X	X	X	X	X
Uruguay	R	R	X	X	X
Venezuela	R	-	-	-	-
Viet Nam	R	-	-	-	-
Yemen	R	-	-	-	-
Yugoslavia	R	R	X	X	X
Zaire	R	X	X	X	X
Zambia	X	-	-	-	-
Zimbabwe	-	-	-	-	-

Note: A total of 25 reports has also been received in respect of the following non-metropolitan territories: Netherlands: Netherlands Antilles; United Kingdom: Bermuda, British Virgin Islands, Gibraltar, Guernsey, Hong Kong, Isle of Man and Montserrat.

R = Ratified Conventions

X = Report received

- = Report not received



Part 3

Summary of information relating to the  
submission to the competent authorities of  
Conventions and Recommendations adopted  
by the International Labour Conference

(article 19 of the Constitution)





### Introduction

Article 19 of the Constitution of the International Labour Organisation prescribes, in paragraphs 5, 6 and 7, that Members shall bring the Conventions and Recommendations adopted by the International Labour Conference before the competent authorities within a specified period. Under the same provisions the governments of member States shall inform the Director-General of the International Labour Office of the measures taken to submit the Conventions and Recommendations to the competent authorities, and also communicate particulars of the authority or authorities regarded as competent, and of the action taken by them.

In accordance with article 23 of the Constitution a summary of the information communicated in pursuance of article 19 is submitted to the Conference. The present summary contains information relating to the submission to the competent authorities of the Conventions and Recommendations adopted by the Conference at its 69th Session held in Geneva from 1 to 22 June 1983.

The period of one year provided for the submission to the competent authorities of the instruments in question expired on 22 June 1984 and the period of 18 months on 22 December 1984.

The present report also contains a summary of additional information relating to the submission to the competent authorities of the Conventions and Recommendations adopted by the Conference at its 31st to 68th Sessions (1948 to 1982). The information summarised in this report consists of communications which were forwarded to the Director-General of the International Labour Office after the close of the 70th Session of the Conference and which could not, therefore, be laid before the Conference at that session.

The report of the Committee of Experts on the Application of Conventions and Recommendations, which examines the information submitted under article 19 of the Constitution, is communicated separately to the Conference as Report III (Part 4A).

List of instruments adopted by the Conference  
at its 59th to 69th Sessions

59th Session (1974)

Occupational Cancer Convention (No. 139).  
Paid Educational Leave Convention (No. 140).  
Occupational Cancer Recommendation (No. 147).  
Paid Educational Leave Recommendation (No. 148).

60th Session (1975)

Rural Workers' Organisations Convention (No. 141).  
Human Resources Development Convention (No. 142).  
Migrant Workers' (Supplementary Provisions) Convention (No. 143).  
Rural Workers' Organisations Recommendation (No. 149).  
Human Resources Development Recommendation (No. 150).  
Migrant Workers Recommendation (No. 151).

61st Session (1976)

Tripartite Consultation (International Labour Standards)  
Convention (No. 144).  
Tripartite Consultation (Activities of the International  
Labour Organisation) Recommendation (No. 152).

62nd Session (1976)

Continuity of Employment (Seafarers) Convention (No. 145).  
Seafarers' Annual Leave with Pay Convention (No. 146).  
Merchant Shipping (Minimum Standards) Convention (No. 147).  
Protection of Young Seafarers Recommendation (No. 153).  
Continuity of Employment (Seafarers) Recommendation (No. 154).  
Merchant Shipping (Improvement of Standards) Recommendation  
(No. 155).

63rd Session (1977)

Working Environment (Air Pollution, Noise and Vibration)  
Convention (No. 148).  
Nursing Personnel Convention (No. 149).  
Working Environment (Air Pollution, Noise and Vibration)  
Recommendation (No. 156).  
Nursing Personnel Recommendation (No. 157).

64th Session (1978)

Labour Administration Convention (No. 150).  
Labour Relations (Public Service) Convention (No. 151).  
Labour Administration Recommendation (No. 158).  
Labour Relations (Public Service) Recommendation (No. 159).

65th Session (1979)

Occupational Safety and Health (Dock Work) Convention (No. 152).  
Hours of Work and Rest Periods (Road Transport) Convention  
(No. 153).  
Occupational Safety and Health (Dock Work) Recommendation  
(No. 160).  
Hours of Work and Rest Periods (Road Transport) Recommendation  
(No. 161).

66th Session (1980)

Older Workers Recommendation (No. 162).

67th Session (1981)

Collective Bargaining Convention (No. 154).  
Occupational Safety and Health Convention (No. 155).  
Workers with Family Responsibilities Convention (No. 156).  
Collective Bargaining Recommendation (No. 163).  
Occupational Safety and Health Recommendation (No. 164).  
Workers with Family Responsibilities Recommendation (No. 165).

68th Session (1982)

Maintenance of Social Security Rights Convention (No. 157).  
Termination of Employment Convention (No. 158).  
Termination of Employment Recommendation (No. 166).  
Protocol to the Plantations Convention, 1958 (No. 110).

69th Session (1983)

Vocational Rehabilitation and Employment (Disabled Persons)  
Convention (No. 159).  
Maintenance of Social Security Rights Recommendation (No. 167).  
Vocational Rehabilitation and Employment (Disabled Persons)  
Recommendation (No. 168).



Summary of information relating to the submission to the competent authorities of the Conventions and Recommendations adopted by the International Labour Conference at its 69th Session (Geneva, 1983) and supplementary information on the texts adopted at its 31st to 68th Sessions (1948-1982)

Afghanistan. The instruments adopted at the 61st to 67th Sessions of the Conference have been submitted to the competent authorities.

Antigua and Barbuda. The instruments adopted at the 68th Session of the Conference have been submitted to the Cabinet.

Australia. The instruments adopted at the 69th Session of the Conference were submitted to Parliament on 11 October 1984. The ratification of Convention No. 159 may be envisaged.

Austria. The instruments adopted at the 68th Session of the Conference have been submitted to the National Assembly.

Bahamas. The instruments adopted at the 67th and 69th Sessions of the Conference have been submitted to the competent authorities.

Bahrain. The instruments adopted at the 69th Session of the Conference were submitted to the Council of Ministers on 8 January 1984.

Barbados. The instruments adopted at the 69th Session of the Conference have been submitted to Parliament.

Belgium. The instruments adopted at the 68th Session of the Conference were submitted to Parliament on 24 April 1984.

Belize. The instruments adopted at the 68th Session of the Conference were submitted to the competent authorities on 6 February 1984.

Benin. The instruments adopted at the 66th, 67th, 68th and 69th Sessions of the Conference have been submitted to the National Revolutionary Assembly.

Bulgaria. The instruments adopted at the 69th Session of the Conference have been submitted to the National Assembly.

Burma. The instruments adopted at the 68th Session of the Conference were submitted to the People's Assembly on 15 October 1984.

Burundi. The instruments adopted at the 69th Session of the Conference were submitted to the President of the Republic on 25 October 1983.

Byelorussian SSR. The instruments adopted at the 69th Session of the Conference were submitted to the Supreme Soviet in May 1984.

Cameroon. The instruments adopted at the 68th Session of the Conference, as well as Convention No. 159 and Recommendation No. 168, adopted at the 69th Session, have been submitted to the National Assembly.

Chile. The instruments adopted at the 68th and 69th Sessions of the Conference were submitted to the Junta on 2 April 1984 and 4 February 1985 respectively.

China. The instruments adopted at the 69th Session of the Conference have been submitted to the competent authorities.

Colombia. The instruments adopted at the 69th Session of the Conference have been submitted to Congress. The ratification of Convention No. 159 has been proposed.

Comoros. The instruments adopted at the 69th Session of the Conference were submitted to the Federal Assembly on 8 March 1984.

Costa Rica. Conventions Nos. 151 to 158, adopted at the 64th, 65th, 67th and 68th Sessions of the Conference, were submitted to the Legislative Assembly on 19 February 1985. The ratification of these Conventions have been proposed.

Cuba. Convention No. 153 and Recommendations Nos. 157, 161, 162 and 163, adopted at the 63rd to 67th Sessions of the Conference, and the instruments adopted at the 69th Session, have been submitted to the Council of Ministers.

Denmark. The instruments adopted at the 66th and 67th Sessions of the Conference were submitted to Parliament on 21 December 1984.

Egypt. The instruments adopted at the 69th Session of the Conference have been submitted to the People's Assembly.

Ethiopia. Conventions Nos. 138 to 143, 148 to 151 and 159, as well as Recommendations Nos. 136, 146 to 152, 156 to 159, 161, 162, 167 and 168, adopted at the 54th, 58th to 61st, 63rd to 66th and 69th Sessions of the Conference, have been submitted to the Provisional Military Administrative Council.

Finland. The instruments adopted at the 69th Session of the Conference were submitted to Parliament on 16 December 1983 and 15 June 1984.

France. The instruments adopted at the 69th Session of the Conference were submitted to Parliament on 23 October 1984. The ratification of Convention No. 159 has been proposed.

Gabon. The instruments adopted at the 66th and 67th Sessions of the Conference were submitted to the President of the Republic on 31 December 1981 and 27 April 1983, respectively.

German Democratic Republic. The instruments adopted at the 68th and 69th Sessions of the Conference have been submitted to the People's Chamber.

Federal Republic of Germany. Conventions Nos. 148, 151, 154 and 155 and Recommendations Nos. 156, 159, 163 and 164, adopted at the 63rd, 64th and 67th Sessions of the Conference, have been submitted to Parliament.

Greece. Conventions Nos. 117, 145, 146, 155, 156 and 158, as well as Recommendations Nos. 164, 165 and 166, adopted at the 46th, 62nd, 67th and 68th Sessions of the Conference were submitted to Parliament in April and May 1984. The ratification of Conventions Nos. 117 and 156 has been proposed.

Guyana. The instruments adopted at the 67th and 68th Sessions of the Conference were submitted to Parliament on 11 September 1984. The ratification of Convention No. 154 has been proposed.

Hungary. The instruments adopted at the 69th Session of the Conference were submitted to the Presidential Council on 16 May 1984. Convention No. 159 has been ratified.

Iceland. The instruments adopted at the 68th Session of the Conference were submitted to Parliament on 26 April 1984.

India. The instruments adopted at the 69th Session of the Conference were submitted to Parliament on 21 and 22 January 1985.

Iraq. Conventions Nos. 91 to 97, 101, 104, 107, 109, 110, 119 to 121, 125, 126, 138, 141, 143, 146 to 148, 152 to 156, as well as Recommendations Nos. 84 to 88, 93 to 95, 98 to 110, 112, 115 to 127, 146, 149, 151, 153, 155, 156, 160 to 164, adopted at the 32nd to 67th Sessions of the Conference, have been submitted to the competent authorities. Conventions Nos. 146 and 147 have been ratified.

Italy. The instruments adopted at the 69th Session of the Conference have been submitted to Parliament.

Ivory Coast. The instruments adopted at the 69th Session of the Conference were submitted to the National Assembly on 25 April 1984.

Japan. The instruments adopted at the 68th Session of the Conference were submitted to the Diet on 17 May 1983. Those adopted at the 69th Session were submitted on 22 May 1984.

Jordan. The instruments adopted at the 67th and 69th Sessions of the Conference have been submitted to the Council of Ministers.

Kuwait. The instruments adopted at the 69th Session of the Conference have been submitted to the Council of Ministers.

Liberia. The instruments adopted at the 69th Session of the Conference were submitted to the People's Redemption Council on 19 January 1984.

Luxembourg. The instruments adopted at the 69th Session of the Conference were submitted to the Chamber of Deputies on 26 July 1984.

Madagascar. The instruments adopted at the 69th Session of the Conference were submitted to the National People's Assembly on 1 June 1984.

Malaysia. The instruments adopted at the 68th and 69th Sessions of the Conference were submitted to Parliament in March 1984.

Mali. The instruments adopted at the 68th Session of the Conference were submitted to the National Assembly on 5 November 1983.

Mexico. The instruments adopted at the 68th and 69th Sessions of the Conference have been submitted to the legislative authorities.

Mongolia. The instruments adopted at the 68th and 69th Sessions of the Conference have been submitted to the competent authorities.

Netherlands. Conventions Nos. 151, 156 and 157 and Recommendations Nos. 159, 165 and 166, adopted at the 64th, 67th and 68th Sessions of the Conference, have been submitted to Parliament.

Nicaragua. The instruments adopted at the 69th Session of the Conference were submitted to the Junta on 3 November 1983.

Nigeria. The instruments adopted at the 69th Session of the Conference have been submitted to the competent authorities.

Norway. The instruments adopted at the 69th Session of the Conference were submitted to Parliament on 6 April 1984. Convention No. 159 has been ratified.

Panama. The instruments adopted at the 69th Session of the Conference were submitted to the National Assembly on 13 December 1983.

Peru. Conventions Nos. 152, 154, 156 and 158, adopted at the 65th, 67th and 68th Sessions of the Conference, were submitted to Congress on 27 May 1982. The ratification of these Conventions has been proposed.

Poland. The instruments adopted at the 69th Session of the Conference were submitted to Parliament on 5 November 1984.



Portugal. The instruments adopted at the 67th and 68th Sessions of the Conference have been submitted to the Assembly of the Republic. Ratification of Conventions Nos. 154, 155 and 156 can be envisaged.

Qatar. The instruments adopted at the 62nd, 63rd, 67th and 68th Sessions of the Conference have been submitted to the Council of Ministers.

Rwanda. The instruments adopted at the 69th Session of the Conference were submitted on 5 January 1984 to the President of the Republic and the National Development Council.

Saudi Arabia. The instruments adopted at the 69th Session of the Conference have been submitted to the Council of Ministers.

Singapore. The instruments adopted at the 67th and 68th Sessions of the Conference were submitted to Parliament on 17 October 1984.

Spain. Conventions Nos. 151 and 153, adopted at the 64th and 65th Sessions of the Conference, respectively, have been submitted to the Cortes and ratified.

Sri Lanka. The instruments adopted at the 67th Session of the Conference were submitted to Parliament on 7 August 1984.

Sweden. The instruments adopted at the 69th Session of the Conference were submitted to Parliament on 1 March 1984. Convention No. 159 has been ratified.

Switzerland. The instruments adopted at the 69th Session of the Conference were submitted to Parliament on 28 March 1984. The ratification of Convention No. 159 has been proposed.

Thailand. The instruments adopted at the 67th and 68th Sessions of the Conference have been submitted to Parliament.

Togo. The instruments adopted at the 69th Session of the Conference were submitted to the National Assembly in December 1984. Ratification of Convention No. 159 has been proposed.

Turkey. The instruments adopted at the 69th Session of the Conference were submitted to the Consultative Assembly on 13 October 1983 and to the National Security Council on 14 October 1983.

Ukrainian SSR. The instruments adopted at the 69th Session of the Conference have been submitted to the Supreme Soviet.

United Arab Emirates. The instruments adopted at the 67th Session of the Conference were submitted to the Council of Ministers on 22 October 1984.

United Kingdom. The instruments adopted at the 69th Session of the Conference were submitted to Parliament in December 1984.

United States. The instruments adopted at the 69th Session of the Conference were submitted to Congress on 29 February and 1 March 1984.

Uruguay. Convention No. 157 and Recommendation No. 167, adopted at the 68th and 69th Sessions of the Conference, respectively, were submitted to the State Council on 23 November 1983.

Venezuela. Conventions Nos. 157 and 158, adopted at the 68th Session of the Conference, have been submitted to Congress.

Zimbabwe. The instruments adopted at the 69th Session of the Conference were submitted to Parliament on 10 July 1984.







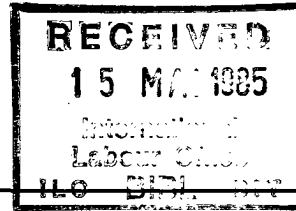
**Price : 12.50 Swiss francs**

**ISBN 92-2-103724-X**

03661/3

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International Labour Conference  
71st Session 1985



Report III  
(Part 4A)

# **Report of the Committee of Experts on the Application of Conventions and Recommendations**

**General Report  
and Observations concerning Particular Countries**



International Labour Office Geneva





International Labour Conference  
71<sup>st</sup> Session 1985

Report III  
(Part 4A)

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

E R R A T A

Page 43: Delete the General Observation concerning Austria.

Page 336: Regarding Invalidity, Old-Age and Survivor's Benefits,  
1967, delete Austria in the list of direct requests.

Page 356: Correct the table as follows:

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Austria	13	11, 26, 27, 87, 98, 99, 102, 103, 105, 111, 122, 128, 144.	0		13



**International Labour Conference**  
**71st Session 1985**

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**Report III**  
**(Part 4A)**

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

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

**General Report**  
**and Observations concerning Particular Countries**

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**International Labour Office Geneva**

ISBN 92-2-103725-8  
ISSN 0074-6681

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*First published 1985*

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The publication of information concerning action taken in respect of international labour Conventions and Recommendations does not imply any expression of view by the International Labour Office on the legal status of the State having communicated such information (including the communication of a ratification or declaration), or on its authority over the areas or territories in respect of which such information is communicated; in certain cases this may present problems on which the ILO is not competent to express an opinion.

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GENERAL SURVEY ON THE APPLICATION OF CONVENTIONS  
AND RECOMMENDATIONS CONCERNING LABOUR INSPECTION

This part of the Report is published in a separate volume as Report III  
(Part 4B).

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## INDEX TO COMMENTS MADE BY THE COMMITTEE, BY COUNTRY

Country	Observations made by the Committee (published in the present Report) <sup>1</sup>	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report) <sup>2</sup>
Afghanistan . . . . .	I B, No. 13. III.	Art. 22, general. Art. 22, Nos. 100, 111, 137, 139, 140, 141, 142.
Albania . . . . .	I A.	
Algeria . . . . .	I B, Nos. 32, 62, 63, 87, 111, 119, 120, 127.	Art. 22, Nos. 29, 63, 68, 77, 78, 87, 91, 92, 98, 99, 111. Subm.
Angola . . . . .	III.	Art. 22, Nos. 19, 81, 100.
Antigua and Barbuda . . .	General Report, para. 96. I A.	General Report, para. 79. Art. 22, general. Subm.
Argentina . . . . .	I B, Nos. 3, 35, 36, 68, 87, 98, 107, 111.	Art. 22, Nos. 9, 26, 111.
Australia . . . . .	I B, Nos. 111, 122. II A.	Art. 22, Nos. 29, 87, 100, 105, 111, 131, 144. Art. 35, No. 47.
Austria . . . . .	General Report, para. 96. I A and B, No. 100.	Art. 22, Nos. 98, 111, 122, 128. Subm.
Bahamas . . . . .	General Report, paras. 96, 103. I A and B, No. 144.	General Report, para. 79. Art. 22, general. Art. 22, Nos. 26, 98, 144. Subm.
Bangladesh . . . . .	I B, Nos. 29, 87, 98, 107.	Art. 22, Nos. 29, 96, 98, 105, 107, 111, 144. Subm.
Barbados . . . . .	I B, No. 111.	Art. 22, Nos. 26, 63, 87, 98, 111, 118, 122. Subm.
Belgium . . . . .	I B, Nos. 87, 98, 102, 111, 122.	Art. 22, Nos. 1, 6, 77, 89, 102, 111. Subm.
Belize . . . . .		Art. 22, general. Art. 22, Nos. 26, 98, 99. Subm.

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

<sup>2</sup> The abbreviations used in respect of direct requests are the following:

“Art. 22”: application of ratified Conventions in member States.

“Art. 35”: application of ratified Conventions in non-metropolitan territories.

“Subm.”: submission of Conventions and Recommendations to the competent authorities.

The numbers refer to Conventions.

Country	Observations made by the Committee (published in the present Report)	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report)
Benin . . . . .	General Report, paras. 96, 101. I A and B, Nos. 18, 33.	Art. 22, general. Art. 22, Nos. 29, 100, 105. Subm.
Bolivia . . . . .	General Report, para. 126. I A and B, Nos. 87, 103, 122, 131. III.	General Report, para. 79. Art. 22, general. Art. 22, Nos. 1, 20, 30, 87, 95, 102, 106, 111, 120, 122, 124, 131, 136.
Botswana . . . . .	III.	
Brazil . . . . .	I B, Nos. 29, 91, 98, 105, 107, 122. III.	Art. 22, Nos. 19, 26, 29, 53, 97, 99, 105, 117, 118, 125, 142.
Bulgaria . . . . .	I B, No. 87.	Art. 22, Nos. 9, 98, 111.
Burkina Faso . . . . .	I B, No. 18.	Art. 22, Nos. 81, 95, 100, 129, 131, 132, 143, 150. Subm.
Burma . . . . .	I B, Nos. 17, 52, 87.	Art. 22, general. Art. 22, No. 26. Subm.
Burundi . . . . .	I B, No. 14.	
Byelorussian SSR . . . . .	I B, Nos. 29, 87.	Art. 22, Nos. 29, 122, 142.
Cameroon . . . . .	General Report, paras. 96, 103. I A and B, No. 87.	General Report, para. 79. Art. 22, general. Art. 22, Nos. 3, 9, 87, 98, 122, 131, 143. Subm.
Canada . . . . .	I B, Nos. 100, 122.	Subm.
Cape Verde . . . . .	General Report, para. 103.	Art. 22, general. Art. 22, Nos. 17, 81, 98. Subm.
Central African Republic	General Report, paras. 96, 103. I A and B, Nos. 29, 81, 87, 105, 119.	Art. 22, general. Art. 22, Nos. 19, 26, 29, 87, 100, 105, 118. Subm.
Chad . . . . .	General Report, para. 126. I B, Nos. 81, 87, 98. III.	Art. 22, general. Art. 22, Nos. 13, 26, 81, 95, 100, 111.
Chile . . . . .	I B, Nos. 1, 2, 24, 25, 30, 63, 111, 122.	Art. 22, Nos. 1, 9, 26, 29, 32, 34, 111, 122.
China . . . . .		Art. 22, No. 26. Subm.
Colombia . . . . .	I B, Nos. 3, 9, 17, 22, 87, 111.	Art. 22, general. Art. 22, Nos. 26, 87, 98, 99, 111.
Comoros . . . . .	I B, No. 81.	General Report, para. 79. Art. 22, general. Art. 22, Nos. 1, 26, 77, 78, 81, 87, 98, 99, 100.

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Country	Observations made by the Committee (published in the present Report)	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report)
Congo . . . . .	I B, Nos. 87, 119. III.	Art. 22, No. 29.
Costa Rica . . . . .	I B, Nos. 87, 98.	Art. 22, Nos. 1, 87, 111, 131, 137. Subm.
Cuba . . . . .	I A and B, Nos. 63, 67, 105.	Art. 22, general. Art. 22, Nos. 105, 122, 148.
Cyprus . . . . .	I B, Nos. 106, 114, 151.	Art. 22, Nos. 87, 111, 122, 142, 143. Subm.
Czechoslovakia . . . . .	I B, Nos. 87, 111.	Art. 22, Nos. 26, 111, 122, 130. Subm.
Democratic Yemen . . . .	General Report, paras. 96, 103. I A. III.	Art. 22, general. Art. 22, No. 98.
Denmark . . . . .	General Report, para. 101. I B, Nos. 87, 98, 102, 111, 122. II A and B, No. 16.	Art. 22, Nos. 29, 42, 102, 150. Art. 35, Nos. 8, 9, 105, 126. Subm.
Djibouti . . . . .	I B, No. 96.	Art. 22, general. Art. 22, Nos. 1, 9, 35, 36, 37, 38, 53, 69, 81, 91, 96, 120, 125, 126. Subm.
Dominica . . . . .	General Report, para. 96. I A.	Subm.
Dominican Republic . . .	I B, Nos. 77, 87, 88, 95, 98, 105, 119.	Art. 22, general. Art. 22, No. 26. Subm.
Ecuador . . . . .	I B, Nos. 77, 78, 87, 98, 103, 119.	Art. 22, Nos. 11, 98, 100, 110, 114, 120, 121, 128, 130, 131, 142. Subm.
Egypt . . . . .	I B, Nos. 87, 98.	Art. 22, general. Art. 22, Nos. 9, 53, 62, 63, 149.
El Salvador . . . . .	General Report, paras. 96, 103. I A. III.	Art. 22, general. Art. 22, No. 107.
Equatorial Guinea . . . .		Subm.
Ethiopia . . . . .	I B, Nos. 87, 98. III.	
Fiji . . . . .	General Report, paras. 96, 103. I A. III.	Art. 22, Nos. 29, 58, 59, 84, 98, 105.

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Ghana . . . . .	General Report, paras. 96, 103. I A and B, Nos. 87, 119. III.	Art. 22, No. 30.
Greece . . . . .	I B, Nos. 87, 90.	Art. 22, Nos. 9, 11, 23, 68, 77, 78, 87, 100, 115, 124, 144. Subm.
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Lao People's Democratic Republic . . . . .	General Report, para. 130. III.	Art. 22, Nos. 4, 6, 29.

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Sao Tome and Principe . .		Art. 22, general. Art. 22, Nos. 19, 100. Subm.
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United Arab Emirates . .	General Report, para. 130.	Art. 22, No. 1. Subm.

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PART ONE

**GENERAL REPORT**



# GENERAL REPORT

## I. INTRODUCTION

1. The Committee of Experts on the Application of Conventions and Recommendations, appointed by the Governing Body of the International Labour Office to examine the information and reports submitted under articles 19, 22 and 35 of the Constitution by States Members of the International Labour Organisation on the action taken with regard to Conventions and Recommendations, held its 55th Session in Geneva from 14 to 27 March 1985. The Committee has the honour to present its report to the Governing Body.

2. The present composition of the Committee is as follows:

The Right Honourable Sir Adetokunbo ADEMOLA, GCON, KBE, Kt, CFR, PC (Nigeria),

Former Chief Justice of Nigeria; honorary Bencher of the Middle Temple, London; honorary Member of the International Commission of Jurists; former member of the International Civil Service Advisory Board; former President of the Nigerian Red Cross Society; Chancellor of the University of Nigeria; former Chairman of the Commonwealth Foundation;

Mr. Roberto AGO (Italy),

Judge of the International Court of Justice; former Professor of International Law, Faculty of Law, University of Rome; former member and President of the United Nations International Law Commission; President of the Vienna Conference for the Codification of the Law on Treaties (1968-69); former Chairman of the ILO Governing Body; Chairman of the Committee on Freedom of Association of the ILO Governing Body; member of the Institute of International Law; president of the Curatorium of the Academy of International Law at The Hague; member of the Permanent Court of Arbitration;

Mrs. Badria AL-AWADHI (Kuwait),

Doctor of Public International Law, London University; Professor and former Dean of the Faculty of Law, Kuwait; member of the International Commission of Jurists; member of the Arab Committee for the Defence of Human Rights; Deputy Executive Secretary of the Regional Organisation for the Protection of the Marine Environment, Kuwait; member of UNESCO Jury Committee on Peace in the Mind of Man;

Mr. Prafullachandra Natvarlal BHAGWATI (India),  
Judge of the Supreme Court of India; former Chief Justice of the High Court of Gujarat; former Chairman, Legal Aid Committee and Judicial Reforms Committee, Government of Gujarat; former Chairman, Committee on Juridicare, Government of India; Chairman, Research Committee of the Indian Law Institute; member of the Executive Committee of the Indian Branch of the International Law Association; Chairman of the Committee appointed by the Government of India for implementing legal aid schemes in the country; member of the International Committee on Human Rights of the International Law Association;

The Right Honourable Sir William DOUGLAS, PC, KCMG (Barbados),  
Chief Justice of Barbados; former Chairman, Inter-American Juridical Committee; member, Commonwealth Caribbean Council of Legal Education; former Judge of the High Court of Jamaica;

Mr. Arnold GUBINSKI (Poland),  
Doctor of Laws; Professor of Law at the University of Warsaw;

Mr. Semion A. IVANOV (USSR),  
Head of the Labour Law Department at the Institute of State and Law of the Academy of Sciences of the USSR; Doctor of Legal Science, Professor, Scientist Emeritus of the RSFSR; member of the Advisory Council of the USSR Supreme Court; Vice-President of the International Society of Labour Law and Social Security Law; President of the Soviet Section of Labour Law and Social Security Law; former Professor of the International Faculty for the Teaching of Comparative Law (Strasbourg); member of the USSR Government delegation to the International Labour Conference from 1956 to 1976;

Mr. Bernd Baron von MAYDELL (Federal Republic of Germany),  
Professor of Civil Law, Labour Law and Social Security Law at the University of Bonn; former Professor of Social Security Law at the Free University of Berlin (1975-81); Director of the Institute of Labour Law and Social Security Law at the University of Bonn;

Mr. Kéba MBAYE (Senegal),  
Judge of the International Court of Justice; First Honorary President of the Supreme Court of Senegal; associate member of the Institute of International Law; Arbitrator of the ICSID; President of the International Commission of Jurists; former President of the United Nations Commission on Human Rights; member of the Royal Academy of Overseas Science of Belgium;

Mr. Frank W. McCULLOCH (United States),  
Scholar in residence, former Professor of Law at the University of Virginia; former Chairman of the National Labor Relations Board (1961-70); arbitrator; member, Public Review Board, United Auto Workers; member, Board of Directors, Migrant Legal Action Program;

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- Mr. E. RAZAFINDRALAMBO (Madagascar),  
First Honorary President of the Supreme Court of Madagascar;  
former President of the High Court of Justice; former Arbitrator  
of the ICSID and of the International Civil Aviation  
Organisation; substitute member of the Administrative Tribunal  
of the ILO; member of the International Council for Commercial  
Arbitration; member of the Court of Arbitration of the CCI;  
former Professor of Law at the University of Antananarivo;  
member of the United Nations International Law Commission;
- Mr. José María RUDA (Argentina),  
Judge of the International Court of Justice; member of the  
Institute of International Law; Professor of Public  
International Law at the University of Buenos Aires; former  
representative to the United Nations; former Under-Secretary of  
Foreign Affairs; former member and President of the United  
Nations International Law Commission; member of the Permanent  
Court of Arbitration;
- Mr. Akira SHIGEMITSU (Japan),  
Former Director of Legal Section, Ministry for Foreign Affairs;  
former Director-General of United Nations Department, Ministry  
for Foreign Affairs; former Ambassador to Romania, Nigeria and  
the USSR; Member of the Asian-African Legal Consultative  
Committee;
- Mr. Arnaldo Lopes SUSSEKIND (Brazil),  
Former Judge of the Supreme Labour Tribunal; former principal law  
officer of the Labour Courts Law Office; Vice-President of the  
National Academy of Labour Law; member of the Latin-American  
Academy of Labour Law and Social Security Law; former Minister  
of Labour and Social Insurance; former Government representative  
of Brazil in the ILO Governing Body;
- Mr. Antti Johannes SUVIRANTA (Finland),  
President of the Supreme Administrative Court of Finland; former  
President of the Finnish Labour Court; former Professor of  
Labour Law at Helsinki University; member of the Executive  
Committee of the International Society for Labour Law and Social  
Security; member of the Finnish Academy of Science and Letters;
- Mr. Boon Chiang TAN (Singapore),  
BBM, PPA, LLB, Dip. Arts (London), Barrister-at-Law and  
solicitor, Singapore; President of the Industrial Arbitration  
Court of Singapore since 1965; former member of the Court and  
Council of the University of Singapore; Chairman, Tenants'  
Compensation Board; member of the Executive Committee of the  
International Society of Labour Law and Social Security;
- Mr. Fernando URIBE RESTREPO (Colombia),  
Judge of the Supreme Court of Colombia; Vice-President of the

Court; Professor of International Labour Law at the National University of Colombia; former Professor of the Philosophy of Law at the Bolivarian University of Medellín;

Mr. Jean-Maurice VERDIER (France),  
Professor of Labour Law at the University of Paris X; Honorary President of the University of Paris X, honorary Dean of the Faculty of Law and Economics; Director of the Institute for Research on Undertakings and Industrial Relations of the University of Paris X (associate of the National Centre for Scientific Research); former Professor of the Faculties of Law and Economics at Tunis (1956-61) and Algiers (1965-68); former President and Honorary President of the International Society of Labour Law and Social Security; President of the French Association of Labour and Social Security Law;

Mr. Joza VILFAN (Yugoslavia),  
Member of the Permanent Court of Arbitration; former Attorney-General of Yugoslavia; former Head of the Yugoslav Mission to the United Nations; former Ambassador to India;

Sir John WOOD (United Kingdom),  
CBE, LL.M.; Barrister; Edward Bramley Professor of Law at the University of Sheffield; Member of the Conciliation and Arbitration Service, 1974-76; Chairman of the Central Arbitration Committee since 1976.

3. The Committee elected Sir Adetokunbo ADEMOLA as Chairman and Mr. RAZAFINDRALAMBO as Reporter of the Committee.

4. In pursuance of its terms of reference, as revised by the Governing Body at its 103rd Session (Geneva, 1947), the Committee was called upon "to examine:

- (i) the annual reports under article 22 of the Constitution on the measures taken by Members to give effect to the provisions of the Conventions to which they are parties, and the information furnished by Members concerning the results of inspection;
- (ii) the information and reports concerning Conventions and Recommendations communicated by Members in accordance with article 19 of the Constitution;
- (iii) information and reports on the measures taken by Members in accordance with article 35 of the Constitution."

5. The Committee recalls that it has, from time to time, undertaken a review of its working methods. The last time it did so was in 1977, on the occasion of the 50th anniversary of its establishment. The Committee proposes to undertake in 1986 a preliminary discussion on this matter, with a view to considering the inclusion in its report of 1987 of an up-to-date statement of its principles and methods.

6. The Committee, after an examination and evaluation of the above-mentioned reports and information, drew up its present report, which consists essentially of the following three parts: Part One



consists of the General Report in which the Committee reviews a number of general questions concerning international labour standards and other instruments and their implementation. Part Two contains observations concerning particular countries on the application of ratified Conventions (see section I and paragraphs 90 to 116 below), on the application of Conventions in non-metropolitan territories (see section II and paragraphs 90 to 116 below), and on the obligation to submit instruments to the competent authorities (see section III and paragraphs 117 to 127 below). Part Three, which is published in a separate volume (Report III. (Part 4B)) reviews the reports supplied by governments under article 19 of the Constitution on the Labour Inspection Convention, 1947 (No. 81) and Recommendation, 1947 (No. 81), the Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82) and the Labour Inspection (Agriculture) Convention, 1969 (No. 129) and Recommendation, 1969 (No. 133) (see also paragraphs 128 to 132 below).

7. In carrying out its functions, which are to point out the extent to which it appears that the position in each State is in conformity with the terms of the Conventions and the obligations which that State has undertaken by virtue of the Constitution of the ILO, the Committee followed the principles of independence, objectivity and impartiality which it has emphasised in previous reports.

8. The United Nations was represented at the session by Mr. A. Bruni and Mr. G. Alfredsson of the Centre for Human Rights.

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## II. GENERAL

### Membership of the Organisation

9. Since the Committee's last session, the Solomon Islands became a Member of the ILO, bringing the number of member States to 151.

### New standard adopted by the Conference in 1984

10. The Committee noted that at its 70th Session (June 1984), the International Labour Conference adopted the Employment Policy Recommendation (No. 169).

### Obligations binding member States

11. In the course of 1984, 30 ratifications by 15 member States were registered. At 31 December 1984 the total number of ratifications was 5,167.

12. The Committee has noted that in a letter dated 11 July 1984, the Government of the People's Republic of China announced its decision to recognise the ratification of 14 Conventions which had

been ratified before 1 October 1949 by the Chinese Government at that time. The Government also stated that the ratification of 23 Conventions after this date by the Taiwan authorities in the name of China was illegal and null and void. After consultation with the Officers of the Governing Body, the Director-General of the ILO on 21 September 1984 cancelled the registration of ratification by China of these 23 Conventions.

13. Following the ratification by Hungary of the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), the Convention will enter into force on 20 June 1985. The ratification by Yugoslavia of the Termination of Employment Convention, 1982 (No. 158) will result in this Convention's entry into force on 23 November 1985.

14. In 1984, five new declarations were registered concerning the application with modifications of Conventions to non-metropolitan territories of the United Kingdom. The total number of declarations at 31 December 1984 was 975 declarations of application without modification and 67 with modifications. The number of non-metropolitan territories was 30 at 31 December 1984. In this connection, the Committee recalls that, under article 35, paragraph 2, of the ILO Constitution, declarations indicating the extent to which a Convention is to be applied to territories which are not self-governing on the matters dealt with therein should be communicated to the ILO "as soon as possible after ratification" by the member State concerned. Under article 35, paragraph 4, the Convention must similarly be communicated "as soon as possible" to the government of any self-governing territory with a view to the enactment of legislation or other action, with the possibility of thereafter communicating a declaration accepting the obligations of the Convention on behalf of the territory. While article 35 does not lay down a specific period within which the action required by it must be taken, the Committee recalls the view previously expressed by it that it should be possible to communicate the declarations in question within five years from registration of ratification of a Convention. It hopes that member States responsible for the international relations of territories covered by article 35 of the ILO Constitution will review the situation with a view to communicating declarations in all cases where this has not yet been done.

Functions in regard to other international  
and regional instruments

International Covenant on Economic,  
Social and Cultural Rights

15. Under the procedure established by the Economic and Social Council of the United Nations by resolution 1988 (LX) of 11 May 1976, the International Labour Organisation is called upon to report to the Council, in accordance with article 18 of the International Covenant on Economic, Social and Cultural Rights, on the progress made in achieving the observance of the provisions of the Covenant falling within the scope of its activities. The Governing Body of the

International Labour Office has entrusted this task to the present Committee. At its sessions from 1978 to 1983, the Committee examined the position in a number of States Parties to the Covenant with respect to the implementation of articles 6 to 9 and 10 to 12 of the Covenant, which were the subject of reports in the first and second stages of the reporting programme established by the Economic and Social Council. Its reports were transmitted to the Secretary-General of the United Nations and duly submitted to the Council.

16. In 1983 a new reporting cycle began under the programme of reporting established by the Economic and Social Council. Reports were requested for the second time concerning articles 6 to 9 of the Covenant, dealing with the right to work, the right to just and favourable conditions of work, trade union rights and the right to social security.

17. At its present session, the Committee had before it reports concerning these articles of the Covenant, which had been presented by the following 28 States: Australia, Bulgaria, Byelorussian SSR, Chile, Colombia, Cyprus, Denmark, Ecuador, Finland, German Democratic Republic, Hungary, Iraq, Japan, Madagascar, Mexico, Mongolia, Norway, Peru, Philippines, Romania, Rwanda, Spain, Sweden, Ukrainian SSR, USSR, United Kingdom, Venezuela and Yugoslavia. Following the practice of previous years, the preliminary examination of these reports was entrusted to a working party, appointed by the Committee, of four of its members, whose conclusions were presented to the Committee for consideration and adoption. A separate report on this matter is being transmitted to the Economic and Social Council.

### European Code of Social Security

18. Under the procedure for the supervision of the European Code of Social Security, copies of reports were transmitted to the ILO by the Secretary-General of the Council of Europe on the Code and the Protocol thereto from 12 ratifying States, and 13 reports as well as certain supplementary information were examined by the Committee, which was able to note that these instruments were generally applied in a satisfactory manner. The conclusions of the Committee on these reports will be communicated to the Council of Europe. The Committee also noted that two representatives of the ILO took part, as technical advisers, in the meeting of the Steering Committee for Social Security of the Council of Europe in September 1984 at Strasbourg, when it again approved the conclusions of the Committee of Experts and again expressed its confidence in the supervisory procedure of the ILO and its satisfaction at the action taken or planned by the governments concerned on the comments relating to them. Most of the States Parties to the Code and Protocol now give full or almost full effect to these instruments. The Committee would like to point out, however, that it has never had the opportunity of examining a report from Italy, whose ratification of the Code dates from January 1977. It again expresses the hope that the Government of this country will be in a position to transmit a report for examination at its next session.

Collaboration with other international organisations

19. The arrangements under which the ILO collaborates with other international organisations on questions concerning the supervision of international instruments on matters of interest to more than one organisation continued to function as in the past. (See also below, paragraph 48 regarding employment policy.) In the field of collaboration with the Council of Europe, the Committee notes that an ILO representative attended, on a consultative basis, the sessions of the Committee of Independent Experts on the Supervision of the Application of the European Social Charter, held in Strasbourg in May, November and December 1984. Such collaboration, which is provided for by article 26 of the Charter, facilitated the co-ordination of supervision of international labour Conventions with the numerous provisions of the Charter concerning problems which also fall within the scope of ILO Conventions.

20. In conformity with the usual practice, copies of reports supplied, under article 22 of the ILO Constitution, on the Indigenous and Tribal Populations Convention, 1957 (No. 107), and on the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117), were sent, together with copies of the relevant comments of the Committee, for comment to the United Nations, the Food and Agriculture Organisation of the United Nations (FAO), the United Nations Educational, Scientific and Cultural Organisation (UNESCO), and the World Health Organisation (WHO). Copies of reports received from States in the Americas on Convention No. 107 were also forwarded to the Inter-American Indian Institute of the Organisation of American States.

21. Copies were also sent this year of reports on the Prevention of Accidents (Seafarers) Convention, 1970 (No. 134), and on the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147), to the International Maritime Organisation (IMO); copies of reports on the Human Resources Development Convention, 1975 (No. 142), to UNESCO; copies of reports on the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), to the United Nations and UNESCO; and copies of reports on the Nursing Personnel Convention, 1977 (No. 149) to WHO. Information, which was taken into consideration by the Committee, was received on the application of these Conventions from FAO, WHO and UNESCO. The representatives of these Organisations were also invited to participate in the sittings of the Committee of Experts at which the above Conventions were discussed.

22. In the field of discrimination, arrangements for co-operation with the United Nations Committee on the Elimination of Racial Discrimination, which is responsible for supervising the application of the Convention on the Elimination of All Forms of Racial Discrimination, adopted in 1965 under the auspices of the United Nations, continued to function as in the past. Thus, the report of the Committee of Experts for 1984, and in particular its comments on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), were brought to the attention of the United Nations Committee, and the ILO was represented at the

meetings of that Committee in 1984. Similarly, the documents relating to the work of the United Nations Committee were communicated to the Committee of Experts, which took note of them with interest.

Application of Conventions to offshore  
industrial installations

23. Since 1981, the Committee has been considering the applicability of international labour Conventions to offshore industrial installations used in the exploration and extraction of mineral and petroleum resources at sea. Within the framework of reports submitted under article 22 of the Constitution, in 1984 the Committee again invited Governments to submit information on the extent to which and the manner in which the Conventions they had ratified were applied, where relevant, to work in such installations. It also expressed the hope that employers' and workers' organisations would communicate their comments on these matters.

24. In 1984 the Committee received sixteen replies, seven of which were initial responses. In all, 53 governments have replied to date, some on more than one occasion. Some governments have also provided information on the application of Conventions to offshore industrial installations in the reports they have submitted under ratified Conventions (India under Convention No. 1, Norway under Convention No. 145, South Africa under Convention No. 26).

25. Three governments stated in their first replies that they had no offshore industrial installations (German Democratic Republic, Netherlands (Netherlands Antilles), Uruguay). Others repeated an earlier affirmation to that effect (Burkina Faso, Burma, Colombia, Czechoslovakia). The Government of Colombia indicated that national legislation would be fully applicable to them if they existed. The Governments of Mexico and Poland referred to information provided previously, which had remained unchanged (see the Committee's report, 1984, paragraphs 26 and 27). The Government of the United States again stated that federal laws on labour matters were applicable to offshore industrial installations, citing several examples regarding legislation on unlawful employment practices and enforcement of safety and environmental regulations.

26. The Government of Brazil stated that its only offshore industrial installations were petroleum exploration platforms belonging to Petrobras, to which the consolidated labour laws, ratified ILO Conventions and a special law governing work in the activities of exploring, drilling, production and refining of petroleum applied.

27. The Government of Denmark referred to the enactment of a special act and order governing safety conditions and inspection in certain marine installations, stating that other installations were still subject to previously enacted legislation. The Government also mentioned other legislation calling for approval by the Ministry of Energy before any extraction, geological, geophysical or other work is started.

28. The Government of Sri Lanka stated that offshore industrial installations were in their infancy, with only exploratory drilling at present. If oil should be found in commercially exploitable quantities, the Government affirmed that the necessary legislation would be enacted.

29. The Government of Australia furnished the Office with a detailed report documented by a number of laws and arbitration awards. It stated that installations for exploring or exploiting petroleum resources currently exist off the coasts of the States of Victoria and Western Australia. Installations on the Australian continental shelf beyond the outer limits of the territorial sea are subject to the laws in force in the adjacent state or territory. Commonwealth legislation may also apply in those areas if specifically provided in a particular Act. The few installations found within the limits of the territorial sea are regulated by a combination of Commonwealth laws and those enacted by states and territories. In both areas, inspection is conducted by State Departments of Mines and various Arbitration Inspectorates. In addition to the extension of general legislation to installations in the territorial sea and on the continental shelf, a number of special provisions have been enacted in the area of health and safety. It is envisaged that the entire offshore area will be covered by uniform Commonwealth occupational health and safety legislation to be introduced in 1985. Generally, the Commonwealth's role in the regulation of offshore installations has related primarily to broader policy issues, with the States dealing with day-to-day operational matters. Wages and working conditions on these installations are regulated by awards established by industrial tribunals, supplemented by privately negotiated agreements. The major awards, which establish minimum standards, are determined by the Australian Conciliation and Arbitration Commission.

30. The Government of France indicated that the provisions relative to offshore industrial installations were contained principally in a law governing the continental shelf, which requires prior authorisation for the exploration or extraction of its resources. French legislative provisions and regulations extend to installations, platforms, devices and their appendages as well as to sea-going vessels engaged directly in these activities. Such installations are subject to legislation and regulations concerning the safety of life at sea. To the extent that the installations are afloat, they are subject to legislation applicable to vessels. Seafarers engaged on platforms and other installations involved in the exploration and extraction of resources on the continental shelf may, at their request, remain subject to the seafarer's social security system, and to the provisions of the Maritime Labour Code regarding sickness and injury and repatriation, with the employer assuming the obligations of the shipowner in that case.

31. The Government of the Congo stated that the general national legislation and ratified Conventions were applicable to fixed and mobile offshore industrial installations. The Government indicated that at its request, the Supreme Court had issued an opinion on several points regarding the status of workers employed by petroleum companies and by subcontractors. Workers performing subcontracted repair work did not have the status of seafarers, but once on board,

were nonetheless subject to the discipline and penal régime of the Merchant Marine. Disputes involving subcontracted non-seafaring personnel were under the competency of the Labour and Social Security services, while disputes between seafaring personnel and shipowners employing them fell under the competency of the maritime authorities.

32. The Committee noted with interest the comments received this year from one French employers' organisation and one United Kingdom workers' organisation.

33. Comments by the Association of Chambers of Commerce of the Petroleum Industry, forwarded by the National Council of French Employers, gave a general appreciation of the social legislation and work schedule applicable to French offshore industrial installations. These highlighted the complexity of the situation given the variety of types of installations and the overlap of maritime law and land-based law. They observed that the unique conditions prevailing would not permit a pure and simple transference of rules applicable to land-based enterprises, especially regarding working hours and weekly rest. The Association suggested that it might be preferable to leave such matters up to collective bargaining.

34. Comments from the United Kingdom Trades Union Congress (TUC) indicate that it would like to see offshore industrial installations treated as part of the landmass of the United Kingdom so that all ILO Conventions and all United Kingdom labour and social security legislation would apply to them. The TUC states that the Government has not yet determined whether the area covered by national legislation extends to the three-mile territorial waters limit or the British-designated area of the continental shelf (about 12 miles). Some employment legislation is applied to workers on offshore industrial installations, and the TUC urges that the Health and Safety at Work Act also be extended to cover them. It states that at present safety matters are addressed in separate legislation enforced by the Department of Energy, and that through an agency agreement with the Department, the Health and Safety Commission's Oil Industrial Advisory Committee has been considering various aspects of the problem. The Committee of Experts has been informed that a copy of these comments was sent to the Government on 7 February 1985 and that, by a letter of 6 March 1985, the Government indicated that time was not sufficient to permit it to formulate a considered reply prior to the March 1985 meeting of the Committee of Experts, but that it would be commenting as soon as possible on the points raised by the TUC.

35. To date, slightly more than one-third of the Members have sent the information requested. As indicated in the Committee's reports since 1981, the information supplied is still incomplete both from a quantitative and qualitative point of view. The Committee noted that the Employers' and Workers' members of the 1984 Conference Committee on the Application of Conventions and Recommendations supported the request for governments and employers' and workers' organisations to supply more information on this matter in the future, and that the Workers' members expressed the hope that on the basis of the information to be provided a thorough analysis of problems could be made and new standards could be established. The Committee also noted that the Joint Maritime Commission, at its 24th Session (September 1984), adopted a resolution requesting that a study be

undertaken in liaison with the International Maritime Organisation with a view to determining which mobile units are classified as ships and suggesting that a meeting of experts on occupational safety and health and working conditions on board maritime mobile offshore units be convened. The Committee also noted with interest the approval by the Governing Body, at its 229th Session (February-March 1985), of the proposals included in the 1986-87 ILO Programme and Budget (to be adopted by the ILO Conference in June 1985) for a preliminary study to be undertaken with a view to determining the main problems which should be examined in this very complex field. These welcome developments confirm the importance of the question under examination by the Committee since 1981. The Committee once again invites Governments to continue sending information on these matters which would be of help in clarifying certain difficult problems, in particular as to the legal nature of offshore industrial installations, the legislation applicable to workers, the type of jurisdiction exercised and the effect of these factors on the scope of application of the ILO Conventions concerned. The Committee reiterates that information on safety and health protection measures would also be useful for gaining an appreciation of the practical situation. Finally, it again wishes to express the hope that more employers' and workers' organisations will communicate their comments on these matters.

#### Application of Conventions in export processing zones

36. The Committee continued its consideration of the effect of the creation of export processing zones on the application of ratified Conventions, as has been its practice since 1981. In 1984, it again invited governments to supply information on this subject in their reports under article 22 of the Constitution and invited employers' and workers' organisations to send their comments on these questions.

37. This year, the Committee received sixteen replies, eight of which were initial communications. None of the replies contained comments by employers' or workers' organisations.

38. The eight initial replies received concerned the following countries: Brazil, Burkina Faso, Congo, German Democratic Republic, Netherlands (Netherlands Antilles), South Africa, Sri Lanka and Venezuela. In five of these cases, the Governments indicated that there were no export processing zones (Brazil, Burkina Faso, Congo, German Democratic Republic, South Africa).

39. The Government of Sri Lanka stated that industries in the export processing zones were regulated by the Greater Colombo Economics Commission, for which a special law had been enacted in 1978. The Government affirmed that all labour laws of the country and the provisions of relevant ILO Conventions ratified by Sri Lanka were applicable to all such industries.

40. The Government of Venezuela stated that the labour laws were uniformly applicable to the entire national territory. The Government of the Netherlands Antilles, in which one very small export processing unit is now operating, stated that the general national



labour legislation was in force and that all relevant Conventions were fully applicable.

41. Eight additional replies came from Governments which had replied previously. Six comments merely reiterated the information already supplied (Australia, Burma, Colombia, Czechoslovakia, Mexico, United States). New information was provided by the Government of Pakistan in reply to the previous general observation of the Committee, and by the Government of Uruguay.

42. With respect to Pakistan, the Committee had noted, in its two previous reports, that measures had been taken to exempt the export processing zones from the application of certain labour laws and it had made a general observation concerning the manner in which the Conventions ratified by Pakistan are applied in the export processing zones. The answer received from the Government mainly reiterates the information previously supplied concerning the reasons for and objectives of its position, although the Government states that the whole matter is being examined. In these circumstances, the Committee is again formulating a general observation in respect of Pakistan.

43. The Government of Uruguay communicated copies of presidential decrees of 1980, 1983 and 1984, issued pursuant to the Act of 1976 concerning industrial undertakings in free trade zones. It also forwarded a copy of a 1981 amendment to that Act, which, inter alia, requires at least 75 per cent of the employees in free trade zones to be Uruguayan citizens. This amendment also provides for tax exemptions while specifying that social security contributions are to be made on behalf of workers in these zones. The Committee notes that activities in the two existing zones are presently limited, however, to storage and warehousing of goods and that the only workers concerned are the employees of the zone administrative authority, who are public employees covered by regulations governing the public service.

44. The Committee has, moreover, noted with interest two developments in connection with its examination. First, the ILO Textiles Committee adopted, at its Eleventh Session in October 1984, a resolution calling, inter alia, for the promotion of the full application of relevant ILO Conventions in these zones and of the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy. Secondly, in connection with its previous report (paragraph 38) the Committee noted the new study undertaken by the ILO in the framework of its programme on multinational enterprises and employment in export processing zones, which concerned the cases of Ghana and Liberia. Noting that this programme is to be continued, and in particular that a series of studies are envisaged for export processing zones in Latin America (especially Brazil and Mexico), the Committee reiterates its hope that the question of the application in law and in fact of relevant ratified Conventions to workers employed in export processing zones will be given particular attention in the course of these studies.

45. The Committee notes that, to date, slightly more than one-third of the Members of the ILO have sent the information requested. Furthermore, it can only regret the absence of comments from employers' and workers' organisations on the matter since the

beginning of the examination in 1981, with only one exception noted in its previous report. The Committee has noted that the Employers' and Workers' members in the 1984 Conference Committee on the Application of Conventions and Recommendations supported its request for governments and employers' and workers' organisations to supply more information on this matter in the future. Therefore, in order to continue and intensify the examination of the question, the Committee again invites governments which have not yet done so to provide information on export processing zones, in the broadest sense of the term as indicated by the Committee in its previous report (paragraph 39), and on any effect that the establishment of these zones may have on the application of ratified Conventions. The Committee would again appeal to employers' and workers' organisations to consider offering any comments they may deem appropriate on the subject.

Implementation of the Employment Policy  
Convention, 1964 (No. 122)

46. In its examination of the application of the Convention in 54 countries, many of which provide as usual a very full description of employment policy measures, the Committee has been able to see the problems facing Governments which, at a time of continued world recession and growing international debt, attempt to tackle the major task of combatting unemployment. In its last report, the Committee stated that it had found some cause for cautious optimism. That optimism has been justified in that after a long period of increasing unemployment there are now signs of a halt in the increase or even a slight decrease in overall unemployment rates in a limited number of countries.

47. These developments have coincided in the ILO with the discussion of employment policy at the 69th and 70th Sessions of the Conference (1983 and 1984), leading to the adoption of the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169). The Committee has noted with interest that Recommendation No. 169 contains a wealth of advice and suggestions to member States as to possible means of achieving in practice the right to work, through the promotion of full, productive and freely chosen employment as provided in Convention No. 122 and Recommendation No. 122.

48. The Committee also notes with interest the terms of the resolution concerning employment policy adopted in 1984, in which the Conference took into consideration the Committee's previous general comments concerning, in particular, the need for closer co-ordination among various international organisations concerned in giving advice and assistance to countries on national economic policy in such areas as public expenditure and trade, fiscal and monetary policies, so as to ensure that due weight is given to the employment factor. The Committee has been informed of contacts which have taken place in the last year between the ILO and the International Monetary Fund, the World Bank and the OECD. It hopes that contacts of this kind will be intensified along with other meetings of the kind called for in the resolution. The Committee would suggest that it might be helpful in this connection if in the line of existing arrangements for

collaboration with other international organisations (see paragraphs 19-22 above) copies of the comments of the Committee on the implementation of Convention No. 122 were communicated to the appropriate organisations.

49. On other levels, however, the Committee sees increasing cause for concern. For instance, according to information and analyses published by the OECD, unemployment in industrialised market economy countries (IMEC) as a whole continued to rise, reaching some 11 per cent of the active population in European IMEC countries in the first half of 1984 (nearly 19 million people). As has been noted in the past, certain groups of the population - the young, women, minority groups, and others - and certain depressed regions are particularly vulnerable in this situation. Another feature of unemployment in many of the countries concerned is the growing number of long-term unemployed. This high unemployment is no doubt attributable in part to demographic factors and increases in participation rates; it is accompanied in many cases by rising numbers of people in employment (though often not full time). It is also evident that a large number of countries are engaged in restructuring activities (or "reconversion") in an effort to adapt and modernise industry, and thus improve employment prospects (this is referred to, for example, in the comments concerning Australia, Belgium, France, Spain). In these and other cases, the Committee has asked the Governments concerned to follow developments in relation to employment and provide further information in their next reports on the Convention.

50. However, the Committee has noted with interest, that, for a number of the IMEC countries which have ratified the Convention and which have been considered this year, there has been either a halt in increasing unemployment or even a slight fall in the rate, although levels remain relatively high (e.g. Australia, Canada, Denmark); or unemployment levels have throughout remained relatively low (e.g. Austria, Finland, Sweden). All of these are among the countries which have demonstrated their concern to pursue an active employment policy and take appropriate measures towards the employment goals of the Convention.

51. In its individual observations and direct requests, the Committee has continued its practice of drawing attention to the sorts of policies and measures which, it has found, have or might have positive consequences for employment.

(a) One indispensable element in an adequate employment strategy in terms of the Convention is very clearly that of consultation of the representatives of the persons affected by the measures to be taken, especially employers' and workers' representatives. Moreover, as required by Article 3 of the Convention, such consultation should go beyond what is merely formal or superficial, since the whole purpose of it is to take fully into account the experience and views of those people and thus secure their full co-operation in formulating and enlisting support for employment policies. The Committee has found in its examination of reports on the Convention (and also of the comments received from organisations of employers and workers) that there is often a close relationship between, on the one hand, sound procedures

and practices for consultations between Governments and representatives of the persons affected - and indeed among the various representatives themselves - and, on the other hand, a relatively successful performance in terms of the Convention.

- (b) As regards other elements which are found to comprise employment policies in various countries, that which links employment to prices and incomes seems to be associated with the previous point: some countries have referred in their reports to the negotiation - sometimes on a national scale and sometimes with legislative backing - of measures of restraint. Prices and incomes policies involving measures of severe restraint may have a potentially adverse effect on employment and economic growth; for this reason they should be based on a sound consensus. Further, as the Committee suggested in its report last year, the link between the standards of Convention No. 122 and those in other Conventions (such as those dealing for example with minimum wages or equal remuneration) needs to be borne in mind.
- (c) In its general survey on working time last year, the Committee referred particularly to the possible connections between the reduction of working time and employment. It has noted the interest in this expressed by the Conference Committee and also the indications in several government reports that the matter is being considered further. It has noted too that the ILO is studying the question. It hopes that in the future the nature of the possible connections can be clarified through the information supplied in reports on Convention No. 122.

52. The Committee has noted some interesting developments in certain countries with planned economies where the right to work is included in the Constitution; some of these countries have referred in their reports to measures designed to improve productivity and the allocation of manpower resources. For example:

- (a) several of the reports from these countries refer to the changing role of the employment services: in Byelorussian SSR, Ukrainian SSR, and in the USSR, they appear to have assisted further in reducing the time spent by workers between jobs; in Hungary, the employment services are now able to give greater attention to workers with particular guidance and placement needs, since other jobseekers may enter employment without recourse to the employment services;
- (b) the Committee has noted a method of organisation of labour which seems to be becoming more widespread and which has had favourable results in terms of productivity, namely that of "brigades" of workers (e.g. in USSR). Similarly, in Hungary, the Government indicates that first results of the "second economy" are promising: this has involved increasing efficiency through the promotion of small-scale works and economic partnerships between socialised enterprises and working groups ready to undertake repair and maintenance services and produce small parts outside working hours.

53. In the relatively small number of developing countries considered this year, it is again clear that employment continues to be a growing problem. In this context, the Committee is bound to remark on the crucial importance of the burden on many developing and

other countries of large international debts at high rates of interest. It is in these circumstances that the co-ordination among international organisations called for above (paragraph 48) becomes paramount, although the Committee would add that the employment consideration is one among many in respect of the poorest countries of the world which should be entertained sympathetically by the wealthier nations. Positive signs as regards employment policy in the developing countries examined lie mainly in the apparent improvement of consultation procedures under Article 3 of the Convention and in assistance in employment matters received from the ILO and the UNDP (e.g. Brazil, Guinea, Philippines, Suriname, Tunisia, Uganda, Zambia).

54. The Committee continues to believe that the furthering of dialogue on employment policy questions in terms of the relevant international labour standards is a manifestly useful and practical way of promoting progress in this respect. It is in this spirit that the Committee has endeavoured to respond to the wish expressed in the Conference Committee for some indications of the positive measures being taken in countries with various kinds of economic systems in order to implement employment policy goals. In the same spirit, the Committee hopes that Governments of all ratifying States through their reports on the Convention - and workers' and employers' organisations through their own comments - will persevere in their efforts to describe the employment policies and measures in operation and analyse their effects. This will enable the Committee to pursue the dialogue, to record the views, information and results communicated on the application of the Convention and, thereby to further the aims of the Convention.

Special studies of the trade union situation  
and industrial relations systems  
in selected countries in Europe

55. These studies are being undertaken in response to resolutions adopted by the Second and Third European Regional Conferences held in 1974 and 1979. Their aim is to provide an objective analysis of the trade union situation and industrial relations in the countries concerned and to consider the basic issues which arise in these fields in the light of the relevant ILO standards and principles. In 1984, the Office completed two studies relating to Spain and Yugoslavia, which were discussed by a Working Party of the Governing Body and by the Governing Body itself, at its 229th Session (February-March 1985). The Governing Body authorised their publication, together with the discussions held on them. One further study, relating to Austria, is being prepared.

Seminars on national and international  
labour standards

56. The Committee welcomed the continuation of the programme of seminars designed to familiarise the officials of national labour administrations and workers' and employers' representatives with the

obligations of member States and with ILO procedures relating to Conventions and Recommendations. Several such meetings had taken place since the last session of the Committee.

57. A tripartite seminar on national and international labour standards for Portuguese-speaking African countries took place during the month of September 1984 in Luanda (Angola), with the participation of 18 officials from five countries, six representing employers and six representing workers.

58. A seminar on national and international labour standards was also held for the countries of the Asia-Pacific region in Manila (Philippines) in September-October 1984, bringing together 18 officials from 17 countries as well as workers' and employers' representatives chosen by their respective groups in the ILO Governing Body.

59. Tripartite national seminars were organised in Buenos Aires (Argentina), in Dacca (Bangladesh), New Delhi (India), Colombo (Sri Lanka), in San José (Costa Rica) and in Caracas (Venezuela). Seminars for workers' representatives were held in New Delhi (India) and in Karachi and Lahore (Pakistan).

60. In addition, the regional advisers for international labour standards, during their visits to various countries, held a number of meetings on the procedures relating to standards, principally directed to labour administration officials, and lectures on ILO standards were given to the faculties of law at the Universities of Córdoba (Argentina) and of São Paulo (Brazil).

#### Constitutional procedures of complaint and other procedures

61. The Committee was informed that the Governing Body, at its 228th Session (November 1984), took note of the report of the Commission specially mandated to examine the complaint on the observance by Poland of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). The Committee refers in this connection to the observations it is making concerning Poland, under the Conventions concerned, in Part II B of the present report. The Committee was informed that in a letter dated 17 November 1984 addressed to the Director-General of the ILO, the Government of Poland sent its notice of withdrawal from the Organisation.

62. The representation presented under article 24 of the Constitution by the General Federation of Norwegian Trade Unions alleging non-observance by Turkey of the Right of Association (Agriculture) Convention, 1921 (No. 11) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) has continued to be examined by the Committee on Freedom of Association, along with the complaints relating to Turkey made by several trade union organisations, in accordance with the Governing Body decision (May-June 1982) which referred this representation to that Committee. The Committee on Freedom of Association noted in particular in this connection the report of the representative of the

Director-General on the direct contacts mission which visited Turkey between 24 September and 5 October 1984. The Committee refers to the comments it is making concerning Turkey under the Conventions concerned in Part II B of the present report.

63. A representation was made by the Confederation of Private Employers of Bolivia concerning the observance by Bolivia of the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) and the Minimum Wage Fixing Convention, 1970 (No. 131), which was examined by a tripartite Committee appointed by the Governing Body. This Committee's report was approved by the Governing Body at its November 1984 Session, when it declared the procedure closed, after making certain recommendations to the Government on the basis of the representation, in particular that all relevant information be supplied in the reports on the Conventions concerned. The Committee refers in this connection to the comments it is making as concerns the application by Bolivia of Convention No. 131.

64. Another representation was made by the General Confederation of Portuguese Workers alleging non-observance by Portugal of Conventions Nos. 29, 81, 87, 95, 98, 105, 129, 132 and 135. A tripartite Committee was set up by the Governing Body to examine the matter, and it referred to the Committee on Freedom of Association the aspects of the representation concerning the application of Conventions Nos. 87, 98 and 135. The tripartite Committee's report on the other aspects of the case was approved by the Governing Body and the procedure declared closed at its 229th Session (February-March 1985). Various questions were referred to the present Committee for further action, and the Committee draws attention in particular to comments made in this regard under Conventions Nos. 81 and 95.

65. As concerns the representation made by the National Trade Union Co-ordinating Council of Chile, alleging the non-observance by Chile of Conventions Nos. 1, 2, 29, 30 and 122, the report of the tripartite Committee set up to examine the question was adopted by the Governing Body at its November 1984 Session and the procedure was declared closed. In this case as well, the Government was asked to provide certain information in its reports under article 22 of the Constitution, and the Committee has followed up these questions in the comments it is making under the Conventions concerned.

66. A representation was made by the World Federation of Trade Unions alleging non-observance by the Federal Republic of Germany of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The Committee of the Governing Body which was set up to examine the representation has submitted its report, and the Governing Body's consideration of the report has been set for its May 1985 Session.

67. A representation was made by the Confederation of Costa Rican Workers, the Authentic Confederation of Democratic Workers, the United Confederation of Workers, the Costa Rican Federation of Democratic Workers and the National Confederation of Workers alleging non-observance by Costa Rica and the International Monetary Fund of Conventions Nos. 11, 81, 87, 95, 98, 102, 122, 127, 130, 131, 135, 138 and 144. The Governing Body declared irreceivable the representation made against the International Monetary Fund and decided to refer the aspects concerning Conventions Nos. 11, 87, 98 and 135 to the

Committee on Freedom of Association and the question of submission to the competent authorities of Conventions Nos. 151 and 154 to the Committee of Experts. At its 227th Session (June 1984) the Governing Body set up a tripartite Committee to examine the other aspects of the representation.

68. The Committee noted that the Committee on Freedom of Association of the Governing Body had recommended that the Committee of Experts' attention be drawn to certain aspects of the conclusions adopted in several of the cases examined since the March 1984 Session (234th to 238th Reports). This applied in particular as regards the cases concerning Argentina (Case No. 842), Turkey (Cases Nos. 997, 999 and 1029), Romania (Case No. 1066), Canada/British Columbia (Cases Nos. 1173 and 1235), Pakistan (Case No. 1175), Dominican Republic (Case No. 1177), Peru (Case No. 1206), Uruguay (Case No. 1209), Liberia (Case No. 1219), Greece (Case No. 1224), Costa Rica (Case No. 1242), United Kingdom (Case No. 1261), Papua New Guinea (Case No. 1267) and United Kingdom/Montserrat (Case No. 1295).

#### Follow-up to the discussion at the 70th Session of the Conference concerning international labour standards

69. The Committee took note of the discussion on international labour standards which took place at the Conference in 1984 on the basis of the special part of the Director-General's report devoted to this subject. It has also noted the series of measures initiated by the Governing Body or being taken by the Office as a result of that discussion. It will follow closely the further developments on these questions, particularly as some of the decisions taken or contemplated will have implications for the Committee's work (such as the discontinuance of detailed reporting on certain Conventions, the consideration to be given to the simplification of forms for reporting on the application of ratified Conventions, and the study to be made on the links between ILO standards and technical co-operation activities).

#### Flexibility clauses

70. In the Director-General's analysis of international labour standards in his Report to the 70th (1984) Session of the International Labour Conference, the question was raised as to whether countries which ratify ILO Conventions examine sufficiently the possibilities of flexibility offered to them, and whether wider use of the flexibility clauses might not make it easier for other countries to ratify Conventions. The Committee notes that following the Conference discussion on this subject, the Office is to prepare a brief summary of the flexibility permitted by each of the Conventions adopted in recent years. While examining the reports on ratified Conventions, the Committee has also considered this question. It has noted, for example, that few of the States which ratified the Minimum Age Convention, 1973 (No. 138), have availed themselves of the possibility for countries with insufficiently developed economies and educational facilities initially to specify a minimum age of admission



to employment of 14, instead of 15 years, and of the possibility of making a declaration initially limiting the scope of the instrument. This Convention also permits the exclusion of certain categories of work for which special and substantial problems of application would arise. The Committee would like to point out specially to governments that it is in their interest to examine fully the possibility of availing themselves of such provisions.

Equality of treatment for men  
and women in social security

71. During its examination of different Conventions, the Committee considered the question of equality of treatment for men and women in social security. The Committee noted the recent developments on this question at the international level, especially in relation to the measures taken in several countries to apply the Directive of the Council of the European Communities of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security (79/7/EEC). In the light of these developments and taking into account the fact that ILO Conventions do not deal specifically with the principle of equal treatment for men and women in matters of social security, the Committee considers that it would be opportune to study the question of adopting international standards on this subject. It would therefore like to draw this question to the attention of the Working Group which was established recently by the ILO Governing Body to review, among other matters, possible subjects for new standards.

III. PROCEDURE OF DIRECT CONTACTS AND OTHER  
FORMS OF ASSISTANCE TO GOVERNMENTS

72. Direct contacts took place within the framework of the procedure of complaints concerning the violation of freedom of association in Turkey in September/October 1984.

73. During May-June 1984, an advisory mission took place in Argentina to discuss trade union legislation.

74. An advisory mission was also undertaken in Pakistan in April 1984 concerning the application of the Indigenous and Tribal Populations Convention, 1957 (No. 107).

75. Regional advisers on labour standards, whose tasks consist essentially in assisting governments to fulfil their obligations under the ILO Constitution and ratified Conventions, visited the following countries: Africa: Angola, Benin, Botswana, Burkina Faso, Cameroon, Comoros, Congo, Djibouti, Egypt, Kenya, Madagascar, Malawi, Mauritania, Mauritius, Mozambique, Sao Tome and Principe, Somalia, Sudan, Uganda, Zaire, Zambia and Zimbabwe; America and the Caribbean: Argentina, Belize, Bolivia, Cuba, Dominican Republic, Ecuador, Grenada, Guatemala, Nicaragua, Paraguay, Peru, Saint Lucia and Suriname; Asia: Bangladesh, India, Indonesia, Malaysia, People's Democratic Republic of Lao and Sri Lanka.

76. The Committee has also been informed that during 1984, 15 officials of the following 13 countries undertook training periods (normally of two weeks' duration) with the International Labour Standards Department: Bangladesh (2), Burma (1), Chad (1), Chile (1), Egypt (2), Ghana (1), Mozambique (1), Nepal (1), Romania (1), Sudan (1), United Arab Emirates (1), Zaire (1) and Zambia (1). In addition, an official of the World Federation of Trade Unions undertook a two-week internship. A number of further internships are scheduled to take place in the near future.

77. The Committee notes that during the 70th Session of the International Labour Conference (June 1984) opinion was unanimous that all the activities undertaken by the ILO with a view to providing information, advice, assistance and training in relation to ILO standards are of great value to member States and have yielded positive results. A number of delegates, particularly from developing countries, expressed appreciation of the assistance which their countries had obtained. It was noted, however, that the resources provided in the ILO's budget for these activities is limited, and several Members expressed their hope that these activities would be increased. The Committee further notes that support for these activities was also expressed in the discussion of the Director-General's programme and budget proposals for 1986-87 by the Governing Body at its 229th Session (February-March 1985).

#### IV. ROLE OF EMPLOYERS' AND WORKERS' ORGANISATIONS

78. At each session, the Committee draws the attention of governments to the role that employers' and workers' organisations are called upon to play in the application of Conventions and Recommendations and to the fact that numerous Conventions require the consultation of employers' and workers' organisations, or their collaboration on a variety of matters.

79. The Committee has noted with satisfaction again this year that almost all governments have indicated in the reports supplied under article 22 of the Constitution the representative organisations of employers and workers to which, in accordance with article 23, paragraph 2, of the Constitution they have communicated copies of the reports supplied to the ILO.<sup>1</sup> Almost all governments have also indicated the organisations to which they have communicated copies of the information supplied to the ILO on the submission to the competent

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<sup>1</sup> Direct requests have, however, been addressed to Bolivia and Comoros. (Comoros has communicated copies of its article 22 reports only to the employers.)

authorities of instruments adopted by the Conference<sup>1</sup> and of the reports due under article 19 of the Constitution.<sup>2</sup>

80. In accordance with the established practice, the ILO sent to the representative organisations of employers and workers a letter concerning the various opportunities open to them of contributing to the implementation of Conventions and Recommendations, accompanied by relevant documentary material, and a list of the reports due by their respective governments and copies of the Committee's comments to which governments were invited to reply in their reports.

#### Observations by employers' and workers' organisations

81. Since its last session, the Committee has received 149 observations, 54 of which were communicated by employers' organisations and 95 by workers' organisations. This total figure which continues to increase significantly (47 observations more than last year), shows the ever-growing interest of employers' and workers' organisations in the implementation of ILO standards and reflects the constant efforts made by the supervisory bodies and the Office to give interested organisations complete information on their role in this area.

82. The Committee proposes to examine in 1986 the experience of recent years as regards the presentation of comments by employers' and workers' organisations on matters concerning compliance with obligations in relation to ILO standards, and the manner in which consideration is given to such comments in the supervisory process.

83. The majority of the observations received (135) relate to the application of ratified Conventions.<sup>3</sup> Thirteen

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<sup>1</sup> Direct requests have been addressed to the following countries: Antigua and Barbuda, Bahamas, Cameroon and Mongolia.

<sup>2</sup> Direct requests have been addressed to Peru and Rwanda. (Rwanda has communicated copies of its article 19 reports only to the employers.)

<sup>3</sup> Australia (Norfolk Island): Norfolk Island Public Service Association on Convention No. 47; Austria: Austrian Congress of Chambers of Labour on Conventions Nos. 100, 111 and 122; Bahamas: Trade Union Congress on Conventions Nos. 26 and 144; Bangladesh: Bangladesh Free Trade Union Congress on Conventions Nos. 29, 87, 98, 105, 111 and 144; Bolivia: Confederation of Private Employers on Conventions Nos. 102, 121, 128 and 130; Brazil: National Confederation of Workers in Credit Enterprises on Conventions Nos. 98 and 122; National Confederation of Liberal Professions, National Confederation of Industry, National Confederation of Commerce on

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Convention No. 122; Chile: "Coordinadora Nacional Sindical" on Conventions Nos. 29 and 122, "Coordinador Metropolitano de Sindicatos Independientes, Eventuales, Transitorios, PEM, POJH y Cesantes de Santiago" on Conventions Nos. 2, 29 and 122; Costa Rica: National Association of Telecommunication Technicians on Convention No. 1; Cyprus: Cyprus Civil Servants' Trade Union on Convention No. 151; Denmark: Danish Federation of Trade Unions (LO), Confederation of Salaried Employees and Civil Servants (FTF) on Conventions Nos. 87 and 98; Dominican Republic: United Workers' Organisation on Conventions Nos. 29, 87, 95 and 105; Finland: The Åland Shipowners' Association on Conventions Nos. 9 and 91, Finnish Shipowners' Association on Convention No. 91, the Finnish Ship Officers' Union on Convention No. 9, Finnish Employers' Confederation (STK), Employers' Confederation of Service Industries (LTK) on Conventions Nos. 111, 122, 144 and 150, Local Authorities Negotiating Commission (KSV) on Convention No. 144, Confederation of Salaried Employees (TVK), on Conventions Nos. 111, 120, 122 and 150, Central Organisation of Finnish Trade Unions (SAK) on Conventions Nos. 111, 122 and 150; France: National Federation of Maritime Unions (FNSM) on Convention No. 111; India: Centre of Indian Trade Unions on Convention No. 1, Steel Workers' Federation on Conventions Nos. 26 and 81; Iraq: General Confederation of Trade Unions on Convention No. 144; Italy: Trade Union Association (INTERSIND) on Conventions Nos. 26, 97, 103, 122, 143 and 144; Association for Petrochemical and Allied Concerns (ASAP) on Conventions Nos. 26, 97, 103, 143 and 144; Italian General Confederation of Labour on Conventions Nos. 97 and 143; General Confederation of Agriculture (CONFAGRICOLTURA) on Conventions Nos. 97, 99, 103, 143 and 144; General Confederation of Commerce and Tourism (CONFCOMMERCIO) on Conventions Nos. 97, 103 and 143, Italian Confederation of Private Shipowners (CONFITARMA) on Convention No. 146; Japan: General Council of Trade Unions of Japan (SOHYO), Japanese Confederation of Labour (DOMEI), National Railway Workers' Union (KOKURO) on Conventions Nos. 87 and 98; Labour Council of Governmental Special Corporations (SEIROKYO) on Convention No. 98; Mali: National Union of Workers on Conventions Nos. 87 and 111; Malta: Confederation of Malta Trade Unions on Conventions Nos. 87 and 98; Mauritius: Mauritius Labour Congress on Conventions Nos. 26 and 98; Netherlands: Confederation Netherlands Trade Union Movement (FNV) on Conventions Nos. 87, 103 and 144, Netherlands' Council of Employers' Federations (RCO) on Convention No. 144, Federation of Christian Trade Unions (CNV) on Conventions Nos. 87 and 144; New Zealand: Employers' Federation of New Zealand on Convention No. 122; Norway: Norwegian Federation of Trade Unions on Conventions Nos. 87, 98 and 111; Peru: Workers' Central Union of the Peruvian Institute of Social Security on Convention No. 151; Portugal: General Confederation of Portuguese Workers on Conventions Nos. 26, 87, 122, 144 and 151, Confederation of Commerce on Conventions Nos. 26 and 122, Confederation of Industry on Convention No. 26, Workers' Union of

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observations relate to the reports provided by governments under article 19 of the Constitution, relative to the Labour Inspection Convention, 1947 (No. 81) and Recommendation, 1947 (No. 81), the Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82) and the Labour Inspection (Agriculture) Convention, 1969 (No. 129) and Recommendation, 1969 (No. 133).<sup>1</sup> One observation concerned the submission of instruments to the competent legislative authorities.<sup>2</sup> The Committee also refers to paragraph 67 of the present report, as concerns a representation on this subject, among others.

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Inland Water Transport on Convention No. 92; Sri Lanka: United Plantation Workers' Union on Conventions Nos. 99 and 131; Sweden: Swedish Transport Workers' Union on Convention No. 137, Federation of Swedish County Council on Convention No. 150; Switzerland: Swiss Workers' Federation of Commerce, Transport and Food on Convention No. 153; Togo: National Federation of Workers on Convention No. 87; Turkey: Turkish Confederation of Employers' Associations on Convention No. 111; United Kingdom: Trades Union Congress on Conventions Nos. 26, 87, 122 and 144, Shipowning Employers' and Workers' Organisations on Convention No. 92.

In addition, observations have been received from the International Confederation of Free Trade Unions on the application of Convention No. 107 in Brazil; from the International Transport Workers' Federation on the application of Convention No. 87 in Pakistan; and from the International Metalworkers' Federation on the application of Convention No. 26 in South Africa.

<sup>1</sup> Austria: Austrian Congress of Chambers of Labour, Federal Chamber of the Economy, Austrian Conference of Presidents of Agricultural Chambers; Brazil: National Confederation of Industry; Chad: National Union of Workers of Chad (UNATRAT); Finland: Confederation of Finnish Employers (STK), Central Organisation of Finnish Trade Unions (SAK); Greece: Pan-Hellenic Confederation of Unions of Agricultural Co-operatives (PASEGES); Japan: General Council of Trade Unions of Japan (SOHYO) and Japanese Confederation of Labour (DOMEI); Portugal: Confederation of the Portuguese Industry, Confederation of the Portuguese Commerce and General Confederation of Portuguese Workers; United Kingdom: Trade Union Congress (TUC).

<sup>2</sup> Syrian Arab Republic: The Chamber of Industry has presented observations on the submission to the competent legislative authority of Convention No. 157 and Recommendation No. 167.

84. The Committee also examined a number of other observations by employers' and workers' organisations whose examination had been postponed from the last session because the observations of the organisations or the replies of the governments had arrived just before or just after the session.

85. The Committee notes that, of the observations received this year, 71 were transmitted directly to the ILO, which, in accordance with established practice, referred them to the governments concerned for comment. In 78 cases the governments transmitted the observations with their reports, sometimes adding their own comments. Part Two of this Report contains the Committee's comments on cases where the observation raised an issue concerning the application of ratified Conventions.

86. The Committee had to postpone the examination of a number of observations to its next session, when they were received too close to or even during the Committee's meeting, so as to allow sufficient time for the governments concerned to make comments and for the Committee to consider the matters involved.

87. The Committee notes that in most cases the occupational organisations had endeavoured to gather and present precise facts on the application in practice of ratified Conventions. It notes that the matters dealt with in its observations have touched on a very wide array of Conventions relating to the following subjects, among others: the right to organise and the right to collective bargaining, tripartite consultations on international labour standards, employment policy, minimum wages, discriminatory hours of work, migrant workers, indigenous and tribal populations, labour administration, maternity protection, forced labour and so forth.

88. The Committee once again wishes to stress the continuing importance that it attaches to receiving from employers' and workers' organisations observations on the application in their countries of international labour Conventions. The comments of these organisations are particularly welcome in the case of promotional Conventions, and the Committee considers it useful in this respect for employers' and workers' organisations to communicate their observations on the application in their countries of the Employment Policy Convention, 1964 (No. 122) (see paragraphs 46 to 54 of this report). The Committee also wishes to receive for review at its next session more comments from these organisations on the question of the application of ratified Conventions to offshore industrial installations and in export processing zones (see paragraphs 23 to 45 of this report).<sup>1</sup>

89. The Committee notes with interest that the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) has now received 36 ratifications. The Committee hopes

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<sup>1</sup> Comments relating to offshore industrial installations were received from the following organisations: France: Organisation of Trade Union Chambers of the Petroleum Industry; United Kingdom: Trades Union Congress.

that, in accordance with the favourable ratification prospects noted in the General Survey on the Convention in 1982,<sup>1</sup> many more countries will be able to ratify it.

#### V. REPORTS ON RATIFIED CONVENTIONS

(Articles 22 and 35 of the Constitution)

##### Supply of reports

90. The Committee's principal task consists in the examination of the reports supplied by governments on Conventions which have been ratified by member States or which have been declared applicable to non-metropolitan territories.

91. In accordance with the procedure for reporting that has been in force since 1977, detailed reports from all ratifying States, covering the period ending 30 June 1984, were due to be examined this year in respect of 44 Conventions.<sup>2</sup> In addition, detailed reports were also requested from certain governments on other Conventions, in accordance with the criteria for more frequent reporting approved by the Governing Body and set out in paragraph 38 of the Committee's 1977 report.

##### Reports requested and received

92. A total of 1,669 detailed reports were requested from governments on the application of Conventions ratified by States Members (article 22 of the Constitution). At the end of the present session of the Committee, 1,286 of these reports have been received by the Office. This figure corresponds to 77 per cent of the reports requested, compared with 79.9 per cent last year. The Committee regrets that, as indicated in paragraph 103 below, a number of the reports received are incomplete and do not enable it to arrive at conclusions regarding the application of the Conventions concerned. A table showing the reports received and those which are overdue, classified by country and by Convention, is to be found in Part Two (section I, Appendix I). Another table (section I, Appendix II) shows, for each year in which the Committee has met since 1933, the number and percentage of reports which were received by the prescribed

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<sup>1</sup> International Labour Conference, 68th Session, 1982, Report III (Part 4B), para. 202.

<sup>2</sup> Conventions Nos. 1, 3, 7, 9, 11, 15, 20, 26, 30, 35, 36, 37, 38, 39, 40, 43, 47, 49, 58, 67, 68, 84, 87, 91, 92, 97, 98, 99, 102, 103, 110, 111, 112, 119, 120, 122, 126, 128, 131, 137, 143, 144, 146, 153.

date, by the date of the meeting of the Committee and by the date of the session of the International Labour Conference.

93. In addition, 399 reports were requested on Conventions which have been declared applicable with or without modification to non-metropolitan territories (articles 22 and 35 of the Constitution). Of these, 315 reports, or 78.9 per cent, had been received by the end of the Committee's session. A list of the reports received and those which are overdue, classified by territory and Convention, may be found in the Appendix to section II of Part Two of this report.

94. Apart from the above-mentioned reports, 32 governments also supplied general reports on the Conventions for which detailed reports were not due for the period under review: Australia, Barbados, Belgium, Brazil, Burundi, Canada, Chad, Chile, Colombia, Congo, Cyprus, Egypt, Ethiopia, Gabon, German Democratic Republic, Honduras, Kenya, Mexico, Mozambique, New Zealand, Poland, Rwanda, Saudi Arabia, Sierra Leone, Singapore, Spain, Sri Lanka, Suriname, Switzerland, Turkey, United Kingdom, and United States.

95. In those cases in which the reports were not accompanied by copies of the relevant legislation, statistical data or other documentation necessary for their full examination, and this material was not otherwise accessible, the Office, as requested by the Committee, wrote to the governments concerned asking them to supply the necessary texts in order to enable the Committee to fulfil its task.

#### Compliance with reporting obligations

96. Most of the governments from which reports were due on the application of ratified Conventions have supplied all or most of the reports requested, as can be seen from Appendix I to Part Two, section I. However, 31 governments have not complied with their obligation to supply reports on ratified Conventions. Thus, all or the majority of the reports due this year have not been received from the following countries: Antigua and Barbuda, Austria, Bahamas, Benin, Cameroon, Central African Republic, Democratic Yemen, Dominica, El Salvador, Fiji, Ghana, Guinea, Guinea-Bissau, Haiti, Iceland, Jamaica, Democratic Kampuchea, Kenya, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Malawi, Mauritania, Niger, Papua New Guinea, Qatar, Senegal, Seychelles, Swaziland, Yemen.

97. The Committee urges the Governments of these countries, and also those which have sent only some of the reports due, to make every effort to supply the reports requested on ratified Conventions. Where no reports have been sent for a number of years, it seems likely that some particular problem of an administrative or technical nature is preventing the government concerned from fulfilling its constitutional obligations, and it may be that in cases of this kind assistance from the Office, in particular the help of the regional advisers on standards, would enable the government to overcome its difficulties.



### Late reports

98. The Committee again feels it necessary to stress the importance of communicating reports in due time. Reports are requested on ratified Conventions by 15 October each year. As indicated below, most governments have not met this deadline. Due consideration is given when fixing this date to the time required to translate the reports, where necessary, to conduct research into legislation and other necessary documents, and to examine reports and legislation. The supervisory procedure can function correctly only if reports are communicated in due time. This is particularly true in the case of first reports or reports on Conventions where there are serious or continuing discrepancies, which the Committee has to examine in greater depth.

99. The Committee observes that on 15 October 1984 the proportion of reports received was 11.3 per cent. The great majority of the reports are thus received between the time limit fixed and the date on which the Committee meets. The situation is all the more disturbing as it is often the first reports and those relating to Conventions on which the Committee has made comments that are received latest. In these circumstances, the Committee has been bound in recent years to postpone to its following session the examination of an increasing number of reports, since they could not be examined with the necessary care owing to the lack of time. It has thus had to examine a number of reports at its present session that had been held over from 1984.

100. The Committee can only express its great concern over this state of affairs, despite the relief that the new system of reporting frequency and the various measures of assistance provided by the Office are intended to introduce. The Committee trusts that governments will in future endeavour to observe more closely the time limit laid down for the sending of their reports so that it may carry out its supervisory function adequately.

### Supply of first reports

101. A total of 63 first reports on the application of ratified Conventions was received by the time the meeting opened. However, a number of countries have failed to supply the reports in question, some of which are more than a year overdue. Thus, certain first reports on ratified Conventions have not been received from the following States since 1981: United Kingdom: Falkland Islands (Malvinas) (Convention No. 141); since 1982: Benin (Convention No. 143); since 1983: Iceland (Convention No. 144), Nicaragua (Conventions Nos. 110, 141), Denmark: Faeröe Islands (Convention No. 27), United Kingdom: Isle of Man (Convention No. 150). Particular importance attaches to the first reports, on the basis of which the Committee makes its initial assessment of the observance of ratified Conventions. The Committee therefore requests the governments concerned to make a special effort to supply these reports.

Replies to comments of the supervisory bodies

102. Governments are requested to reply in their reports to the observations and direct requests of the Committee, and the majority of governments have provided the replies requested. In accordance with the established practice, the International Labour Office has written to all the governments who failed to provide such replies, requesting them to supply the necessary information. Of the 22 governments contacted in this way, only two have sent the information requested.

103. The Committee notes with concern that there is still a large number of cases in which there has been no reply to its comments. These cases can be grouped as follows:

- (a) those where neither a report nor a reply has been received on any of the reports requested from the governments;
- (b) those where the reports received contain no reply to most of the Committee's comments (observations and/or direct requests) and/or have failed to reply to letters sent by the ILO.

This represents a total of 154 cases,<sup>1</sup> by comparison with 164 last year and 128 the previous year. The Committee is therefore obliged to repeat the observations or direct requests already made on the Conventions in question.

104. The failure of the governments concerned to carry out their obligations hinders the work of the Committee of Experts and that of the Conference Committee, and the Committee cannot overstate the importance of ensuring the dispatch of the reports and replies to its previous comments.

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<sup>1</sup> Bahamas: Conventions Nos. 98, 144; Cameroon: Conventions Nos. 3, 9, 87, 98, 122, 131, 143; Cape Verde: Conventions Nos. 17, 81, 98, 105; Central African Republic: Conventions Nos. 26, 87, 105, 118, 119; Democratic Yemen: Convention No. 98; El Salvador: Convention No. 107; Fiji: Conventions Nos. 29, 58, 59, 84, 98, 105; Ghana: Conventions Nos. 30, 87, 111, 119; Guinea: Conventions Nos. 13, 29, 87, 94, 105, 111, 115, 118, 119, 120, 121, 122, 135, 140, 142, 143; Guinea-Bissau: Conventions Nos. 1, 26, 68, 91, 92, 98, 105, 111; Haiti: Conventions Nos. 24, 25, 87, 98; Kenya: Conventions Nos. 131, 132; Lesotho: Conventions Nos. 11, 87, 98; Liberia: Conventions Nos. 22, 23, 55, 58, 87, 92, 98, 111, 112, 113, 114; Libyan Arab Jamahiriya: Conventions Nos. 1, 3, 88, 102, 103, 105, 111, 118, 121, 122, 128, 130, 131; Malawi: Convention No. 111; Malta: Convention No. 87; Mauritania: Conventions Nos. 81, 87, 94, 102, 122; Niger: Conventions Nos. 102, 111, 119; Panama: Conventions Nos. 9, 15, 22, 32, 92, 94, 110, 111, 122, 125, 126; Papua New Guinea: Conventions Nos. 98, 122; Peru: Conventions Nos. 24, 25, 35, 36, 37, 38, 39, 40, 56, 71, 102, 107; Senegal: Conventions Nos. 87, 99, 102, 111, 120, 122; Sierra Leone: Conventions Nos. 59, 81, 111, 119, 126; Swaziland: Conventions Nos. 29, 87, 98, 131, 144; Yemen: Conventions Nos. 29, 87, 98, 131, 135.

### Examination of reports

105. In examining the reports received on ratified Conventions and on Conventions that have been declared applicable to non-metropolitan territories, the Committee has followed its usual practice of assigning to each of its members the initial responsibility for a group of Conventions. Reports received early enough have been sent to the members concerned in advance of the session, and each member has then submitted to the whole Committee his preliminary findings on the instruments concerned for discussion and approval.

### Observations and direct requests

106. In the majority of cases, the Committee has found that no comment is called for regarding the way in which ratified Conventions have been implemented. In other cases, however, the Committee has found it necessary to draw the attention of the governments concerned to the need to take further action to give effect to certain provisions of Conventions or to supply additional information on given points. As in previous years, its comments have been drawn up in the form either of "observations", which are reproduced in the report of the Committee, or of "direct requests", which are communicated to the governments concerned.

107. As previously, the Committee has indicated by footnotes the cases in which, because of the nature of the problems met in the application of the Conventions concerned, it has seemed appropriate to ask the governments to supply a detailed report earlier than would otherwise have been the case. Under the system of spacing out reports over the four-year period, which applies to most Conventions, such earlier reports have been requested after an interval of either one or two years, according to circumstances. In some instances, the Committee has also requested the governments to supply full particulars to the Conference at its next session in June 1985.

108. The observations of the Committee appear in Part Two (sections I and II) of the present report, together with a list, under each Convention, of any direct requests. An index of all observations and direct requests - classified by country - will be found at the beginning of this report.

### Practical application

109. As in previous years, the Committee has been concerned with assessing, on the basis of the information available, the extent to which the national legislation giving effect to ratified Conventions is applied in practice. A number of questions designed to elicit information on this point are included in the report forms approved by the Governing Body for the Conventions, and the replies of governments to these questions constitute an appreciable though uneven source of information on practical application available to the Committee. The Committee has also taken into account other authoritative sources of information. These consist of the annual reports of labour inspection services, statistical year books published in the States or

by the ILO, observations of employers' and workers' organisations, compilations of judicial or administrative decisions, reports on direct contacts, reports of technical co-operation projects and missions, and other official publications such as manuals, studies and economic and social development plans.

110. The following countries have provided information on practical application in more than half the reports concerned: Argentina, Australia, Austria, Belgium, Brazil, Burundi, Canada, Chile, Cyprus, Czechoslovakia, Denmark, Finland, France, Federal Republic of Germany, Greece, Hungary, Ireland, Italy, Ivory Coast, Jamaica, Japan, Mauritius, Netherlands, New Zealand, Nicaragua, Norway, Panama, Philippines, Poland, Portugal, Qatar, Saudi Arabia, Spain, Sri Lanka, Swaziland, Sweden, Syrian Arab Republic, United Republic of Tanzania, Togo, Tunisia, United Kingdom, Uruguay, Venezuela, Yemen.

111. The Committee also takes note with interest of the judicial and administrative decisions on questions of principle relating to the application of ratified Conventions to which certain countries have referred in their reports. Twenty-eight reports contain information of this kind and throw additional light on the problems raised in these cases by the practical application of the Conventions in question.

112. The Committee notes, however, that only some 39 per cent of the reports supplied on Conventions for which information on practical application was specifically requested contained such data. This is the same figure as last year, but as was indicated previously it is appreciably lower than those of the preceding two years, 47 per cent and 52 per cent respectively. The Committee is bound to express again its concern over this reduction in the amount of information received, without which it is unable to form a clear idea of the extent to which ratified Conventions are effectively applied. It therefore appeals to governments to make every effort to include in their future reports the information requested. Direct requests on this matter have been addressed to certain countries which have not replied to the questions in the report forms on practical application. The Committee will follow up this question in coming years and will include in its report information that should be useful to governments in this connection.

113. The Committee wishes to recall that, under the provisions of many international labour Conventions, measures must be taken to ensure the observance of these Conventions by means of administrative, civil or penal sanctions. In the case of various other Conventions, similar measures may prove necessary in order to make their provisions effective and thus to meet the obligations assumed upon ratification under the terms of Article 19 of the ILO Constitution. The Committee has noted that the legislative provisions governing these matters are often inadequate because the sanctions laid down do not have a sufficiently dissuasive effect. The Committee therefore draws attention to the importance of establishing effective sanctions and of adapting monetary penalties, particularly in countries with high rates of inflation, in order to ensure that they exert an effective preventive influence against acts contrary to the guarantees laid down by international labour Conventions. The Committee would be glad if

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governments would indicate in their reports the measures taken periodically to examine the need to adapt monetary penalties in the light of inflation.

### Cases of progress

114. In accordance with its usual practice, the Committee has drawn up a list of the cases in which it has been able to express its satisfaction at certain measures taken by governments to make necessary changes in their law or practice following earlier comments by the Committee on the degree of conformity between national law or practice and the provisions of a ratified Convention. Details concerning the countries in question are to be found in Part Two of this report, and cover 41 instances in which measures of this kind have been taken, in 30 States and 2 non-metropolitan territories. The full list is as follows:

<u>Countries</u>	<u>Conventions Nos.</u>
Algeria	111
Argentina	35, 36
Australia	111
Bangladesh	87, 98
Belgium	111
Byelorussian SSR	29
Brazil	29
Burundi	14
Central African Republic	29
Chile	2, 30
Comoros	81
Cuba	67
Denmark	111
Djibouti	96
Dominican Republic	87
Finland	151
France	105
Gabon	135
Greece	87
Guatemala	94, 110
Haiti	29
India	115
Iraq	78, 81, 136
Luxembourg	100
Nicaragua	87
Peru	87
Portugal	105
Spain	44
Suriname	29, 81, 106, 112
Tunisia	111

Non-metropolitan territories

France

French Polynesia	94
New Caledonia	44

115. Thus the total number of cases in which the Committee has been led to express its satisfaction with the progress achieved following comments made by it has risen to almost 1,600 since the Committee began listing them in its reports in 1964. In addition, there have been numerous cases in which the Committee has taken note with interest of different measures that have also been taken following its comments with a view to ensuring a fuller application of ratified Conventions. These measures provide an indication of the efforts made by governments to ensure that their national law and practice are in conformity with the provisions of the ILO Conventions they have ratified.

116. These cases do not, however, as the Committee regularly points out, exhaust the instances in which Conventions and Recommendations have a measurable influence on the law and practice of member States. For example, the Committee again notes a number of cases this year in which it is clear from the first report on the application of a Convention that new legislative or other measures were adopted shortly before or after ratification: Djibouti (Convention No. 81), Egypt (Conventions Nos. 62 and 144), Greece (Conventions Nos. 68 and 115), Iraq (Conventions Nos. 139 and 149), Israel (Convention No. 92).

VI. SUBMISSION OF CONVENTIONS AND RECOMMENDATIONS  
TO THE COMPETENT AUTHORITIES

(Article 19 of the Constitution)

117. In accordance with its terms of reference the Committee this year examined the following information<sup>1</sup> supplied by the Governments of member States, pursuant to article 19 of the Constitution of the International Labour Organisation:

- (a) information on the steps taken to submit to the competent authorities within the time limit of 12 or 18 months, as provided in the Constitution, the following instruments, adopted at the 69th (1983) Session of the Conference: the Vocational Rehabilitation and Employment (Disabled Persons) Convention

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<sup>1</sup> ILO: Summary of information on the submission to the competent authorities of Conventions and Recommendations adopted by the International Labour Conference, Report III (Part 3), International Labour Conference, 71st Session, Geneva (1985).

## GENERAL REPORT

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- (No. 159) and Recommendation (No. 168); and the Maintenance of Social Security Rights Recommendation (No. 167);
- (b) additional information on the steps taken to submit the Conventions and Recommendations adopted by the Conference from its 31st (1948) to its 68th (1982) Sessions to the competent authorities (Conventions Nos. 87 to 158 and Recommendations Nos. 83 to 166);
- (c) replies to observations and direct requests made by the Committee in 1984.

### 69th Session

118. The Committee notes with interest that the Governments of the following 51 member States have indicated that they have submitted to the authorities considered by them to be competent the instruments adopted by the Conference at its 69th Session: Algeria, Argentina, Australia, Bahamas, Bahrain, Barbados, Benin, Bulgaria, Burundi, Byelorussian SSR, Chile, China, Colombia, Comoros, Cuba, Egypt, Ethiopia, Finland, France, German Democratic Republic, Guatemala, Hungary, India, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kuwait, Liberia, Luxembourg, Madagascar, Malaysia, Mexico, Mongolia, Morocco, Nicaragua, Nigeria, Norway, Panama, Poland, Rwanda, Saudi Arabia, Sweden, Switzerland, Togo, Turkey, Ukrainian SSR, United Kingdom, United States, Zimbabwe.

### 31st to 68th Sessions

119. The Committee notes with interest that considerable efforts have been made by several countries in submitting instruments adopted by the Conference since its 31st Session to the competent authorities, particularly in the following cases: Afghanistan (instruments adopted from the 61st to the 67th Sessions), Benin (66th to 69th Sessions), Ethiopia (59th to 64th Sessions and some of the instruments adopted at the 58th and 65th Sessions), Iraq (numerous instruments adopted from the 32nd to the 67th Sessions), Jamaica (61st to 69th Sessions), Qatar (62nd, 63rd, 67th and 68th Sessions), United Arab Emirates (64th to 67th Sessions).

120. The table in Appendix I to section III of Part Two of the report of the Committee shows the position of each State Member, as it emerges from the information supplied by the governments, with regard to the discharge of the obligation to submit to the competent authorities the Conventions and Recommendations adopted by the Conference. Appendix II shows the overall position in this respect for the instruments adopted from the 31st to the 69th Sessions of the Conference.

### General aspects

121. The Committee notes with concern, however, that a number of countries are late - sometimes very late - in submitting the

instruments adopted by the Conference. In other cases, submission does not appear to have been accompanied by proposals on the action to be taken concerning the instruments being considered.

122. The Committee wishes to stress that submission to the competent authorities of the instruments adopted by the Conference is a fundamental obligation which constitutes the indispensable first step in implementing international labour standards. In order that national authorities may be kept up to date on the standards adopted at the international level which may require action in each State so as to give effect to them at the national level, submission should be done as early as possible and in any case within the time limits set by article 19 of the ILO Constitution. Governments however remain entirely free to propose any action which they may judge appropriate in respect of Conventions and Recommendations. The principal aim of submission is to encourage a rapid and responsible decision by each country on the Conventions and Recommendations adopted by the Conference.

#### Comments by the Committee and replies from governments

123. In section III of Part Two of this report, the Committee makes individual observations on the points that it considers should be brought to the special attention of governments. Requests with a view to obtaining supplementary information on other points have also been addressed directly to a number of countries, which are listed at the end of that section.

124. The Committee regrets to note that a number of governments have again failed to provide replies to its comments, even after reminders have been sent by the Office in accordance with the request made to it by the Committee. The Committee again expresses the hope that governments will endeavour in future to supply all the required information and documents.

125. The Committee wishes to point out once more the importance of the communication by governments of the information and documents called for in points II and III of the questionnaire in the Memorandum adopted by the Governing Body. Some countries do not communicate the information and documents in question. The Committee trusts that the governments concerned will take suitable measures to comply with the Memorandum on submission to the competent authorities.

#### Special problems

126. The situation in several countries is still a matter of concern to the Committee. It thus notes with regret that, in the following cases in particular, no information has been supplied showing that the Conventions and Recommendations adopted by the Conference during at least the last seven sessions under consideration (63rd to 69th) have in fact been submitted to the competent authorities: Bolivia, Chad, Guinea-Bissau, Islamic Republic of Iran,



Ireland, Malawi, Mauritius, Seychelles, Sierra Leone and Syrian Arab Republic.

Submission of certain instruments to the competent authorities  
of the European Communities

127. The Committee was informed at its 51st Session that the countries of the European Communities had submitted to the competent authorities of the Communities the Hours of Work and Rest Periods (Road Transport) Convention (No. 153) and Recommendation (No. 161), 1979, since this field is governed by regulations of the Communities. Since then, consultations have commenced with the social partners in the countries concerned, at the suggestion of the Commission of the European Communities, on the advisability of ratifying and accepting these instruments. At its 54th Session the Committee was informed of the results of certain of these consultations, which disclosed widely differing attitudes. The Committee notes with interest the new information communicated this year. Some countries state that the matter is being pursued, others have not yet provided any information. The Committee hopes that all the governments of the Communities will furnish information on the implementation of the procedure and on any decisions which may have been made on this subject.

VII. REPORTS ON UNRATIFIED CONVENTIONS AND RECOMMENDATIONS

(Article 19 of the Constitution)

128. In accordance with the decision taken by the Governing Body, governments were requested to supply reports under article 19, paragraphs 5 and 7, of the ILO Constitution on the Labour Inspection Convention, 1947 (No. 81); the Labour Inspection Recommendation, 1947 (No. 81); the Labour Inspection (Mines and Transport) Recommendation, 1947 (No. 82); the Labour Inspection (Agriculture) Convention, 1969 (No. 129); and the Labour Inspection (Agriculture) Recommendation, 1969 (No. 133).

129. Of a total of 618 reports requested, only 367 have been received.<sup>1</sup> This represents 59.3 per cent of the reports requested, which is lower than the average figure attained last year. The Committee regrets that it is lower than the average figure for recent years, which was more than 70 per cent.

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<sup>1</sup> ILO: Summary of reports (articles 19, 22 and 35 of the Constitution), Report III (Parts 1, 2 and 3), International Labour Conference, 71st Session, 1985.

130. More particularly, the Committee notes with regret that Guinea, Democratic Kampuchea, Lao People's Democratic Republic, Mauritania and the United Arab Emirates have not, for the past five years, supplied any of the reports on unratified Conventions and on Recommendations requested under article 19 of the ILO Constitution.

131. The Committee can only urge governments once again to provide the reports requested, so that its General Surveys can be as comprehensive as possible.

132. Part Three of this report (issued separately as Report III (Part 4B)) contains the General Survey of the Committee on the questions covered by the instruments in question. This survey, in accordance with the practice followed in previous years, has been prepared on the basis of a preliminary examination by a working party comprising three members of the Committee, appointed by it.

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133. Lastly, the Committee would like to express its appreciation of the invaluable assistance again rendered to it by the officials of the ILO, whose competence and devotion to duty make it possible for the Committee to accomplish its increasingly complex tasks in a limited period of time.

Geneva, 27 March 1985

(Signed)

Adetokunbo Ademola,  
Chairman.

E. Razafindralambo,  
Reporter.

PART TWO

**OBSERVATIONS CONCERNING PARTICULAR  
COUNTRIES**



## **OBSERVATIONS CONCERNING PARTICULAR COUNTRIES**

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

#### **A. GENERAL OBSERVATIONS**

##### **Albania**

The Committee notes with regret that the reports due have not been received. It must recall once again that under article 1, paragraph 5, of the Constitution of the ILO, States continue to be bound, even after their withdrawal from the Organisation, to ensure the observance of ratified Conventions for the period provided for in such Conventions and to report on their application.

In the absence of any information from the Government, the Committee is unable to ascertain to what extent effect is now given to the Conventions by which Albania remains bound (Nos. 5, 6, 10, 11, 16, 21, 29, 52, 58, 59, 77, 79, 87, 98, 100 and 112).

##### **Antigua and Barbuda**

The Committee notes that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions.

##### **Austria**

The Committee notes that most of the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply all the reports due on the application of ratified Conventions.

##### **Bahamas**

The Committee notes that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions.

Benin

The Committee notes with regret that most of the reports due, including one first report (Convention No. 143, which has been due for three years), have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply all the reports due on the application of ratified Conventions.

Bolivia

The Committee has noted the observations made by the Bolivian Confederation of Private Employers (CEPB) with regard to the application by Bolivia of the Social Security (Minimum Standards) Convention, 1952 (No. 102); the Employment Injury Benefits Convention, 1964 (No. 121); the Invalidity, Old Age and Survivors' Benefits Convention, 1967 (No. 128); and the Medical Care and Sickness Benefits Convention, 1969 (No. 130). All these Conventions were ratified by Bolivia in 1977.

In its observations, the CEPB states that the Government is in breach of the national practice of tripartism on a basis of equality at the level of the administrative bodies of the social security administrations by adopting, pursuant to negotiations with the Bolivian Workers Central alone, Supreme Decree No. 20.057 of 20 February 1984, by which representative machinery is established with an absolute majority of workers' representatives, and a merely symbolic presence of the employers' sector. The CEPB adds that, as a protest against this measure, it will not have an accredited representative in these bodies as long as they maintain their present composition, which is discriminatory, inequitable and unbalanced.

In its response to these observations, the Government states that in Bolivia the administration of social security is entrusted to an institution regulated by the public authority (the Bolivian Social Security Institute) created by Legislative Decree No. 10.776 of 23 May 1973; therefore, the Government considers that Bolivia is under no obligation, under Conventions Nos. 102, 121, 128 and 130, to permit the representatives of protected persons to participate in the administration of social security, or to be associated to it. The Government considers moreover that Bolivia has gone beyond the requirements of these Conventions by admitting employer and worker participation in the administration of social security; and that the employers can in no case demand that such participation be strictly equal. Finally, the Government regrets the decision of the CEPB to appoint no representatives in the directive organs for social security.

The Committee has taken note of the Government's response; it observes that the relevant provisions of the Conventions in question (Article 72, paragraph 1, of Convention No. 102; Article 24, paragraph 1, of Convention No. 121; Article 36 of Convention No. 128; and Article 31 of Convention No. 130) do not prescribe the participation of the representatives of those persons protected when the administration of social security has been entrusted to an institution regulated by a public authority, as is the case in Bolivia. Nevertheless, considering that on the one hand tripartism

## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

on a basis of equality has been customary practice in the administration of social security in Bolivia, and that on the other hand the Government itself has stated that the absence of employers' representatives does not lead to a constructive solution to the problem, the Committee expresses its hope that a satisfactory solution can be found for all the social partners involved, thus making possible once again the participation of CEPB representatives in the administrative bodies for social security in Bolivia.

### Cameroon

The Committee notes that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions.

### Central African Republic

The Committee notes that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions.

### Cuba

The Committee has learned during its session of the recent adoption by the National Assembly of Cuba of the Labour Code, Act No. 49 of 28 December 1984 (Official Gazette of 23 February 1985, Year LXXXIII, No. 2, pages 17 to 47). It notes that this Code will enter into force on 26 July 1985.

Because of the late date at which the Committee learned of the Code's adoption, it was not able to examine it during the present session. The Committee has thus decided to defer to its next session (March 1986) the examination of the Conventions on which reports were requested for 1984 and concerning which the Labour Code contains relevant provisions (Conventions Nos. 87, 91, 103, 110, 111, 150, 152 and 155). In this connection, the Committee would be grateful if the Government would communicate a copy of any regulations which may have been adopted in application of the first of the final provisions of the new Code.

### Democratic Yemen

The Committee notes that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions.

Dominica

The Committee notes that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions.

El Salvador

The Committee notes that the report due has not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions.

Fiji

The Committee notes that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions.

Ghana

The Committee notes that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions.

Guinea

The Committee notes that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions.

Guinea-Bissau

The Committee notes that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions.

Haiti

The Committee notes that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions.

Iceland

The Committee notes with regret that the reports due, including one first report (Convention No. 144, which has been due for two



## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

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years), have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions.

### Jamaica

The Committee notes with regret that most of the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply all the reports due on the application of ratified Conventions.

### Democratic Kampuchea

The Committee notes with regret that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions.

### Kenya

The Committee notes that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions.

### Kuwait

The Committee notes from the information supplied by the Government in answer to its previous comments on a number of ratified Conventions that the Committee's observations have been taken into account in the draft Labour Act (Private Sector), which has been submitted to the Council of Ministers for examination and preparation of a final text which will be presented to the National Assembly for consideration. It hopes that the new Labour Act will be adopted soon and will give full effect to the Conventions in question (Nos. 1, 30, 89, 106 and 117).

### Lebanon

The Committee refers to the comments that it made in previous years concerning the application of ratified Conventions. It notes the information provided by the Government in its reports and hopes that appropriate measures would be taken to ensure the full application of these Conventions as soon as national circumstances would make it possible.

Lesotho

The Committee notes with regret that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions.

Libyan Arab Jamahiriya

The Committee notes that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions.

Malawi

The Committee notes that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions.

Mauritania

The Committee notes with regret that most of the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply all the reports due on the application of ratified Conventions.

Niger

The Committee notes with regret that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions.

Pakistan

The Committee notes the information supplied by the Government in reply to its previous general observation. The Government reiterates the reasons why specific measures have been taken to exempt the export processing zones from the application of certain labour laws; as already noted, these reasons are directly connected with the primary objective of promoting export-oriented industries, attracting foreign capital and overcoming the recurring adverse balance of payments. The Government also states that it does not find it feasible at present to apply its labour laws to the export processing zones since, for administrative reasons, it has not been possible to establish the machinery required to implement these laws. The Committee notes the

## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

statement that the whole matter is being examined in the Ministry of Labour in consultation with other federal ministries and agencies as well as provincial governments regarding the machinery required and the manner in which laws are to be implemented in the zones. The Committee, while understanding the economic and administrative constraints faced by the Government, is bound to recall that the ratification of Conventions involves the obligation to apply them to all workers in any part of the national territory. It therefore asks the Government to supply information on the examination undertaken and on the action taken or envisaged to ensure the full application of ratified Conventions to workers employed in the export processing zones. More specifically, it again requests the Government to supply a detailed report on the manner in which Conventions Nos. 1, 4, 6, 14, 18, 19, 27, 32, 45, 59, 81, 87, 89, 90, 98, 106 and 118 are applied. The Government is also requested to supply the texts of instructions issued by the Export Processing Zone Authority to employers concerning wages and other conditions of work, which the Government mentioned in its reply.

### Papua New Guinea

The Committee notes with regret that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply all the reports due on the application of ratified Conventions.

### Qatar

The Committee notes that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions.

### Senegal

The Committee notes that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions.

### Seychelles

The Committee notes with regret that most of the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply all the reports due on the application of ratified Conventions.

South Africa

1. The Committee refers to its previous observation made in 1982 concerning reports received on the Conventions by which South Africa has remained bound although it withdrew from the ILO in 1964, namely Nos. 2, 19, 26, 42, 45, 63 and 89. The Government has supplied further reports on all the Conventions in question and the Committee has again examined them in the light of the updated Declaration concerning the Policy of Apartheid in South Africa adopted by the International Labour Conference in 1981, which requests that the existing ILO procedures be used to attain the objectives assigned to the ILO under its Programme for the Elimination of Apartheid.

2. Further to its previous comments regarding the communication of copies of the Government's reports to the representative organisations of employers and workers, in accordance with article 23, paragraph 2, of the Constitution, the Committee notes the indications in the Government's reports that copies of the reports have been submitted to six employers' and seven workers' organisations in South Africa.

3. With respect to the application of ratified Conventions in all parts of the country, including the areas of Transkei, Bophuthatswana, Venda and Ciskei (the so-called "independent homelands" or "bantustans") and those regarded as self-governing, the Committee notes that in the reports on Conventions Nos. 42, 45, 63 and 89 the Government does not provide any information, whereas in the other reports Transkei, Bophuthatswana, Venda and Ciskei are referred to variously as "independent states" or "countries" or "jurisdictions". It thus appears that in general the reports supplied do not relate to the areas referred to above. As the Committee previously observed, all of these areas were covered by the respective ratifications.

4. In this connection, the Committee has noted the indications in the Special Report of the Director-General to the 70th Session of the Conference (1984) on the Application of the Declaration concerning the Policy of Apartheid in South Africa, that the application of labour law in the so-called homelands has become confused and complex: it depends on whether they are "independent" or "self-governing"; when this status was achieved; and what new legislation has been enacted since. It appears to the Committee that this situation in particular denies to the people concerned the protection contemplated by ratified international labour Conventions.

5. In this light, the Committee has once again examined the information available as to the law and practice in South Africa in relation to the application of ratified Conventions, taking specially into account the implications of the policy of apartheid, including those deriving from the "homelands" policy. The Committee would thus insist that the Government should give full effect to the obligations undertaken when the Conventions were ratified; that in all future reports on the Conventions it should indicate the position throughout the entire national territory as defined in paragraph 3 above; and that it should provide full information on all other implications of the policy of apartheid relevant to the application of the

Conventions, both in the so-called "homelands" and in other areas of the country.

#### Swaziland

The Committee notes that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions.

#### Yemen

The Committee notes that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions.

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In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Antigua and Barbuda, Bahamas, Belize, Benin, Bolivia, Burma, Cameroon, Cape Verde, Central African Republic, Chad, Colombia, Comoros, Cuba, Djibouti, Dominican Republic, Egypt, El Salvador, German Democratic Republic, Guatemala, Haiti, Honduras, Iceland, Indonesia, Islamic Republic of Iran, Iraq, Jordan, Kenya, Kuwait, Liberia, Madagascar, Mali, Malaysia, Mauritania, Mauritius, Mexico, Mongolia, Mozambique, Nepal, Nigeria, Pakistan, Paraguay, Peru, Rwanda, Sao Tome and Principe, Seychelles, Singapore, Ukrainian SSR, Zimbabwe.

### B. INDIVIDUAL OBSERVATIONS

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

##### Chile (ratification: 1925)

The Committee refers to comments made in an observation in 1981. It also notes the conclusions of the report of the Committee set up to examine the representations presented under article 24 of the Constitution by the National Trade Union Co-ordinating Council (CNS) of Chile alleging, inter alia, non-observance of this Convention.

1. In its report, adopted by the Governing Body at its 228th Session (November 1984), the Committee set up under article 24 of the Constitution recommended that appropriate measures should be taken to amend section 39 of Legislative Decree No. 2200 of 1978 (as amended by Legislative Decree No. 18018 of 10 August 1981), so that in cases of uneven distribution of weekly hours of work, normal hours of work should not exceed nine hours per day, in conformity with Article 2(b) of the Convention.

The Committee of Experts notes that the above-mentioned section 39 has been amended by Act No. 18372 of 12 December 1984. It observes, however, that by limiting the reduction of the working week to five days and of normal working hours to ten hours per day (subject, furthermore, to certain exceptions), this reform does not remove the above-mentioned divergence from the Convention.

2. In earlier observations, the Committee noted that under the terms of section 42 of Legislative Decree No. 2200 cited above allows, in operations which, by their very nature, are harmless to the health of workers, the parties to agree on up to two hours overtime per day. Moreover, under section 43, paragraph 2, of this Decree, the hours worked beyond the fixed timetable are considered as overtime hours, even if they have not been subject to a written agreement, with the simple knowledge of the employer.

The Committee recalls that exceptions to normal hours of work are not permitted except in those cases provided for by the Convention, and that the maximum number of overtime hours which can be authorised in each case must be fixed; these exceptions shall be decided on after consultation with employers' and workers' organisations (Article 6).

3. The Committee requests the Government to indicate the measures under consideration to bring its legislation into full accordance with the Convention on these various points.

[The Government is asked to report in detail for the period ending 30 June 1986.]

#### India (ratification: 1921)

The Committee has examined the information communicated by the Government in its last report, as well as the new comments presented by the Centre of Indian Trade Unions (CITU).

1. In reply to a question raised by the CITU, the Committee recalls in the first place that the application of the Convention to India is still governed by the special provisions contained in Article 10 of the Convention, according to which "the principle of a sixty-hour week shall be adopted for all workers in the industries at present covered by the Factory Acts administered by the Government of India, in mines, and in such branches of railway work as shall be specified for this purpose by the competent authority. Any modification of this limitation made by the competent authority shall be subject to the provisions of Articles 6 and 7 of this Convention. In other respects the provisions of this Convention shall not apply to India, but further provisions limiting the hours of work in India shall be considered at a future meeting of the General Conference."

2. The CITU refers once again to the duration of work in the railway sector. In that connection, and further to its previous comments, the Committee takes note of the information supplied by the Government on the normal weekly hours and on the maximum daily hours.

The Committee has, however, in previous observations drawn attention to the fact that the legislation on hours of work on the railways does not fix the maximum permitted hours of overtime, as required by Article 6, paragraph 2, of the Convention.

The Government states that overtime is permitted only in certain contingencies and that instructions have been issued to the railways with a view to ensuring that running staff are not made to work beyond a reasonable limit, in excess of the prescribed hours of employment in a fortnight.

The Committee requests the Government to provide a copy of these instructions and information on any measures taken to give effect to this requirement of the Convention.

3. The CITU also refers to the situation with regard to the duration of work in various other sectors. While noting that some of these sectors (agriculture, fishing, inland water transport) are not covered by the Convention, the Committee requests the Government to communicate its comments with regard to the other categories of workers (workers in loading and unloading operations, workers paid on a piece-rate basis, motor transport workers) mentioned by the organisation in question.

4. Further to another point raised by the CITU, the Committee asks the Government to supply detailed information on the application of the Convention to the workers employed in offshore industrial installations which, in contrast to those employed in factories set up in export-processing zones, do not seem to be covered by the Government's report.

#### Iraq (ratification: 1965)

Article 6, paragraph 1, of the Convention. In its earlier comments, the Committee pointed out that section 67(b)(5) of the Labour Code (amended by Act No. 110 of 1978) provided for an increase in normal hours of work if the work was required either for development purposes or to increase production. It concluded that this provision was not in conformity with Article 6, paragraph 1, of the Convention, which authorises temporary exceptions only to allow establishments to deal with exceptional cases of pressure of work. In its report, the Government stresses that the country is passing through an exceptional period. While taking note of this statement, the Committee hopes that it will shortly be possible for the Government to amend its legislation so as to limit exceptions to normal hours of work only to the cases provided for by the Convention.

Article 8, paragraph 1(a) and (b). The Committee notes also that the draft regulation concerning the labour inspectorate, containing provisions regarding the posting of notices of work and rest timetables, has not yet been adopted. It hopes, unless there are other provisions which provide for the required posting of notices, that this draft will be adopted in the near future.

#### Nicaragua (ratification: 1934)

For many years the Committee has noted that section 56 of the Labour Code authorises, in general terms, an increase of hours of work per day in special cases. In its earlier comments, it concluded that the appropriate provisions should be drawn up with a view to

determining (following consultation with the organisations of employers and workers concerned) the circumstances under which hours of overtime might be worked and the maximum number of hours of overtime permitted, in conformity with Article 6, paragraphs 1(b) and 2, of the Convention as well as with Article 7, paragraphs 2(c), 2(d), and 3, and Article 8 of the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30).

The Government stated in its last report that the circumstances forcing it to maintain a state of emergency still prevailed, and that therefore it was unable to undertake any legislative amendment in the manner desired.

The Committee notes this statement. It trusts, however, that the necessary measures will be adopted in the very near future and requests the Government to supply detailed information on any developments in this connection.

[The Government is asked to report in detail for the period ending 30 June 1986.]

#### Paraguay (ratification: 1964)

In its earlier comments, the Committee requested the Government to amend or repeal section 205 of the Labour Code, to bring its legislation into full conformity with the provisions of the Convention; this section allows, in certain cases, the normal working day to be prolonged to 12 hours per day.

In its last report, the Government indicated that the repeal procedure in respect of section 205 of the Labour Code was under way in conformity with the indications of the ILO, so as to adapt the legislation to the provision of the Convention. The Committee notes this statement and requests the Government to supply information on any progress made in this connection.

#### Peru (ratification: 1945)

In its earlier comments, the Committee had noted that a draft decree was in preparation to guarantee that hours of work exceeding eight hours per day and 48 hours per week would be authorised only within the limits established by Articles 3 to 6 of the Convention. It had noted that this draft, to which the Government referred over a certain number of years, had still not been adopted.

The Government supplied new information to the Conference Committee in 1984 and also in its last report. It states that the promulgation of the decree could, by limiting the number of overtime hours, result in a loss in workers' earnings, and that it therefore decided to consult the employers' and workers' organisations before adopting the decree; the employers' organisations were in disagreement with the draft decree and the workers' organisations had not yet submitted their comments.

The Committee of Experts hopes that the Government will be able to overcome the difficulties mentioned and that it will soon be able



to adopt the decree in question, within the context of its social policy aimed at reabsorbing excess manpower.

[The Government is asked to report in detail for the period ending 30 June 1986.]

Syrian Arab Republic (ratification: 1960)

Article 6 of the Convention. In its earlier comments, the Committee noted that a draft legislative decree had been prepared to amend section 117 of the Labour Code, with a view to limiting the worker's presence at the workplace, in conformity with the Convention.

The Committee notes the information communicated by the Government in its last report. The Government states in particular that, after several amendments, the above-mentioned draft was transmitted to the Council of Ministers with a view to its adoption.

The Committee expresses the hope that this draft will be adopted in the near future and that it will give full effect to the above-cited Article of the Convention.

[The Government is asked to report in detail for the period ending 30 June 1986.]

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In addition, requests regarding certain points are being addressed directly to the following States: Belgium, Bolivia, Chile, Comoros, Costa Rica, Djibouti, Iraq, Libyan Arab Jamahiriya, United Arab Emirates.

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

Chile (ratification: 1933)

1. Article 2, paragraph 1, of the Convention. Further to its previous comments, the Committee notes with satisfaction the adoption of Act No. 18391 of 8 January 1985, paragraph 17 of which provides for the National Employment and Training Service (SENCE) to take account of information furnished by committees composed of workers' and employers' representatives concerning its functions relating to the supervision of municipal placement offices. This enactment follows also the conclusions of the report, approved by the Governing Body of the ILO at its 228th Session (November 1984), of the Committee it had set up to examine the representation made by the National Trade Union Co-ordinating Council (CNS) of Chile under article 24 of the ILO Constitution concerning, inter alia, the present Convention.

2. The Committee has taken note of the further comments of seven Chilean trade union organisations (dated 10 December 1984) stating that the present Convention, among others, has been violated. Certain questions referred to by the trade unions are dealt with under Convention No. 122.

3. In these circumstances, the Committee would be grateful if the Government would supply the information requested in the report form concerning the operation of the system of public employment agencies, now governed by the Employment and Training Statute laid down in Legislative Decree No. 1446 of 1976 (as amended) and Decree No. 50 of 1982. In particular, the Committee requests the Government (a) to confirm whether the public employment agencies carry on their functions free of charge, in accordance with Article 2, paragraph 1 of the Convention; and (b) to state how the committees referred to above are constituted and appointed and what method is adopted for the choice of the employers' and workers' representatives.

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In addition, a request regarding certain points is being addressed directly to South Africa.

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

#### Argentina (ratification: 1933)

Article 3 (c) of the Convention (paid benefits). The Committee notes with interest the adoption of Decree No. 2196, of 18 July 1984, which reduces from ten to six months the length of service required under section 4 of Act No. 18017 (official text 1974), before entitlement to maternity benefits. The Committee also notes with interest that the above-mentioned Decree No. 2196 has amended section 1 of Decree No. 3277 of 1976, so as to allow the period worked at the present place of employment to be supplemented by that resulting from any activity as an employee during the 12 months immediately preceding the present period of employment.

The Committee wishes nevertheless to point out that while the above-mentioned amendments make it considerably easier to obtain maternity benefits (covering the legal period of maternity leave), Article 3(c) of the Convention does not stipulate any qualification period or conditions for entitlement to the paid benefits due to a woman during maternity leave, provided for in paragraphs (a) and (b) of the same Article (as well as their possible continuation in the case of a mistaken date of confinement). The Committee therefore hopes that the Government will adopt in the near future the measures necessary to ensure full application of this provision of the Convention and requests the Government to supply information on all progress in this connection in its next report.

#### Colombia (ratification: 1933)

The Committee notes the information supplied by the Government to the Committee at the Conference (1983) and in its report covering the period 1982-84.

Article 3 (a), (b) and (c) of the Convention. 1. The Committee notes with interest the first draft of the amendment to section 236 of the Labour Code, drawn up by the Ministry of Labour, to ensure full conformity with these provisions of the Convention. In particular, the Committee notes that the above mentioned first draft provides for the immediate extension of maternity leave from eight to twelve weeks. The Committee wishes, however, to point out to the Government that the first draft does not stipulate, as required by the Convention, that a woman shall not be permitted to work during the six weeks following her confinement (subparagraph (a)), and that no mistake by the medical adviser in estimating the date of confinement shall preclude a woman from receiving these benefits from the date of medical certificate up to the date on which the confinement actually takes place (subparagraph (c)); the Committee hopes that the first draft will include a provision in this respect.

2. The Committee also notes that once the amendment to section 236 of the Labour Code is adopted, the corresponding amendments will be introduced into Decree No. 770 of 1975 (Article 16 (b)), dealing with maternity and sickness insurance, and also into the standards applicable to public sector workers (section 33, Decree No. 1848 of 1969).

3. The Committee also notes that the personal cover provided by social security has been extended and that its territorial cover will increase as and when economic conditions permit.

4. The Committee hopes that the announced legislative amendments will be adopted in the near future and that the extension of social security will continue, in order to give full effect of these provisions of the Convention. In particular, the Committee would like to believe that the amendments of Decrees Nos. 770 of 1975 and 1848 of 1968 can be made without waiting for the Labour Code to be amended first. The Committee requests the Government to supply information on all relevant progress in its next report.

[The Government is asked to report in detail for the period ending 30 June 1986.]

#### Libyan Arab Jamahiriya (ratification: 1971)

The Committee notes the information supplied by the Government to the 1984 Conference Committee that a report would be sent containing the new legislation which ensures compliance with the Convention. The Committee notes with regret that the report has not been received. It must therefore repeat its previous observation which read as follows:

1. Article 3(a) and (b) of the Convention (length of maternity leave). The Committee notes the Government's statement that a commission has been set up to review the entire legislation including the Labour Code. It hopes that the revision will be completed in the near future so that the Labour Code shall: (a) formally grant to women workers the right to maternity leave of at least 12 weeks, six of which have to be taken after childbirth; and (b) provide that this leave shall be

granted without any conditions concerning length of employment as is required by the Convention.

2. Article 3(c). (a) The Committee notes with interest the Government's statement that a guarantee fund exists in order to supply maternity benefits to non-independent women workers who are not covered by Act No. 13 of 1980. It requests the Government to supply the text of laws and/or regulations governing this guarantee fund as well as of regulations made under section 25(c) of the above-mentioned Act which the Government states had been drafted, and details on their implementation in practice.

(b) The Committee also hopes that the Labour Code which is now being revised, as well as the regulations made under the new Social Security Act, will include a provision providing, in conformity with the Convention, that in case of an error in the estimation of the date of confinement, the pre-natal leave and payment of maternity benefits shall be continued until the actual date of confinement, without a reduction in the post-natal leave and benefits attached thereto.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

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In addition, requests regarding certain points are being addressed directly to the following States: Cameroon, Federal Republic of Germany, Ivory Coast, Panama.

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

A request regarding certain points is being addressed directly to the Lao People's Democratic Republic.

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

Singapore (ratification: 1965)

In its earlier comments, the Committee had noted that the Employment (Amendment) Act, 1975 and section 4 of the Employment of Children and Young Persons Regulations, 1976, authorised the employment of children of the age of 12 years or over in industrial undertakings with the permission of the Commissioner of Labour and their engagement as apprentices, whereas Article 2 of the Convention provides that children under 14 years should not be employed or work in such undertakings.

The Committee notes from the Government's report that the review of the legislation governing the employment of children, to which the

Government referred previously, has not been completed. It again hopes that the revised legislation will be adopted in the very near future and will give full effect to the Convention. The Committee requests the Government to supply detailed information on any developments in this respect.

[The Government is asked to report in detail for the period ending 30 June 1985.]

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

Requests regarding certain points are being addressed directly to the following States: Belgium, Lao People's Democratic Republic.

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

Iraq (ratification: 1966)

In its previous observations, the Committee drew the attention of the Government to the need to adopt legislation prescribing: (a) in conformity with Article 2 of the Convention, that all persons employed on board a vessel shall be entitled in case of loss or foundering of the vessel to an indemnity fixed at the same rate as the wages payable under their contract for the whole period of actual unemployment, provided that the total indemnity payable to each seaman may be limited to two months' wages; (b) in accordance with Article 3, that seamen shall have the same remedies for recovering such indemnity as they have for recovering arrears of wages.

In its reply, the Government dealt only with the question of indemnity in case of loss or foundering of the vessel, stating that this was provided for under sections 19 and 69 of the Labour Code of 1970 and under section 83, paragraph 2, of Law No. 201 of 1975, regarding the Civil Marine Service. The Committee notes this information; however, it wishes to point out to the Government that the Labour Law contains no provisions specifically applicable to seamen and that indemnity due for a partial or total stoppage of work for an emergency reason or force majeure (subparagraph (b), Article 69) is limited to two weeks' salary, contrary to the provision set forth in Article 2, paragraph 2, of the Convention, which provides for a minimum of two months.

The Committee again expresses the wish that the Government will adopt the necessary measures to ensure the full application of the Convention to all seamen and not only to employees on board public sector ships.

Seychelles (ratification: 1978)

The Committee notes with interest that a Seychelles Merchant Shipping Act is being drawn up and is to enter into force soon. The

Committee hopes that this Act will give full effect to the Convention, by eliminating the limitation contained in section 157 of the United Kingdom Merchant Shipping Act of 1894, which is still in force in the Seychelles. It notes that this limitation is contrary to the Convention since it subjects the right to indemnity for unemployment in case of loss or foundering of the ship to the condition that the seafarer has exerted himself to the utmost to save the ship, cargo and stores. The Committee requests the Government to supply any information on the progress made with respect to the adoption of the above-mentioned bill, and to forward a copy once it has been adopted.

Sierra Leone (ratification: 1978)

The Committee takes note of the information provided by the Government. It notes that information and extracts regarding amendments which have been made to the United Kingdom Merchant Shipping Act of 1894 have been forwarded to the Law Officers' Department in order to begin introducing the same amendments for Sierra Leone. The purpose of this is to eliminate, in conformity with the Convention, the loss of the right to unemployment indemnity in case of shipwreck when it can be proved that the seafarer has not exerted himself to the utmost to save the ship, cargo and stores. The Committee hopes that the necessary changes will be made in the near future, and requests the Government to report any progress made towards this end.

Singapore (ratification: 1964)

The Committee regrets to observe that no progress has been made with regard to the extension to masters of the unemployment indemnity benefit afforded to seafarers under section 77 of the Merchant Shipping Act. In its report, the Government indicates that the draft legislation under preparation will be presented to Parliament in the near future. As a result, the Committee once again expresses the hope that in its next report, the Government will be able to report the adoption of this legislation, since this matter has now been a subject of comments by the Committee for many years.

[The Committee is asked to report in detail for the period ending 30 June 1985.]

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In addition, requests regarding certain points are being addressed directly to the following States: Saint Lucia, Tunisia.

**Convention No. 9: Placing of Seamen, 1920**Colombia (ratification: 1933)

The Committee has noted the information supplied by the Government in reply to its last observation. It notes with interest that the ILO expert who had been drafting legislation in order to comply with several ILO maritime Conventions, including the present one, completed his work in March 1984. The Government has provided a copy of the draft law, which is now before the legislature, and which takes into account the ILO expert's recommendations.

1. Article 2 of the Convention. The Committee notes with interest that the draft legislation in question includes provisions preventing the business of finding employment for seafarers being carried on for pecuniary gain, and prohibiting the charging of fees to seafarers for finding them employment, in conformity with the Convention. The Committee has also noted from Décrée No. 1433 of 1983 that, in the meantime, it is contemplated that temporary work enterprises and profit-making placement or employment agencies should continue to subsist. It hopes that the necessary action will be taken very shortly in order to ensure the full application of Article 2.

2. Articles 4 and 10. The Committee notes with interest that the draft legislation provides for the National Employment Service (SENALDE) to engage in the placement of seafarers. The Government reiterates that in the meantime either SENALDE is responsible for placement of seamen or this takes place directly in the ports; it looks forward to the time when the free public employment system for seafarers will be established, when the necessary practical data will have become available. The Committee has noted the labour market statistics supplied by the Government. It hopes that the enactment of the draft legislation will soon enable these Articles to be fully applied.

3. Article 5. The Committee notes with interest that the draft legislation includes provision for the consultation of shipowners and seafarers' organisations regarding seafarers' placement operations. It recalls also that there have been tripartite consultations during the preparation of the draft legislation in question. The Committee hopes that arrangements for consultations will be adopted in conformity with this Article, and that the Government will provide full details.

[The Government is asked to report in detail for the period ending 30 June 1986.]

Finland (ratification: 1922)

The Committee refers to the current reform of the system for placing seamen in its observation on Convention No. 145. Meanwhile, it notes the view of the Åland Shipowners' Association that the present system of choosing employees has proved inappropriate. As regards the observation of the Finnish Ship Officers Union that the "list system" applied to crew does not suit officers, the Committee

recalls that each country may decide for itself whether provisions similar to those of the present Convention applying to seamen should be put in force for deck-officers and engineer-officers (Article 9 of the Convention). It notes the Government's statement that such provisions exist, but no list system is applied for officers. It trusts the Government will supply full details of this aspect of the current reform.

Mexico (ratification: 1939)

1. The Committee notes the Government's reply to its previous observation: owing to the administrative reorganisation of the National Employment Service it is still not possible to provide the practical information requested concerning placement operations for seamen. The Government indicates that the Co-ordinating Unit for Employment and Training (UCECA) has been structurally dismantled and its functions have been transferred to the Departments of Employment (DGE) and Training and Productivity (DGCP); these, too, are being administratively reorganised. As regards the Advisory Council of UCECA, the Government states it is difficult to describe its present role; however, it refers to the participation of shipowners and most seafarers' unions in the Council.

2. The Committee recalls that the National Employment Service was due to be operative in December 1982 and to meet the placement needs of seafarers. The Committee must again express the hope that the Government's next report will be able to give full information, including statistics, on the work done by the new administrative structures referred to, in providing an efficient and adequate system of employment offices for seafarers in conformity with Article 4 of the Convention. It hopes the Government will also be in a position to describe the arrangements operating to ensure the participation of shipowners' and seafarers' representatives in an advisory capacity, in conformity with Article 5.

3. The Committee has noted with interest the information provided on the placement activities of the Union of Petroleum Workers in conjunction with the parastatal body, Petróleos Mexicanos (PEMEX). It hopes the Government will continue to provide full details in this respect.

[The Government is asked to report in detail for the period ending 30 June 1986.]

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In addition, requests regarding certain points are being addressed directly to the following States: Argentina, Bulgaria, Cameroon, Chile, Djibouti, Egypt, Greece, Israel, Panama, Peru, Poland, Romania, Spain.

Information supplied by Cuba and Yugoslavia in answer to a direct request has been noted by the Committee.



**Convention No. 11: Right of Association (Agriculture), 1921**Poland (ratification: 1924)

The Committee is examining under Convention No. 87 the question of the imposition by legislation of a single central organisation for agricultural workers.

Rwanda (ratification: 1962)

In its previous observations the Committee referred to section 186 of the Labour Code which excludes workers employed in agriculture from the provisions of the Code and noted that a draft revision of the Labour Code had been prepared providing for their inclusion.

The Committee notes that the Government's latest report repeats the information supplied in 1983 that the draft Code is being examined by the competent bodies with a view to its adoption. The Committee also notes the Government's statement that, in view of this, agricultural workers will be able to join freely the trade union that is to be set up shortly.

The Committee recalls that the Government has been referring to various legislative amendments to repeal section 186 since 1972. It trusts that the present draft Labour Code will be adopted without delay and requests the Government to send it a copy of the text once adopted.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Ecuador, Gabon, Greece, Lesotho, Mozambique, Turkey.

**Convention No. 13: White Lead (Painting), 1921**Afghanistan (ratification: 1959)

Further to its previous observations, the Committee notes from the Government's report, which was received too late to be examined at its 1984 Session, that the draft of the new Labour Code is in the final stage of elaboration for approval by the Revolutionary Council and that it contains provisions regarding the application of international labour standards, particularly those in Conventions ratified by Afghanistan. According to the report, this Convention is being observed by the concerned departments and supervised by the responsible authorities of the Government.

The Committee once again expresses the hope that the new Labour Code will be adopted in the very near future and that all other appropriate measures (including the adoption of the draft decree drawn up during the direct contacts which took place in 1974) will be taken to give effect to the Convention. It requests the Government to

provide information on how the Convention is being applied in practice pending the adoption of the Labour Code and regulations made under it.

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In addition, requests regarding certain points are being addressed directly to the following States: Chad, Guinea.

Information supplied by Benin, Burkina Faso and Nicaragua in answer to a direct request has been noted by the Committee.

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

Burundi (ratification: 1963)

Further to its previous comments, the Committee notes with satisfaction the adoption of Ministerial Ordinance No. 650/22 of 17 February 1984, issuing labour regulations for the weekly rest day and holidays, which ensures the application of the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: Haiti, Saint Lucia.

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

Requests regarding certain points are being addressed directly to the following States: Iraq, Panama.

Information supplied by Belize, Mauritius and Sierra Leone in answer to a direct request has been noted by the Committee.

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

Burma (ratification: 1956)

The Committee notes the information provided by the Government to the Conference Committee in June 1984 and in the report for the period 1983-84. In particular, the Committee notes that the draft laws to amend the Workmen's Compensation Act, 1923, and the Social Security Act, 1954, and to bring them into conformity with the Convention have been submitted to the Law Commission in December 1983 and will be tabled in the Pyithu Hluttaw (Parliament) as soon as they are passed by the Law Commission. The Committee hopes that these drafts will be enacted soon so as to give full application to Article 5 of the Convention.

Article 5. Under this Article, compensation payable to the injured workman or his dependants, where permanent incapacity or death

results from the injury, should be paid in the form of periodical payments, provided that it may be wholly or partially paid in a lump sum if the competent authority is satisfied that it will be properly utilised.

The Committee noted that in accordance with Article 10 the draft to amend the 1923 Act provided that if the injury necessitated the supply or renewal of an appliance and the employer could not supply or renew it, the injured workman would receive a lump sum for the cost. It hopes this amendment will also be enacted.

The Committee requests the Government to indicate any progress towards the enactment of this new legislation.

#### Colombia (ratification: 1933)

Article 2 of the Convention. 1. The Committee notes the information submitted by the Government to the Conference Committee (June 1984) and in its report. In particular, it notes with interest the extension of compulsory security in case of general sickness, work accidents and occupational diseases, for domestic service workers and self-employed workers. It also notes the adoption of Decree No. 614 of 14 May 1984, which determines the framework for the organisation and administration of occupational health in the country. The Committee again requests the Government to continue providing information on the extension of the work accidents section of the social security regime, with reference to the number of workers covered by this section and the percentage of the total number of workers, employees and apprentices who work in public or private enterprises.

2. The Committee observes that there is no information concerning the draft law for the reform of the Labour Code, which was carried out by the Committee to revise the Labour code, and therefore no information concerning the removal from the Substantive Labour Code of the exceptions and limitations contained in its articles 223(c), 224 and 225 which are not in conformity with the Convention. The Committee can only repeat its concern that protection is still not given to all those workers who have suffered work accidents covered by the Convention, though it has been ratified since 1933; it once again expresses the hope that, for as long as the social security regime has not been extended to all the national territory, the Government will modify the Labour Code in the sense indicated.

Article 5. With regard to its previous comments the Committee notes that, although the Government considers that there is no incompatibility between national legislation and this Article of the Convention, it will present the draft laws needed to overcome the existing differences.

With regard to the application of this Article of the Convention the Government mentions certain provisions of Legislative Decree No. 3170 of 1964 (sections 21 and 27), and urges the Committee to examine it in detail in order to confirm its full conformity with the Convention. On this point, the Committee recalls that in 1967 it made an observation of satisfaction with regard to this decree; nevertheless, this text only refers to benefits granted within the

social security system. Consequently, the Committee again expresses the hope that, at a future date, national legislation (namely section 204 of the Labour Code and sections 22, 23 and 35 of Decree No. 3135 of 1968) can be amended in order to ensure the full application of this provision of the Convention.

Article 7. With regard to its previous comments, the Committee notes with interest that the necessary studies will be carried out to assess the viability of establishing compensation for victims of work accidents who are incapacitated and must have the constant help of another person, as provided for in this Article of the Convention. The Committee hopes that the said studies will concentrate on the rapid adoption of a provision for the payment of the said compensation, and requests the Government to inform it of any progress made in this sense.

Article 9. In its previous comments, the Committee had requested the Government to indicate the legal provisions by means of which medical, surgical, pharmaceutical aid is granted and hospitalisation provided through the National Health System, and to communicate a copy of the respective texts. The Government has merely indicated that all persons who go to public hospitals and dispensaries have access to them, and that the texts will be forwarded to the ILO as soon as they have been compiled. The Government has also provided information concerning the amendment of paragraph 2 of section 207 of the Substantive Labour Code, through section 5 of Law No. 11 of 1984; this latter provision establishing that, in a case where the life of the injured or sick person is at risk through fault of the employer, and where there is a delay in the provision of medical, pharmaceutical, hospital or surgical aid to the worker, the employer is obliged to pay the worker a sum equal to five times the highest daily minimum salary, for each day that the delay has occurred.

The Committee takes note of this information and hopes the Government will communicate the text of the respective legal provisions with its next report.

Article 10. In its previous comments, the Committee had noted that both section 204, paragraph 2 of the Labour Code and section 21(b) of Decree No. 1848 of 1969, issued under Decree No. 3135 of 1968, provides for the supply of the necessary orthopaedic and surgical appliances, but not for their renewal in accordance with this provision of the Convention. In its reply, the Government expresses its concern for the welfare of workers, but adds that in its legislation it cannot ignore the economic capacity of employers of slender resources to fulfil obligations that the authorities may impose without taking national economic realities into consideration; it therefore indicates that it will endeavour, taking into account the level of economic development and of welfare of the various regions of the country, to see that all workers have the right to the supply and renewal of orthopaedic and surgical appliances.

The Committee takes note of these comments and, although it understands the considerations put forward by the Government, it again expresses the hope that at a future date the necessary measures will be adopted so that the workers covered by the Convention can benefit from the renewal of the orthopaedic and surgical appliances whose use

is considered necessary, and it requests the Government to communicate any measure adopted in this regard.

Iraq (ratification: 1960)

The Committee takes note of the information supplied by the Government in reply to its earlier comments.

1. Article 2 of the Convention. (a) The Committee had pointed out to the Government that the application of the Retirement and Social Security Act, No. 39 (1971), to private enterprises employing at least ten workers was not compatible with Article 2 of the Convention, which covers all enterprises and establishments, whether public or private, irrespective of the number of workers employed in them. In its reply, the Government has not indicated whether the social security system has been extended to cover all the establishments mentioned. However, the Committee notes with interest that the Tripartite Iraqi National Commission (TINC-ILO), established in 1983, recommended the adoption of measures to give effect to this provision of the Convention, and that a system to cover all workers will shortly be established. The Committee requests the Government to continue supplying information on all progress in regard to the extension of the social security system.

(b) The Committee again requests the Government to state whether the workmen's compensation branch of the social security system has been extended to cover all the workers in all regions of the national territory.

2. Article 5. In its earlier comments, the Committee requested the Government to state whether guarantees of the proper use of compensation paid in the form of a lump sum to the victims of an occupational accident suffering from permanent incapacity of less than 35 per cent (or to the dependants in the event of death) are supplied to the competent authorities in accordance with the provisions of the Convention. In its reply, the Government refers to Regulations No. 62 of 1959, respecting the Distribution of Compensation; the Committee requests the Government to supply, attached to its next report, a copy of these regulations.

3. Article 7. In its earlier comments, the Committee noted that in practice additional compensation (to a maximum of 200 dinars) is paid to victims of accidents whose incapacity necessitates the constant help of another person. However, the Government states in its latest reply that there is no provision in the laws or regulations in force which covers this practice. The Committee therefore trusts that the Government will adopt the necessary measures to cover this practice formally by legal provision, in conformity with the Convention, and requests it to report all progress in this connection.

4. Article 9. The Committee notes the information supplied by the Government in respect of medical care.

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In addition, a request regarding certain points is being addressed directly to Cape Verde.

**Convention No. 18: Workmen's Compensation (Occupational Diseases), 1925****Benin (ratification: 1960)**

1. The Committee has studied the information provided by the Government to the Conference Committee at its 70th Session (1984), and its report. It regrets to note that the draft amendment to the Ordinance No. 10/PCM of 21 March 1959 has not yet been adopted; according to the Government's statement to the Conference Committee at its 69th Session (1983), this draft amendment took into account the comments of the Committee of Experts and had been submitted to Parliament.

2. With regard to the divergencies of the list of occupational diseases annexed to the 1959 Ordinance, from those established by Article 2 of the Convention, the Government states as follows:

- (a) with regard to poisoning by lead, its alloys or compounds, that the Ordinance governing this subject dates from 1959, at which period the list of occupational diseases could only contain a restrictive list of certain pathological symptoms due to these forms of poisoning, but that medical tests on workers in production units showed no diagnosis of lead poisoning. It also specifies that the clinical difference between occupational and non-occupational diseases is rarely established by hospitals in Benin, where it is very difficult to obtain adequate statistics. Finally it states that the list will be completed as these strictly occupational diseases are clinically detected and that for this purpose efforts are being made for the specific training of occupational doctors;

The Committee notes the above-mentioned information; it is bound to recall that the system of double listing means that forms of disease and poisoning caused by substances included in the left hand column of the list in the Convention have to be considered occupational diseases, which relieves the patient from having the burden of proof when the above-mentioned forms of disease and poisoning affect workers in industries, occupations or operations corresponding to those appearing in the right hand column. The Committee has been stating for some years that the list of occupational diseases in the annex to the above-mentioned Ordinance contains a restrictive list of certain pathological manifestations due to these forms of poisoning, whereas the Convention, drawn up in general terms on this subject, covers all forms of poisoning caused by these substances.

- (b) regarding poisoning by mercury, its amalgams and compounds, that activities where there is a risk of this form of poisoning are irregular and rare, and that as in the previous case, it has not been possible to identify cases of poisoning caused by the substances in question.

In this context the Committee points out, that the Convention envisages no exceptions with regard to the nature of activities where there is a risk of occupational disease, nor as to the number of contingencies, however limited this may be. Consequently the Committee can only recall that the above-mentioned list in the

national legislation does not mention any of these forms of poisoning nor the activities which are at risk, contrary to the provisions of the Convention;

- (c) regarding anthrax infection, that all the provisions and measures concerning the health authorities have been adopted in order to complete the list at the appropriate time.

The Committee recalls that the national legislation refers, among the activities that may cause this infection, to the loading, unloading and transport of animal remains or of receptacles that may have contained such remains, whereas the Convention covers these operations for all merchandise in general, with a view to protecting workers who may have handled merchandise of any type that has been in contact with infected animals or animal remains.

3. The Committee notes that during 1985 the Office is to send an expert on occupational safety and hygiene to Benin. It expresses the hope that problems relating to the list of occupational diseases may be solved in the context of this mission and requests the Government to report all progress made in this respect.

#### Burkina Faso (ratification: 1960)

The Committee notes the Government's statement to the Conference Committee at its 70th Session (1984), and its report. It notes with regret that the draft Decree worked out in 1980 with the technical assistance of the ILO, which contains the revision of the list of occupational diseases annexed in Act No. 3-59 ACL, of 30 June 1959, has not yet been adopted.

The Committee notes that this draft Decree will be adopted shortly, and trusts that the Government will be able to communicate in the near future the adoption of the necessary measures for the full implementation of this Convention, taking into account its previous comments on Article 2 of the Convention, which referred to the inclusion in the list of occupational diseases of the following items:

- (a) in general terms, all forms of poisoning by lead, its alloys or compounds, and their sequelae (not only certain pathological manifestations listed restrictively as diseases due to lead poisoning, as in the list at present in force);
- (b) poisoning by mercury, its amalgams and compounds and their sequelae and the activities likely to cause such poisoning;
- (c) the loading and unloading or transport of merchandise in general, to be included among the activities likely to cause anthrax infection which already appear in the legislation.

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

Requests regarding certain points are being addressed directly to the following States: Angola, Brazil, Central African Republic, Islamic Republic of Iran, Lesotho, Sao Tome and Principe, Sudan.

Information supplied by Grenada in answer to a direct request has been noted by the Committee.

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

Requests regarding certain points are being addressed directly to the following States: Bolivia, Peru.

**Convention No. 22: Seamen's Articles of Agreement, 1926**Colombia (ratification: 1933)

With reference to its previous observation, the Committee takes note with interest of the information provided by the Government, to the effect that it hoped to submit to Congress towards the end of July 1984 a bill on the work of seafarers, which has been prepared by an ad hoc tripartite group, with the advice of an ILO expert, and that this includes provisions to give effect to the present Convention. The Committee hopes that the Government will be able in the near future to communicate the provisions adopted.

Panama (ratification: 1970)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

Article 9, paragraph 1, of the Convention. With reference to its earlier comments, the Committee notes the statement by the Government to the effect that the draft labour legislation for the Panamanian merchant marine drafted with the help of an ILO expert has not yet been approved by the National Legislative Council. The Committee hopes that, in the meantime, the necessary arrangements referred to by the Government may be made in accordance with the above-mentioned draft, or in some other way, to ensure that an agreement for an indefinite period may be terminated by either party in any port where the vessel loads or unloads, provided that notice of not less than 24 hours has been given.

Article 3, paragraph 4, and Article 14, paragraph 2. The Committee hopes that legislative or other measures to be taken will include those necessary to give effect to Article 3, paragraph 4, of the Convention (provision to ensure that the seaman has understood the agreement) and Article 14, paragraph 2 (right of the seaman to obtain from the master a separate certificate as to the quality of his work, or, failing that, a certificate indicating whether he has fully discharged his obligations under the agreement) - questions that the Committee has also raised in its earlier comments.



Somalia (ratification: 1960)

With reference to its previous observation, the Committee notes from the report of the Government that the committee of experts of the Standing Committee of the People's Assembly was to complete in July 1984 the draft amendments to the Maritime Code, which were to be submitted to the Assembly for adoption before being communicated to the ILO. The Committee therefore trusts that these provisions will soon be adopted and that they will give effect to Article 6, paragraph 3(10)(c), Article 9, paragraphs 1 and 2, and Articles 4, 8, 13 and 14, of the Convention.

[The Government is asked to report in detail for the period ending 30 June 1985.]

Venezuela (ratification: 1944)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee notes that, according to the Government, the final draft of the regulations on seafarers' articles of agreement will be in conformity with the requirements of the Convention. The Committee recalls that (i) section 289 of the regulations issued under the Labour Act, which prohibits the termination of an agreement when the vessel is in a foreign port, is contrary to Article 9, paragraph 1, of the Convention; and (ii) there are no provisions in the legislation corresponding to those of Article 8 (measures to enable a seaman to obtain clear information on board as to the conditions of employment), Article 13, paragraph 1 (possibility for a seaman to take his discharge to obtain a post of a higher grade), and Article 14, paragraph 2 (right of a seaman to obtain from the master a certificate as to the quality of his work).

The Committee hopes that the next report will contain information on the progress made in giving effect to the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: Iraq, Liberia.

**Convention No. 23: Repatriation of Seamen, 1926**Ireland (ratification: 1930)

Article 3, paragraphs 1 and 4, of the Convention. In its earlier comments the Committee has recalled that section 32 of the Merchant Shipping Act, 1906, does not cover the right to repatriation of (a) a seaman who leaves the ship in a Commonwealth country or (b) a foreign seaman who joins the ship in a foreign port and leaves it in

another foreign port. The first of these exceptions conflicts with Article 3, paragraph 1, of the Convention, and the second, when applied to a foreign seaman who joins a ship in his own country, conflicts with paragraph 4 of the same Article. While maintaining that national practice in the matter is in conformity with the Convention, the Government has been referring since 1965 to a proposed revision of the merchant shipping legislation. In its latest report the Government again states that work on this revision is under way and that the amendment of section 32 is among the issues to be considered as part of the review exercise.

The Committee can only emphasise that, as long as section 32 has not been amended, the seafarers concerned will not enjoy the protection to which they are entitled by virtue of the ratification of this Convention by Ireland. It trusts that the necessary measures will be adopted in the near future.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Greece, Iraq, Liberia.

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

##### Chile (ratification: 1931)

Article 4, paragraph 1 of the Convention. In reply to the earlier comments of the Committee, the Government states that the participation of those covered by Act No. 16781 of 2 March 1968, in the costs of the insurance provided for them, is in conformity with the provisions in Article 4, paragraph 2 of the Convention. The Government adds that the use of an alternative provision, of the same Convention, cannot be seen as a lack of progress in the full application of the Convention. The Committee wishes to point out that in its previous comments it has never cast doubt on the idea that insured persons should be required to participate in the costs of insurance, under paragraph 2 of this Article. The comments of the Committee dealt directly with the fact that while the Convention stipulates that the insured person shall be entitled free of charge, as from the commencement of his illness and at least until the period prescribed for the grant of sickness benefit expires, to medical treatment by a fully qualified medical man and to the supply of proper and sufficient medicines and appliances, national legislation provides for employees to benefit from medicines and appliances only when the financial resources of the Technical Assistance Fund (Fondo de Asistencia Técnica) allow, and subject to a decision by the President of the Republic.

The Committee therefore reiterates the hope that the Government will adopt the measures necessary to give full application to this provision of the Convention, which has been the subject of its comments since 1958.

Haiti (ratification: 1955)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee takes note of the statements made by the Government in its reports for the periods 1979-80 and 1981-82 and of the information furnished to the Conference Committee at its 66th (1980) Session, to the effect that, following a request for technical assistance, the ILO carried out a mission of evaluation in 1980 with a view to launching a technical co-operation project in the field of social security. The Committee hopes that this technical co-operation project enable the Government to give effect to the basic provisions of this Convention. The Committee asks the Government to indicate in its next report any progress made.

Peru (ratification: 1945)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

Article 2, paragraph 1, of the Convention (persons protected). In its previous comments the Committee expressed the hope that steps would be taken to provide medical treatment in all the provinces to which reference is made in Presidential Decree No. 002-75-TR of 1975. In this connection the Committee takes note of the statement made by the Government to the Conference Committee in June 1982 to the effect that several projects are under way for the creation of assistance centres or medical posts in the rural centres, so as to extend social security benefits to the provincial level. Bearing in mind that this problem has been pending for many years, the Committee ventures to suggest that the Government might consider the possibility of seeking technical advice from the ILO with a view to overcoming this difficulty in application in the near future. The Committee requests the Government to supply information on any progress made in this connection.

Article 4, paragraph 1 (medical treatment). In its previous comments the Committee expressed the hope that it would be possible to abolish certain qualifying conditions laid down in section 18 of Legislative Decree No. 22482 of 27 March 1979, on which the granting of medical treatment depends in principle (payment of a number of monthly contributions). In this connection the Committee takes note of the statement made by the Government to the Conference Committee in June 1982 to the effect that the comments in question had been brought to the attention of the Peruvian Institute of Social Security and of the General Directorate of Welfare and Social Security of the Ministry of Labour and Social Promotion, in order that the measures necessary to bring section 18 of the above Legislative Decree into conformity with Article 4 of the Convention might be taken.

Bearing in mind that this problem as well has been pending for many years, the Committee ventures to suggest that the Government might consider the possibility of seeking technical advice from the ILO with a view to overcoming this difficulty in application in the near future. The Committee requests the Government to supply information on any progress made in this connection.

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

Chile (ratification: 1931)

See under Convention No. 24.

Haiti (ratification: 1955)

See under Convention No. 24.

Peru (ratification: 1945)

See under Convention No. 24.

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

The Committee calls the attention of governments to the question of the application of this Convention (and of Convention No. 131) to workers in the home-working trades.

Article 1 of the Convention imposes on ratifying countries the obligation to create or maintain machinery whereby minimum wages can be fixed for workers in certain of the trades or parts of trades - and in particular home-working trades - in which no arrangements exist for the effective regulation of wages by collective agreements or otherwise and wages are exceptionally low.

Special attention is thus given in the Convention to fixing minimum wages for home-working trades. The Committee notes, however, that many of the governments which have ratified the Convention have indicated that they have not been able to fix minimum wages for some or all of these workers, most often because of the practical difficulties involved in implementation, according to the reports received.

The Committee recognises the practical difficulties involved. It also bears in mind the fact that under Article 2, each ratifying country is free to decide in which trades or parts of trades (and in particular home-working trades) the minimum wage-fixing machinery

shall be applied, after consultations with organisations of employers and workers. However, in view of the particular vulnerability of homeworkers and the attention consequently given them by the Convention, the Committee expresses the hope that governments will make every effort to extend to these workers the protection afforded by a system of minimum wages, and that governments which have not already done so will indicate in their reports on the application of this Convention the present position in this regard.

The Committee also hopes that governments will make every effort to include in their reports the information on the practical application of the Convention required under Article 5 and in Part V of the report form. It is raising this point also in a number of the comments addressed to ratifying States.

Gabon (ratification: 1960)

The Committee has noted the information in the Government's report in reply to its previous observation concerning the application of Article 3 of the Convention (consultation of employers' and workers' organisations).

India (ratification: 1955)

Further to its previous observations, the Committee notes the information contained in the Government's report concerning the payment of the revised minimum wage to cinema workers in West Bengal. It recalls that when minimum wages were revised for these workers in 1970, the employers concerned obtained from the Calcutta High Court an injunction against implementation, which is still in force. The Government has stated in its report that the State Government of West Bengal is unable to act contrary to the court order, but that it has recommended wage increases for these workers, which have been implemented through bipartite agreements in a number of cases. The Government states that the employees of some 300 out of 400 permanent cinema houses in West Bengal are now receiving minimum wages and about 50 per cent of them are receiving higher wages.

The Committee takes due note of this information, and hopes that the Government will be able to indicate in its next report that the minimum wages of these workers - which now have not been adjusted for over 15 years - will soon be implemented for all the workers concerned.

[The Government is asked to report in detail for the period ending 30 June 1986.]

Mauritius (ratification: 1969)

The Committee notes the information supplied by the Government in its report. It notes in particular that the Government has brought

to the attention of the Committee set up to repeal and replace the Industrial Relations Act, 1973 the Committee's previous comments concerning the need for statutory measures to ensure equal representation of employers' and workers' organisations on the National Remuneration Board. It hopes the Government will indicate in its next report what measures have been taken or are contemplated in this respect.

In this connection, the Committee notes the comments of the Mauritius Labour Congress on the application of the Convention, which were communicated by a letter dated 8 October 1984. In this communication, forwarded to the Government on 28 October 1984, the Mauritius Labour Congress has stated that members of the National Remuneration Board were appointed without consultation, and that there was no equal representation in practice of employers' and workers' representatives. The copies of letters exchanged between the Government and the Congress, enclosed in the Government's report, leave in doubt the consultation procedure which has been followed. As the Government has made no comment on the points raised, the Committee requests it to indicate in its next report what consultations have taken place with employers' and workers' organisations in this connection, and to provide details concerning the Board's present composition.

[The Government is asked to report in detail for the period ending 30 June 1985.]

#### Rwanda (ratification: 1962)

Article 4, paragraph 1, of the Convention. The Committee notes that the Government's report contained no reply to its previous observations concerning the need to amend the Labour Code with a view to the establishment of explicit sanctions for failure to observe the minimum wages fixed under section 85 of the Code. Since the Government expressed, in its report in 1979, its intention to amend the Labour Code in conformity with the Convention and progress was reported in its subsequent reports, the Committee trusts that the Government will take necessary measures shortly, and that it will be able to indicate in its next report that the necessary measures have been taken.

#### South Africa (ratification: 1932)

The Committee notes the detailed information in the Government's report on the practical application of the Convention. It refers to the comments of the International Metal Workers' Federation dated 21 November 1984, transmitting a memorandum from the Metal and Allied Workers' Union of South Africa. These communications were sent to the Government which has made no comment on the points raised therein. The memorandum stated that wages below the minimum wage rates in comparable sectors are being paid in part of the metalworking

industry, in particular at the Transvaal Alloys (Proprietary) Limited. The Committee therefore requests the Government to indicate whether minimum wages have been fixed for the sector in question, and if so whether these rates are in fact being paid to workers in this undertaking. If this undertaking is not covered by minimum wages, please indicate what consultations were carried out in this respect with workers' and employers' organisations in the trade or part of the trade, as required by Article 2 of the Convention.

The Committee also notes that the Wage Act, 1957, does not cover certain areas of the country, and that the Government's report contains no information on the application of the Convention in the areas known as Bophuthatswana, Ciskei, Transkei and Venda, or those areas known as "self-governing". It refers in this connection to its general observation.

[The Government is asked to report in detail for the period ending 30 June 1986.]

#### United Kingdom (ratification: 1929)

The Committee refers to its 1984 observation concerning the comments communicated by the Trades Union Congress (TUC) on the application of Article 4 of the Convention (supervision and sanctions, informing the employers and workers concerned on the minimum rates of wages in force, and measures to ensure observance of these wages), and the Government's comments on the TUC communications. The Committee noted at that time that over the period 1979 to 1982 there had been an increase in indirect checking and a diminution of inspection visits, and expressed the hope that the Government would be able to take appropriate measures to ensure fuller observance of the minimum wages set by wages councils.

In its most recent report, the Government has provided further details concerning its inspection and supervision procedures, showing an increase in inspection visits and other forms of checks, and reiterating its view that the procedures are found to be adequate. The TUC, in a communication dated 12 December 1984, stated that the Government had not responded positively to the Committee's previous observation but, by reducing inspection visits, had weakened still further the machinery for ensuring observance of the wages councils' orders. The Government has made further comments on the TUC communication in a letter dated 18 February 1985, and maintains that the resources it devotes to inspection and enforcement are adequate in the light of the general level of compliance.

Having examined the detailed statistical information submitted as well as the comments and explanation provided by the Government and the TUC since the matter was brought to its attention, the Committee notes that there is disagreement between the two sides on the adequacy of the level, but also and mainly, of the methods of inspection (visits or indirect checking).

The Committee considers that the situation as a whole cannot be regarded as being an infringement of the requirements of Article 4 of the Convention.

In view of the concern expressed by the TUC, however, the Committee expresses the hope that the Government will keep the matter under close review and will continue to provide information on the practical application of this Article.

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In addition, requests regarding certain points are being addressed directly to the following States: Argentina, Bahamas, Barbados, Belize, Brazil, Burma, Central African Republic, Chad, Chile, China, Colombia, Comoros, Czechoslovakia, Dominican Republic, Grenada, Guatemala, Guinea-Bissau, Guyana, India, Madagascar, Portugal, South Africa, Switzerland, United Republic of Tanzania, Togo, Tunisia, United Kingdom, Venezuela.

### Convention No. 28: Protection against Accidents (Dockers), 1929

#### Luxembourg (ratification: 1931)

With reference to its earlier observations, the Committee notes with interest from the report of the Government that (a) regulations are being prepared to ensure the incorporation in the domestic law of Luxembourg of the standards laid down by the directive adopted by the Commission of the European Communities on 4 October 1982 to establish the technical specifications for vessels engaged in inland navigation and (b) that the relevant occupational chambers are being consulted. The Committee further notes that the above-mentioned directive fixes 1 January 1985 as the date limit for the adoption of practical measures to give full effect to it.

Recalling that no national regulations exist at the moment to give effect to the Convention, the Committee trusts that the measures referred to will be adopted very soon and that they will give effect to all the provisions of the Convention.

[The Government is asked to report in detail for the period ending 30 June 1985.]

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Information supplied by Nicaragua in answer to a direct request has been noted by the Committee.



**Convention No. 29: Forced Labour, 1930****Bangladesh (ratification: 1972)**

1. Legal restrictions on the termination of employment. In comments made for a number of years the Committee noted that under the Essential Services (Maintenance) Act, No. LIII of 1952, it is an offence punishable with imprisonment for up to one year for any person in employment of whatever nature under the Central Government to terminate his employment without the consent of his employer, notwithstanding any express or implied term in his contract providing for termination by notice (sections 2, 3(1)(b) and explanation 2, and section 7(1)). Pursuant to section 3 of the Act, these provisions may be extended to other classes of employment. Persons to whom the Act applies may also be ordered, subject to penal sanctions, not to leave specified areas (sections 4, 5(c) and 7(1)). Similar provisions are contained in the Essential Services (Second) Ordinance, No. XLI of 1958 (sections 3, 4(a) and (b) and 5). The Committee observed that although in such cases the employment initially results from a freely concluded agreement, the effect of statutory restrictions preventing termination of employment of indefinite duration by means of notice of reasonable length is to turn a relationship based on the will of the parties into service by compulsion of law, and is thus incompatible with the Convention.

The Committee noted the Government's statement that restrictive provisions under the Essential Services Ordinance, 1958, are applied to establishments that are declared by the Government as being essential services for a specified period of time and that they do not as such prevent employees from seeking termination at their initiative. The Committee referred to the comments made in paragraph 67 of its 1979 General Survey on the abolition of forced labour where it indicated that workers may be prevented from leaving their employment in emergency situations within the meaning of Article 2, paragraph 2(d), of the Convention, i.e. any circumstances that would endanger the life, personal safety or health of the whole or part of the population. It observed that the provisions of the Essential Services (Maintenance) Act apply in broader circumstances, including any employment of whatever nature under the Central Government.

The Committee notes the comments made by the Bangladesh Free Trade Union Congress in a letter of 23 September 1984 on the application of the Convention. According to these comments the Essential Services (Maintenance) Act is applied freely; although it can be applied for a definite period, experience shows that it continues for an indefinite period by simple renewal every six months and that even bank employees are prevented from leaving their employment.

The Committee notes the Government's statement in reply that the comments of the Bangladesh Free Trade Union Congress are not based on facts or on rules and regulations, that a detailed reply will be communicated after the necessary review, and that the comments of the Committee of Experts are under examination.

The Committee hopes that the necessary measures will soon be taken to bring the legislative provisions referred to into conformity with the Convention, and that the Government will indicate the action taken or envisaged to this effect.

2. Communication of comments made by employers' and workers' organisations. The Committee previously noted from the Government's reports that the Government received observations on the application of the Convention from Bangladesh Jatiyatabadi Sramik Dal and the Bangladesh Employers' Association for the period ending 30 June 1981 and from the Bangladesh Employers' Association for the period ending 30 June 1983. The Committee again expresses the hope that copies of these observations will be communicated by the Government.

Brazil (ratification: 1957)

The Committee takes note of the report of the Government.

With reference to its earlier comments, the Committee takes note with satisfaction of section 36, subsection 3, of the Act respecting the serving of sentences (Act No. 7210 of 11 July 1984), under which the performance of labour for private entities is conditional on the explicit consent of the prisoner.

The Committee is addressing a direct request to the Government in this connection.

Byelorussian SSR (ratification: 1956)

The Committee notes the information supplied by the Government.

1. Resignation of members of collective farms. Further to its earlier observations on this matter, the Committee notes with satisfaction from the report of the Government that the Union Council of Collective Farms has issued an explanation concerning the application of clause 7 of the model collective farm rules indicating that neither the managing committee of a collective farm nor the general assembly of the members of a collective farm is entitled to refuse the application to resign of a member of a collective farm. Furthermore, referring to clause 40 of the instructions for the keeping of workbooks of members of collective farms, the Presidium of the Union Council of Collective Farms states that the managing committee of a collective farm must, on the day following the resignation of a member of the collective farm, hand over his workbook to him.

Observing that the explanatory note in question is annexed to Decree No. 139 of 8 February 1984 of the Presidium of the Union Council of Collective Farms, the Committee asks the Government to communicate the official text publishing this Decree and the annex.

2. Legislation concerning persons "leading a parasitic way of life". In earlier comments, the Committee noted that a Decree of the Presidium of the Supreme Soviet of the Byelorussian SSR, dated 15 August 1975, repealed both the Decree of 15 May 1961 as amended,

which authorised the direction to an employment, by decision of the executive committee of a council of workers' deputies, of persons evading socially useful work and leading an anti-social and parasitic way of life, and section 204<sup>(1)</sup> of the Penal Code of the Byelorussian SSR, which laid down penalties for refusal to comply with such a decision. The Committee had asked the Government to state whether amendments had been made at the same time to section 204 or other sections of the Penal Code of the Byelorussian SSR.

The Committee notes that the report of the Government contains no information on this matter. It again asks the Government to supply the text of section 204 of the Penal Code, as worded at present, and any other provisions establishing or defining offences connected with the leading of a parasitic way of life.

3. Supply of legislative texts. The Committee has been asking the Government since 1964 to provide the text of the Administrative Code of the Byelorussian SSR, of any regulations issued under this Code and of any laws or regulations governing the performance of communal services mentioned by the Government in an earlier report. It once more expresses its regret that these documents have not yet been sent and again urges the Government to send them.

#### Central African Republic (ratification: 1960)

1. With reference to its earlier comments, the Committee notes with satisfaction that Ordinance No. 83/010 of 4 February 1983 has repealed the provisions of Ordinance No. 74/017 of 26 June 1974 to oblige all persons who have received training at the expense of the State to serve the State for 15 years. The Committee also notes that, by virtue of section 4 of Ordinance No. 83/010, a decree will lay down the procedure for the application of the Ordinance. The Committee asks the Government to provide the text of the decree adopted.

2. In its earlier comments, the Committee had noted the preparation of draft ordinances to repeal Ordinance No. 66/004 of 8 January 1966 respecting the suppression of idleness (as amended by Ordinance No. 72/083 of 18 October 1972), section 11 of Ordinance No. 66/038 of 3 June 1966 relating to the supervision of the active population and sections 2 and 6 of Ordinance No. 75/005 of 5 January 1975 making the performance of commercial, agricultural and pastoral activities compulsory. The Committee notes the statement by the Government in its report that the draft ordinances are being submitted to the Committee on Legislation. The Committee hopes that the necessary measures will be adopted in the near future to repeal the provisions that are incompatible with the Convention.

3. In its earlier observations, the Committee had also referred to section 28 of Act No. 60/109 of 1960 respecting the development of the rural economy, which provides that minimum surfaces for cultivation shall be fixed for each rural community. The Committee notes that the Government repeats the statement that the practice of compulsory cultivation no longer exists in the Central African

Republic and that vigorous efforts to provide guidance for the peasants and to awake their consciousness are encouraging them to work on their own account. The Committee trusts that measures will be taken in the near future, in accordance with the intention already expressed by the Government, to ensure that the Convention is observed both in law and in practice.

Guinea (ratification: 1959)

The Committee notes that the Government's report has not been received and it refers to its observation on Convention No. 105.

Haiti (ratification: 1958)

Further to its earlier comments, the Committee notes with satisfaction that the Decree of 24 February 1984 to bring the Labour Code of 12 September 1961 into conformity with the standards laid down by certain Conventions of the International Labour Organisation, amends section 4 of the Labour Code so as to give a definition of forced labour in compliance with Article 2 of the Convention.

Iceland (ratification: 1958)

The Committee notes the information provided by the Government in its report.

In earlier comments, the Committee noted that by virtue of section 180 of the Penal Code, the administrative authorities are empowered to direct certain classes of anti-social persons to any suitable employment under the menace of penal sanctions. The Committee also noted the statement by the Government that this provision had never been applied in practice and that it was to be amended during the next revision of the Penal Code.

The Committee notes from the report of the Government that the amendment of the section in question has not yet taken place, but that the Ministry of Justice has been asked to take action in this respect as soon as possible. Observing that the provision has been the subject of comments for several years, the Committee hopes that, in the light of Article 2, paragraph 2(c), of the Convention and the explanations given in paragraphs 46 to 48 of its 1979 General Survey on the abolition of forced labour, the necessary measures will be taken to bring section 180 of the Penal Code into conformity with the Convention and with practice, and that the Government will soon be able to report the action taken in this connection.

Madagascar (ratification: 1960)

Article 2, paragraph 2(c), of the Convention. In its earlier comments, the Committee referred to the provisions of Decree No. 59-121 of 27 October 1959 to establish the general organisation of prison services, as amended by a Decree of 6 March 1963, under which prison labour may be hired to private undertakings and prison work may be imposed on persons awaiting trial.

The Committee notes with interest the statement by the Government in its report that the hiring of prison labour to private individuals was abolished by Circular No. 10-MJ/DIR/CAB/C of 1 July 1970, a circular that has been reproduced many times, particularly with regard to abuses committed in the use of this labour by the administrative authority.

The Committee also notes the indication by the Government that, following the comments of the Committee of Experts, persons awaiting trial are no longer forced to perform prison work.

The Committee notes that it has not been possible to carry out the revision of Decree No. 59-121 of 27 October 1959 since another draft to institute a general reform of the prison services has been drawn up and is to be submitted shortly to the Government.

The Committee hopes that the necessary measures will be taken to bring the legislation into conformity with the Convention and with the administrative instructions on this point and, pending the amendments, asks the Government to furnish a copy of the Circular of 1 July 1970 and of the other instructions to which it refers in its report.

Mauritania (ratification: 1961)

The Committee notes the information communicated by the Government to the Conference Committee in 1984.

1. Calling up of labour. In its earlier comments, the Committee noted that Ordinance No. 62-101 of 26 April 1962 and Act No. 70-029 of 23 January 1970 confer very wide powers on the authorities to requisition persons outside the cases of emergency covered by Article 2, paragraph 2(d), of the Convention. It noted with interest the statement made to the Conference Committee in 1982 by a Government delegate that the Government recognised the necessity of repealing provisions that are not in conformity with the Convention and that a revised draft Labour Code would ensure that the legislation is in full conformity with the Convention. The Committee notes the information communicated to the Conference Committee in 1984 by a Government delegate to the effect that the revision of the Labour Code was finished and that the revised draft Code would be submitted to the International Labour Office for comments, before its adoption by the competent authorities, as soon as possible.

The Committee hopes that the Government will communicate in the near future the texts repealing or amending the provisions in question to bring them into compliance with Article 2, paragraph 2(d), of the Convention.

2. Abolition of slavery. In its earlier comments the Committee referred to the Report of the Working Group on Slavery of

the United Nations Subcommission on Prevention of Discrimination and Protection of Minorities on its Seventh Session, held in August 1981, in which the Group referred to allegations made by the Anti-Slavery Society for the Protection of Human Rights regarding the effects of the declaration of 5 July 1980 proclaiming the abolition of slavery throughout the whole national territory and for all Mauritanian citizens. The Committee also noted Ordinance No. 81-234 of 9 November 1981 to abolish slavery, which provides that slavery in every form shall be definitively abolished throughout the whole territory of the Islamic Republic of Mauritania, that, in accordance with the sharia, abolition shall give rise to compensation for those having held titles to the former slaves and that a national commission shall be established by decree to study the procedure governing compensation, a procedure to be fixed by decree after completion of the study. The Committee noted that the Ordinance contains no provision imposing penal sanctions for the illegal exaction of forced labour.

The Committee notes the statement by the Government to the Conference Committee in 1984, that the Decree issued to abolish slavery had almost completely changed the situation inherited from a lengthy past and had disturbed deeply rooted customs; it was a problem of society requiring efforts to educate the population, including the freed slaves, because since they had acquired certain habits, it was difficult for them to emancipate themselves completely. The Committee notes the assurances of the Government representative that slaves no longer exist in the country, that well-organised movements and even enforcement brigades, are following the problem and that a certain number of economic or political measures, in particular agrarian reform and educational programmes using theatrical and folklore presentations are in progress.

The Committee also notes the report presented to the United Nations Subcommission on Prevention of Discrimination and Protection of Minorities, following a mission to Mauritania by one of its members (document E/CN.4/Sub.2/1984/23). The Rapporteur indicates that, in circular No. 003 of 9 January 1981, the Minister of Justice urged the judges and Cadis (Al-Koodat) to respect scrupulously the solemn decision of 5 July 1980 and to remain in complete conformity with international and national law; he also notes that, in circular No. 108 of 8 May 1983, the Minister again prohibited judges to take decisions incompatible with the texts cited therein and requested governors to give notification of all breaches and irregularities which came to their knowledge. The Rapporteur points out, however, that adherents to a movement for the emancipation of former slaves complain that the abolition of slavery has not been accompanied by penal sanctions for those contravening its provisions. He also notes that no decree has yet been issued in pursuance of section 3 of Ordinance No. 81-234 of 9 November 1981, and that certain persons are under the impression that the Ordinance is not effectively in force as long as the implementing decree provided for therein, is not promulgated, and that the view has been expressed that masters might tell their slaves that they are still subject to slave status, because compensation has not yet been received and cannot be claimed in the absence of the implementing decree.

The Committee requests the Government to communicate all information on the measures taken or contemplated to ensure the application of the decisions abolishing slavery and to give effect to Article 25 of the Convention, under which the illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and strictly enforced. The Committee requests the Government to communicate, in particular, the text of the implementing decree provided for under section 3 of Ordinance No. 81-234 as soon as it is adopted and of court decisions made following law suits brought against those not observing the provisions abolishing slavery.

Morocco (ratification: 1957)

The Committee notes the report of the Government.

1. In its earlier comments, the Committee referred to the right to call up persons provided for by the Dahirs of 10 August 1915 and 25 March 1918, contained in the Dahir of 13 September 1938, as reintroduced by Decree No. 2-63-436 of 6 November 1963, creating the right to call up persons and requisition goods in order to satisfy national needs.

The Committee noted the Bill respecting the right to call up persons, communicated by the Government, and it noted the statement by the Government in its report for 1975 to 1977 that the right to call up provided for by section 1 of the Bill was restricted to exceptional situations endangering the public safety, peace and health and that the draft decree to be issued under the Bill provided that the calling up order should state the nature, the purpose and the duration of the service and the date and place of calling up.

The Committee pointed out that although some of the situations envisaged by the Bill respecting the right to call up would endanger the life, personal safety or health of the population, this was not necessarily the case for public transport or for the installation or maintenance of public services (other than those essential for the life of the nation, which are also covered by the Bill).

The Committee notes that the Government's report contains no new information in respect of the texts and drafts cited above.

The Committee also notes the Report of the Committee on Freedom of Association on Case No. 1201, approved by the Governing Body at its 226th Session (May-June 1984). The Committee notes that the Committee on Freedom of Association refers in its conclusions particularly to allegations that striking railwaymen were issued requisition orders at their homes and to the conviction of certain trade unionists for refusing to comply with these orders.

The Committee again requests the Government to indicate the measures taken or contemplated to repeal the provisions of the texts mentioned above, respecting the right to call up persons and requisition goods, which are incompatible with Article 2, paragraph 2(d), of the Convention and also to indicate the measures taken or under consideration with respect to the Bill and the draft implementing decree, to ensure that within the legislation, the

conditions conferring the right to call up are limited expressly to situations endangering the life, the personal safety or the health of the whole or part of the population.

2. In its earlier comments, the Committee referred to the absence of penal sanctions for the illegal exaction of forced labour. The Committee points out that, since its report for 1967-69, the Government has referred to the draft Labour Code which provides for a prohibition of forced or compulsory labour enforced by penal sanctions. The Committee notes that this draft has not yet been adopted.

Referring to paragraphs 84 to 87 of its General Survey of 1979 on the Abolition of Forced Labour, the Committee recalls that the illegal exaction of labour shall be punishable by penal sanctions and that the Government must ensure that the penalties imposed by law are really adequate and are strictly enforced. The Committee hopes that the necessary measures will be taken in the near future to give effect to Article 25 of the Convention.

3. In earlier comments, the Committee also referred to texts providing for the assignment of military recruits to work in the general interest and the hiring of prisoners to private establishments.

The Committee notes that the last report of the Government contains no new information in this connection. It again addresses a direct request to the Government regarding these issues and hopes that the Government will take the measures necessary to bring the legislation into conformity with the Convention on these points.

#### Paraguay (ratification: 1967)

Article 2, paragraph 2(c), of the Convention. In earlier comments, the Committee pointed out that section 39 of Act No. 210 of 1970 respecting the prison system is contrary to the Convention, since it states that "work shall be compulsory for detainees", and section 10 of the same Act defines as detainees not only convicted persons but also those subjected to security measures in a prison establishment.

The Committee takes note of the Bill to amend section 39 of Act No. 210, under which detainees who have not been sentenced and those who have been sentenced for political offences not involving violence are exempted from the obligation to work.

The Committee hopes that the necessary measures will be taken to bring the legislation into conformity with the Convention.

#### Romania (ratification: 1957)

The Committee notes that the report of the Government contains no information on the questions which have been the subject of comments over a number of years.

The Committee referred to the provisions of Act No. 24 of 5 November 1976 on the recruitment and placement of labour, and Act No. 25 of 5 November 1976 on the assignment of able-bodied persons to useful work. By virtue of these Acts, all able-bodied persons of more than 16 years of age, who are not receiving training and are



without employment, are obliged to register with the Directorate of Labour and Social Security or its regional office, with a view to being placed in employment. Under section 7 of Act No. 25, an allocation order is binding and persons allocated to employment shall report immediately to the undertaking indicated with a view to their engagement. Measures of persuasion are provided for under section 8 of the same Act in respect of persons who systematically refuse without valid reason to be engaged for employment. Where, despite all the encouragement he has received, the person concerned refuses to take up employment or follow a course of training and continues to lead a parasitic form of life, he is obliged, under the terms of section 9 of Act No. 25, to work in an undertaking determined by court order or, if a minor, to be placed in a labour and re-education centre. The court order will be final and enforceable under the terms of section 10, paragraph 4; section 11 of the Act provides that the police authorities shall ensure its implementation. By virtue of section 12, paragraph 2, no person placed in employment as the result of a court order, may change his workplace before a year has passed.

The Committee notes, furthermore, that section 129 of the Labour Code allows a worker to terminate his employment on his own initiative, subject to the fulfilment of certain formalities, but that in so doing, the worker is obliged, in conformity with Act No. 24 of 1976, to register a request for placement in employment, which will result in his compulsory allocation to a workplace under section 7, paragraph 1, of Act No. 25 of 1976.

The Committee refers to the comments made in paragraph 45 of its General Survey of 1979 on the Abolition of Forced Labour, where it pointed out that legislation creating an obligation for all able-bodied citizens to work under the menace of a penalty is incompatible with the Convention.

Recalling that the Government earlier stated that it would examine the possibility of amending the legislation in question, the Committee hopes that measures will be taken to ensure the observance of the Convention in this respect.

#### Suriname (ratification: 1976)

Article 25 of the Convention. Further to its previous comments the Committee notes with satisfaction that under section 20a of the Labour Act, 1963, as amended by Decree No. E-41 of 12 September 1983, it is prohibited to have an employee perform labour by violence or threat of violence, by threats of punishment or by any other force or threat of force except, in case of war or other such disasters or threats thereof, which endanger or might endanger the life or the normal living conditions of the whole population or any part thereof, and that under section 34, paragraphs 4 and 5, of the Act, as amended, everyone who acts in contravention of these provisions shall be liable to imprisonment not exceeding nine months.

Thailand (ratification: 1969)

Article 25 of the Convention. In previous comments the Committee noted that in the report on its Sixth Session (August 1980), the Working Group on Slavery of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities had referred to allegations that children were bought and sold in Thailand for work in private houses, restaurants, factories and brothels, that there were a number of shops in Bangkok which specialised in the sale of children and teenagers, that thousands of child catchers were active in the North East of the country, and that, although laws for the protection of children existed, there was a lack of enforcement by the police, who would accept bribes and other favours in return for their inaction.

The Committee further noted that in its reply to these allegations, the Government had indicated that working children were fully protected under the law, that laws and regulations were strictly enforced as far as could be ascertained, and that, whenever a case of law infringement arose, the offenders were duly punished. The Government also indicated that the Police Department had been instructed to be on the look-out for the unscrupulous activities of job-securing agents in various centres and to investigate night spots and brothels to see whether children had been hired to work there, and that the Department of Labour had been instructed thoroughly to inspect the employment of children and to monitor and control the activities of private employment agencies.

In the report on its Eighth Session (August 1982) the Working Group on Slavery noted allegations that the illegal employment agencies were still operating, that the owners of factories and brothels were using middle-men on a percentage basis to recruit children directly from villages and that laws against such abuses were inadequately enforced.

In the light of the above-mentioned allegations, the Committee had requested the Government to supply details of the action taken by the police and the Department of Labour, including any legal actions brought against persons involved in the sale and purchase of children and any measures taken for the rehabilitation of the children concerned. The Government indicated in May 1984 that the necessary information was being collected from the agencies concerned. The Committee trusts that the requested particulars will be furnished in the near future.

Tunisia (ratification: 1962)

1. In its earlier comments, the Committee referred to the provisions of Legislative Decree No. 62-17 of 15 August 1962 under which any male person who in bad faith refuses to work may be directed to rehabilitation through work on worksites of the State.

The Committee notes the Government's statement that assignment to the rehabilitation centres is ordered only as a supplementary measure to a court sentence or as a preventive measure against potential delinquents and that the presence of a magistrate ensures that the

person concerned has every opportunity of presenting his defence and that he has not yet any specific training or employment. According to the Government, the terms of the Legislative Decree differ from the conditions in which the system of rehabilitation through work actually functions and the Ministry of the Interior has been asked once more to revise certain provisions of the Legislative Decree to bring its terms into harmony with the present reality.

The Committee trusts that the Government will be able in the near future to state that the legislation has been brought into conformity with the practice and with the Convention on this point.

2. The Committee noted in earlier comments the provisions of Act No. 78-22 of 8 March 1978 to establish the civic service, under which any Tunisian of between 18 and 30 years of age who cannot show that he has a job or is registered in an educational or vocational training establishment may be assigned for a year or more to economic and social projects or rural or urban development projects, under penalty of compulsory rehabilitation through work in the event of refusal or desertion.

The Committee notes the Government's statement that the worksites set up by the State under this system of dealing with unemployment have been closed completely for several months, that the Ministry of the Interior is studying a new reform of the civic service that will take account of past experience, of the present facts relating to unemployment in Tunisia and of the observations of the Committee of Experts and that the revision of the civic service system implies the revision of the law in question.

Noting the statement of the Government representative to the Conference Committee in 1984 that the Government attaches great importance to the application of the legislation in compliance with the Convention, the Committee expresses the hope that the Government will soon indicate amendments made to bring the text in question into conformity with the Convention.

#### Zaire (ratification: 1960)

The Committee notes the information provided by the Government in its last report.

1. In its earlier comments, the Committee noted that a draft ordinance had been prepared to provide for the repeal of the provisions of sections 18 to 21 of the Legislative Ordinance on minimum personal contributions, No. 71/087 of 14 September 1971 (which provides for the imprisonment with compulsory labour of tax defaulters by decision of the chief of the local community or the area commissioner) and their replacement by provisions allowing defaulting taxpayers to choose the performance of work designated by the competent local authority and remunerated in accordance with the legislation on legal minimum wages. This draft Ordinance also provided for the repeal in full of Ordinance No. 15/APAJ of 20 January 1938 respecting the prison system in native districts.

The Committee notes the statement by the Government that this new text will be transmitted as soon as possible after promulgation.

The Committee recalls that this question has been a subject of comments for many years and trusts that the draft intended to ensure the observance of the Convention will be adopted in the near future and that a copy will be supplied when the text is promulgated.

2. The Committee previously noted that the services of medical practitioners and graduates may be requisitioned under Legislative Ordinances Nos. 68/071 of 1 March 1968 (as amended in 1969) and 72/058 of 22 September 1972. It also noted that under Legislative Ordinance No. 78/022 of 7 August 1978, supplementing Ordinance No. 72/058, the services of certain classes of graduates in higher education may be requisitioned, and that they shall receive their certificates of graduation only after completion of their compulsory service.

The Committee notes the statements by the Government that it should be noted that, under the provisions of section 1 of Legislative Ordinance No. 72/058 of 22 September 1972, the duration of requisitioning for graduates of higher and university education is the same as the normal length of their studies, that Legislative Ordinance No. 78/022 applies not to all final-year students but to those of higher teaching and technical institutes and persons who have qualified for secondary teaching, that most of the final-year students called up are often assigned to the establishments of their choice and that those who evade requisitioning are not liable to punishment by the courts.

The Committee recalls the earlier statements by the Government that it was aware that no major progress had yet been made in bringing the legislation into harmony with the Convention, and that working sessions were being organised to bring the competent officials of the ministries concerned together for a detailed examination and for amendment of the texts concerning civilian service. The Committee trusts that the necessary measures will soon be taken to bring the whole of the legislation on civilian service into conformity with the Convention and that the Government will shortly report progress achieved in this matter. Meanwhile, the Committee asks the Government to supply all information concerning the practical application of Legislative Ordinance No. 78/022 of 7 August 1978, including copies of the orders and of the list of names brought to the knowledge of the persons concerned through the press.

3. The Committee previously noted the provisions of Act No. 76/011 of 21 May 1976 concerning national development efforts to increase productivity, which oblige, under pain of penal sanction, every able-bodied adult person of Zairian nationality who is not already considered to be making his contribution by reason of his employment (political representatives, wage earners and apprentices, public servants, tradesmen, members of liberal professions, the clergy, students and pupils) to carry out agricultural work and other development work as decided upon by the Government. It has also noted the measures to implement Act No. 76/011 laid down in Departmental Order No. 00748/BCE/AGRI/76 of 11 June 1976.

The Committee notes the statements by the Government that consultations have actually taken place between representatives of the ministerial departments concerned with a view to preparing amendments in conformity with the earlier comments of the Committee. The Government states, in particular, that an amendment concerns

section 11 of Act No. 76/011 of 21 May 1976, which provides for penal sanctions against persons who evade the obligation to produce.

The Committee trusts that the necessary measures will be adopted shortly to bring the entire texts in question into conformity with the provisions of the Convention and that the Government in its next report will indicate the amendments adopted.

4. The Committee notes that as part of the work of revising the Labour Code that is at present going on, it is planned that those infringing the provisions prohibiting the exaction of work or service from any person, under the menace of any penalty, for which the said person has not offered himself voluntarily shall be punished by a fine. It hopes that the Government will soon be in a position to transmit the text of this new Code.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Australia, Bangladesh, Benin, Brazil, Byelorussian SSR, Central African Republic, Chile, Congo, Denmark, Fiji, France, Guinea, Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Lao People's Democratic Republic, Luxembourg, Madagascar, Mauritania, Mexico, Morocco, Paraguay, Portugal, Romania, Saint Lucia, Saudi Arabia, Seychelles, Singapore, Somalia, Spain, Suriname, Swaziland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Uganda, Yemen, Yugoslavia.

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

#### Chile (ratification: 1935)

Further to its previous comments, the Committee notes the information communicated by the Government in its last reports. It also notes the conclusions in the report of the Committee set up under article 24 of the ILO Constitution to examine the representation presented by the National Trade Union Co-ordinating Council (CNS) of Chile, alleging, inter alia, non-observance of this Convention.

1. In its report, adopted by the Governing Body at its 228th Session (November 1984), the Committee set up under article 24 of the Constitution recommended, first, that measures should be taken to amend section 39 of Legislative Decree No. 2200 of 1978 (as amended by Act No. 18018 of 1981), so that in cases of uneven distribution of weekly hours of work, normal hours of work should not exceed ten hours per day, in conformity with Article 4 of the Convention.

The Committee of Experts notes with satisfaction that section 39 has been amended by Act No. 18372 of 1984 and stipulates that the distribution of the 48 hours of work per week must be over a period of at least five days, and limits normal hours of work to ten hours per day.

2. The Committee set up under article 24 of the Constitution also recommended that measures should be taken to amend section 36 of the same Act, so as to authorise overtime of workers in commerce only

by means of regulations issued after consultation with the workers' and employers' organisations, which should determine the number of additional hours of work that may be allowed in the day and in the year, in conformity with Article 7, paragraphs 3 and 8.

The Committee of Experts notes that the amendment introduced to this provision by the Act of 1984 does not alter this situation.

3. The Committee also referred in its earlier comments to section 42 of the Legislative Decree of 1978 (as amended in 1981), which allows the parties to agree to up to two hours' overtime per day to be worked in tasks which, by their very nature, are not harmful to the health of the worker. Moreover, under section 43, paragraph 2 of the Legislative Decree cited above, the hours of work performed in excess of the normal weekly hours, with the knowledge of the employer, are considered as overtime hours, even in the absence of written agreement.

The Committee points out that these exceptions to normal hours of work are authorised only in the cases provided for by the Convention, and that the maximum number of overtime hours permitted must be fixed not only by the day or the week but also by the year (Article 7); these exceptions shall be decided after consultation with employers' and workers' organisations (Article 8).

4. The Committee hopes that the Government will take the measures necessary to bring its legislation into full conformity with the Convention on the points raised above.

[The Government is asked to report in detail for the period ending 30 June 1986.]

#### Iraq (ratification: 1965)

Article 7 of the Convention. In its earlier comments, the Committee pointed out that certain provisions of the Labour Code (amended by Act No. 110 of 1978) were not in full conformity with this Article of the Convention on the following points:

- section 67(b)(5), under which normal hours of work may be prolonged if the work is required for development purposes or to increase production;
- section 68(b)(3) which, in non-industrial work, limits the number of hours of overtime to four per day without determining, as provided for in paragraph 3 of this Article of the Convention, the maximum number of hours of overtime which may be permitted in the year in respect of temporary exceptions.

In its report, the Government states that the country is passing through an exceptional period. While taking note of this statement, the Committee reiterates its hope that the Government will shortly be able to take the measures necessary to bring its legislation into full conformity with the Convention on these points.

Article 11, paragraph 2(a) and (b). See under Convention No. 1, Article 8, paragraph 1(a) and (b).

Nicaragua (ratification: 1934)

See the observation under Convention No. 1.

[The Government is asked to report in detail for the period ending 30 June 1986.]

Panama (ratification: 1959)

In its earlier comments, the Committee had noted that a draft Act to amend the Labour Code, fixing, inter alia, the maximum number of hours of overtime in commerce and offices at 250 per year, was under study by the Special Labour Committee.

In its last report, the Government states that this draft Act has still not been adopted and that it has been the subject of criticism by the Technical Committee of the Ministry of Labour, which believes that its adoption would pose problems regarding its application. However, the Government states that the revision of the Labour Code is at present a possibility and that the above-mentioned Technical Committee intended to submit recommendations taking into account the provisions of the Convention to the team entrusted with the revision of the Code.

The Committee notes these statements. It recalls that the draft Act fixing the number of overtime hours in commerce and offices at a maximum of 250 per year had been drawn up during direct contacts made in November 1977 by a representative of the Director-General of the ILO, because the possibility of working three overtime hours per day and nine per week, without any annual limitation (that is, up to 468 hours per year, as the Government indicated), was not considered as being in full conformity with Article 7, paragraphs 2 and 3, of the Convention. These provisions limit the cases where temporary exceptions to hours of work are permitted and stipulate that the maximum number of overtime hours permitted should be fixed not only in the day but in the year.

The Committee trusts that the Government will be able to establish such limits in the near future and requests it to supply information on any progress made in this connection.

Paraguay (ratification: 1966)

See the comments under Convention No. 1 concerning section 205 of the Labour Code.

Syrian Arab Republic (ratification: 1960)

Article 7 of the Convention. See the comments under Article 6 of Convention No. 1.

[The Government is asked to report in detail for the period ending 30 June 1986.]

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In addition, requests regarding certain points are being addressed directly to the following States: Bolivia, Ghana, Morocco, Mozambique.

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

#### Algeria (ratification: 1962)

With reference to its earlier observations, the Committee notes, from the report of the Government, that the work of the branch committee on the preparation of the model conditions of employment for dockers has not yet been completed by reason of the high priority given to the work of classifying all jobs throughout the nation during 1984. The Committee again calls the attention of the Government to the fact that no legislation exists at present to give effect to the Convention. In these conditions, it can only urge the Government once more to adopt suitable regulations in the very near future to give effect to the Convention, which was ratified several years ago.

Furthermore, the Committee asks the Government to do everything possible to collect and transmit information on the practical application of the Convention in accordance with Point V of the report form, information that has already been requested from the Government.

[The Government is asked to report in detail for the period ending 30 June 1985.]

#### Panama (ratification: 1971)

The Committee has been calling attention for some years to the fact that there are no specific laws or regulations to give effect to the Convention. In its report received in 1979, the Government had mentioned preliminary draft General Safety and Health Regulations for Dock Work, prepared with the assistance of the Interamerican Centre for Labour Administration (CIAT/ILO), and had stated that these Regulations were under study. In its last report, the Government refers to "industrial safety regulations", which are to be submitted to the Executive Committee of the National Port Authority, the competent authority for matters coming under the Convention, but the Government states that it has not been able to establish whether the new regulations contain provisions corresponding to those of the Convention.

The Committee notes that the Government's report has not been received. It therefore can only reiterate the question and express the hope that the Government will not fail to take the necessary measures, either through laws or through regulations (for example through a resolution or instructions issued by the competent authority), with a view to ensuring the application of the Convention.



The Committee once again expresses the hope that a report will be supplied for examination at its next session and that it will contain information on any progress made in this connection.

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

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

Benin (ratification: 1960)

Further to its previous comments, the Committee notes the information supplied by the Government in its report and to the Conference Committee in 1984.

The Committee hopes that the Commission which, according to the Government, is charged with the revision of the Labour Code will complete its work shortly and will include in the proposed amendments provisions which will give effect to the following provisions of the Convention: Article 3, paragraph 2(b) (prohibiting light work of children during the night, that is to say during a period of at least 12 consecutive hours comprising the interval between 8 p.m. and 8 a.m.) and paragraph 4(b) of the same Article (limiting permissible light work to four and a half hours per day in countries where no provisions exist relating to compulsory school attendance).

The Committee trusts that the Government will indicate in the very near future progress made in this respect.

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

A request regarding certain points is addressed directly to Chile.

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

Argentina (ratification: 1955)

With reference to its earlier comments the Committee notes with satisfaction the adoption of Act No. 23081, of 29 August 1984, restoring employers' contributions established under Act No. 18037, of 30 December 1968, in conformity with Article 9 of the Convention.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Djibouti, Peru, Poland.

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

Argentina (ratification: 1955)

See the observation under Convention No. 35.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Djibouti, Peru, Poland.

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

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

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

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

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

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

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

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

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

A request regarding certain points is being addressed directly to Suriname.

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

Requests regarding certain points are being addressed directly to the following States: Denmark, Papua New Guinea.

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

Spain (ratification: 1971)

With reference to its earlier comments, the Committee notes with satisfaction the adoption of Act No. 34 of 2 August 1984, on unemployment provision, which contains provisions in conformity with Article 10, paragraphs 1(b) (suitable employment) and 2(b) (protection in case of voluntary unemployment) of the Convention which had been the subject of comments by the Committee for a number of years.

\* \* \*

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

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

A request regarding certain points is being addressed directly to New Zealand.

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

Burma (ratification: 1954)

The Committee notes with regret that in spite of repeated assurances on the part of the Government, no progress has yet been made to bring the national legislation into full conformity with the Convention. It trusts that the Government will not fail to take in the very near future the measures necessary to give effect to the following provisions of the Convention.

Article 1 of the Convention. The Act of 1951 on holidays and public holidays does not yet apply to certain undertakings in the private sector covered by the Convention.

Article 2, paragraph 2. Workers between 15 and 16 years of age are only allowed a holiday of ten days (section 4(1) of the Act of 1951) while, under this provision of the Convention every person under 16 years of age shall be entitled to an annual holiday with pay of at least 12 working days.

Article 4. The Act on holidays and public holidays allows an accumulation of holidays over a period of three years (section 4(3)), while the Convention requires an annual holiday of at least six working days for workers of more than 16 years of age and of at least 12 working days for workers of less than 16 years of age.

Ivory Coast (ratification: 1961)

Articles 2 and 4 of the Convention. With reference to its earlier comments, the Committee notes the information furnished by the Government to the effect that section 108, subsection 2, of the Labour Code (under which collective agreements or individual employment contracts may provide for a period of up to 30 months of actual service to give entitlement to the holiday) is supplemented by section 68, subsection 3, of the Interoccupational Collective Agreement of 20 July 1977, which provides that "individual contracts may provide for a different manner of determining the right to the holiday within the limits laid down by section 108 of the Labour Code, subject to a compulsory holiday of six working days after 12 months of continuous service, to be deducted from the holiday provided for by contract".

The Committee also notes from the report of the Government that the situation of workers who do not come under the above-mentioned collective agreement will be studied in connection with the general revision of the Labour Code. It trusts that legislative measures to ensure a minimum annual holiday of six days for all workers, as provided for by the Convention, will be adopted very shortly.

Morocco (ratification: 1956)

The Committee refers to its earlier comments concerning section 16 of the Dahir of 9 January 1946, under which, in certain circumstances, holidays may be accumulated, in infringement of the Convention. It notes that the draft Labour Code the Government has been referring to for many years, after being examined recently by the Council of Government, has been submitted to the Chamber of Representatives. The Committee trusts that this draft will be adopted very shortly and that - in accordance with the statements made by the Government in earlier reports - it will contain provisions prescribing that the accumulation or division of the holiday shall not result in reducing the length of the holiday taken each year to a period shorter than the minimum laid down by Article 2, paragraph 1, of the Convention.

Panama (ratification: 1950)

Following its earlier comments, the Committee notes from the information supplied by the Government that owing to the criticism of the first draft of the Act drawn up in 1977 to amend the Labour Code, no progress has yet been made to give effect to Articles 2, 3 and 4 of the Convention (prohibition of the accumulation of holidays and

obligation to include in the holiday pay the cash equivalent of all remuneration usually accorded in kind). It notes that a technical team from the Ministry of Labour is to draw up recommendations taking into account the provisions of the Convention. The Committee trusts that the Government will take the necessary steps to expedite the adoption of provisions which will ensure the full application of the Articles of the Convention mentioned above.

Convention No. 53: Officers' Competency Certificates, 1936

Mauritania (ratification: 1963)

The Committee notes the Government's statement, in reply to previous observations concerning Article 3 of the Convention, that an order fixing the conditions for the issuance of certificates of competency will be forthcoming in the very near future from the Ministry in charge of the merchant marine. The Committee welcomes this, and hopes that the order will also include appropriate provisions establishing the conditions for the approval by Mauritanian authorities of certificates acquired abroad. The Committee requests the Government to forward a copy of the final text of the order as soon as it is available.

Panama (ratification: 1970)

Further to its previous comments, the Committee notes the information provided by the Government regarding measures being taken to implement Cabinet Decree No. 7 of 19 May 1983 in order to ensure effective application of the Convention. It notes in particular the statement that the General Directorate of Consular Affairs and Ships plans to establish a system for administering examinations for certificates of competency in the principal ports around the world, and that the standards to be applied for the practical execution of this system are to be defined very shortly. The Committee further notes the Government's statement that once the new examination system is in place, the resources of the annual maritime safety inspection system are to be employed for purposes of inspection. With reference to the Government's earlier request for ILO technical assistance in connection with the implementation of Decree No. 7, the Committee reiterates its request to the Government to provide full information on developments in this field.

[The Government is asked to report in detail for the period ending 30 June 1985.]

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Brazil, Djibouti, Egypt, Mexico, Norway, Spain.

Information supplied by Peru in answer to a direct request has been noted by the Committee.

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

#### Liberia (ratification: 1960)

1. The Committee notes the information supplied by the Government to the Conference Committee, at its 69th Session (1983), and in its report, to the effect that the draft Labour Code and the draft Decree of the People's Redemption Council (whereby it is intended to give full effect to the provisions of Convention No. 55) have both been submitted to the Interim National Assembly, which is the competent authority. The Government states also that these drafts would give full effect to the provisions of the Convention.

2. In its previous comments, the Committee indeed noted that the above-mentioned draft Decree contained provisions which would permit the application of the following Articles of the Convention which have been the subject of comments by the Committee for a number of years, namely Article 1, paragraph 2 (application of the Decree to vessels of more than 25 tons); Article 2, paragraph 1 (liability of the shipowner in cases of sickness or injury occurring between the date specified in the articles of agreement for reporting for duty and the termination of the engagement); and Article 6, paragraph 2(d) (necessity of obtaining the competent authority's approval for the repatriation of a seaman to a port other than that where he was engaged or the voyage commenced and not in his own country).

3. The Committee also drew the Government's attention to the provisions of section 6, paragraph 2, subparagraph (iv), of the above-mentioned draft, which are incompatible with the provisions of Article 2, paragraph 3, of the Convention. The Committee consequently trusts that the above-mentioned draft will be adopted in the near future, and that it will give full effect to all the provisions of this Convention. It requests the Government to report all progress made in this respect.

[The Government is asked to report in detail for the period ending 30 June 1985.]

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

#### Peru (ratification: 1962)

The Committee notes that the Government's report has not been received; it must therefore repeat its previous observation which read as follows:

Article 3 of the Convention (medical assistance). The Committee has expressed its hope for the abolition of certain qualifying conditions contained in section 18 of Legislative Decree No. 22482 of 27 March 1979 that in principle govern the

granting of medical assistance (the payment of a certain number of monthly contributions). The Committee noted the statement made by the Government to the Conference Committee at its meeting in June 1982 to the effect that the comments of the Committee had been brought to the knowledge of the Peruvian Social Security Institute and the General Directorate of Welfare and Social Security of the Ministry of Labour and Social Promotion, with a view to the adoption of the necessary measures to bring section 18 of Legislative Decree No. 22482 into conformity with Article 4 of the Convention. Since this problem has existed for many years, the Committee ventures to suggest that the Government might ask for the technical assistance of the ILO with a view to solving it in the near future. The Committee asks the Government to provide information on any progress made in this respect.

[The Government is asked to report in detail for the period ending 30 June 1985.]

\* \* \*

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

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

#### Liberia (ratification: 1960)

The Committee has been pointing out for some years in its observations that under section 290(2)(a) of the Maritime Law (as amended by the Merchant Seamen's Act, 1964), the provisions laying down the minimum age for admission to employment at sea do not apply to vessels of less than 75 net tons and that, under section 326(1) of the same Law, those provisions apply only to vessels engaged in foreign trade. These exclusions are not in conformity with the Convention, which applies to all ships and boats, of any nature whatsoever, engaged in maritime navigation.

The Government had referred in its previous reports to the proposed new Labour Law and to a draft Decree incorporating provisions to implement the Convention.

The Committee notes that, according to the Government's latest report, these drafts have now been submitted to the National Assembly. The Committee trusts that the Government will soon be able to supply the text of any suitable provisions adopted.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Fiji, Grenada, Liberia, Seychelles.

Information supplied by Mauritius and Tunisia in answer to a direct request has been noted by the Committee.

**Convention No. 59: Minimum Age (Industry) (Revised), 1937**Sierra Leone (ratification: 1961)

The Committee notes that the report requested of the Government has not been received. It must therefore repeat its previous observation which read as follows:

In reply to the observations that the Committee has been making for a number of years, the Government again indicates that the Joint Consultative Committee, which advises the Government on all labour matters, has been reconstituted and will examine the comments of the Committee of Experts at its next sitting.

The Committee trusts that the necessary measures will soon be taken to bring the national legislation into conformity with the following provisions of the Convention:

Article 4 of the Convention. Obligation of the employer in an industrial undertaking to keep a register of all persons under the age of 18 employed by him, and of their date of birth.

Article 5. Obligation to prescribe a higher age than 15 years for the admission of young persons to dangerous employment.

The Committee requests the Government to provide information on any progress made in this respect.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Fiji, Iraq.

**Convention No. 62: Safety Provisions (Building), 1937**Algeria (ratification: 1962)

With reference to its earlier observations, the Committee notes from the report of the Government that the texts concerning the prevention of occupational accidents and the protection of workers' health will be promulgated once the priority task of establishing the new national wage policy has been completed. The Committee further notes that, according to the "Report on the Technical, Statistical, Training and Information Activities of the OPREBAP" furnished by the Government with its report, the risk, frequency and seriousness of occupational accidents are greater in the building industry than in other industries. The Committee can therefore only urge the Government once more to do everything possible to ensure that the above-mentioned texts are adopted very shortly to give effect to the Convention. The Committee also asks the Government to continue to furnish information on the practical application of the Convention, in particular of its Parts II, III and IV.

[The Government is asked to report in detail for the period ending 30 June 1986.]



Mauritania (ratification: 1963)

Article 6 of the Convention. The Committee would be grateful if the Government would communicate the statistics provided for by this Article of the Convention.

Article 13, paragraph 2. With reference to its earlier observations, the Committee notes from the report of the Government received in June 1984 that, in connection with the revision of the Labour Code, which has now been completed, it is intended to adopt the draft order prepared during the direct contacts of 1979. The Committee once again trusts that this draft will be adopted very shortly in order to give effect to Article 13, paragraph 2, of the Convention (minimum age for the employment of young persons as crane drivers or signallers).

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Egypt, Hungary.

**Convention No. 63: Statistics of Wages and Hours of Work, 1938**Algeria (ratification: 1962)

The Committee notes from the information contained in the Government's report that there has been a reorganisation of the statistical services.

Article 1(b) and (c) of the Convention. The Committee notes that the statistics of average earnings and hours actually worked in 1980 have been published and communicated to the ILO. It again expresses the hope that the Government will endeavour to publish the statistics within the time limits laid down in Article 1(b) and communicate them at the earliest possible date in accordance with Article 1(c).

Article 12. The Committee notes with interest the methodological note concerning wage indices communicated by the Government with its report. It hopes that such indices will be compiled and published in the very near future, as the Government indicates its intention of doing, at as frequent and as regular intervals as possible.

Part III. The Committee notes the statement in the report that the statistics required by this Part are published in the Results of employment and wages survey for 1980. The statistics published there do not, however, correspond to those required by this Part of the Convention, which should show the rates and hours provided for in Article 14 of the Convention, instead of average earnings and hours actually worked. The Committee therefore again expresses the hope that the Government will take the necessary measures very shortly to give effect to the provisions of Articles 13 to 21.

Part IV. The Committee notes the information provided by the Government on the minimum wages applicable to the agricultural sector

and on the statistics published by the Ministry of Agriculture and Agrarian Reform. It notes, however, that the statistics of wages and hours of work in agriculture required by this Part have not yet been compiled. Further to its previous observations, the Committee reiterates the hope that such statistics as called for by Article 22 of the Convention will be compiled shortly and that they will be published and communicated to the ILO within the period laid down by Article 1(b) and (c).

Chile (ratification: 1957)

The Committee takes note of the information furnished by the Government in its report and of the comments made by the Government at the 70th Session of the Conference.

Article 5, paragraph 1, of the Convention. The Committee has examined the information contained in the document "Estadísticas laborales, 1979-1981" (Labour statistics, 1979-1981) forwarded by the Government.

Referring to the Year Book of Labour Statistics for 1984, prepared by the ILO on the basis of data provided by governments, the Committee notes that no statistics concerning hours of work have been published for Chile. It notes, however, from the questionnaire issued by the Government for the inquiry on employment and pay that there is a special heading for hours of work in the establishments concerned. The Committee asks the Government to indicate the measures taken or under consideration with a view to the publication and communication of statistics in this regard in accordance with Article 5 of the Convention.

Article 5, paragraph 2. With reference to its previous observation concerning the relative importance of categories of persons excluded from the statistics provided, the Committee notes that in the construction industry 70 per cent of establishments employ fewer than 20 workers. Referring to the document "Indice de remuneraciones: antecedentes y metodología" (Wage indices: sources and methodology), the Committee notes that only undertakings employing at least 100 workers are considered for statistical purposes relating to this sector.

The Committee considers that the number of workers covered by the statistical inquiries in the construction sector does not make it possible to accept the representativity of the sample used. It asks the Government to indicate the measures taken or under consideration to ensure that the workers of this sector are more widely represented in the statistics.

The Committee notes that the payment of persons assigned to the Minimum Employment Programme (PEM) is not included in the average earnings shown in the statistics on pay or the indices, since it is a temporary allowance of a social nature.

The Committee has studied the report of the Committee set up to examine the representation presented by the National Trade Union Co-ordinating Council (CNS) of Chile under article 24 of the Constitution. In the opinion of that Committee, the minimum employment programme cannot be considered to be a programme for

absorbing unemployment and the argument cannot be maintained that it is not an employment programme (paragraphs 55 and 56 of the report). The Committee is therefore of the opinion that the payment made to these workers cannot be regarded as an allowance but constitutes a wage paid in exchange for work carried out in a job. The Committee asks the Government to indicate the measures taken or under consideration to include in the statistics on average earnings and hours of work the workers employed under the PEM in the industries covered by the Convention.

Article 10, paragraph 2. The Committee notes that the Government is not in a position to compile statistics on average earnings by the age and sex of the worker. According to the Government, the sources of information are not organised to give the information called for.

The Committee notes that the questionnaires prepared for the inquiry on employment and pay have a heading allowing for the evaluation of the labour force by sex and that statistics concerning the labour force by age and sex are published. The Committee hopes that measures may be taken to obtain, at the intervals provided for by the Convention, statistics on average earnings by the age and sex of the workers.

Article 12, paragraph 2. The Committee notes from the information furnished by the Government that the provisions of Act No. 15163 concerning the calculation of indices of wages and pay have been invalidated by Act No. 18182 of 1982 and that the new index of pay calculated in accordance with these provisions includes the wages of the workers in the Gran Minería del Cobre (copper mining), the Compañía de Acero del Pacífico (steel production), the Empresa Nacional del Petróleo (petroleum) and the Compañías Manufactureras de Celulosa y Papel (paper and cellulose). The Committee asks the Government to furnish a copy of the publications containing the new pay index established in accordance with this new coverage.

#### Part IV of the Convention

Article 22, paragraphs 2(c) and 3. The Committee notes the information concerning wages paid in agriculture published in the document "Estadísticas laborales 1979-1981". It also notes that the National Statistical Institute (INE) has no information on the nature of the allowances in kind that supplement the wages in cash of agricultural workers, allowances that are estimated by the Government to come to 3,664 pesos. The Committee asks the Government to indicate the measures taken or under consideration to determine the nature of the allowances in kind and to furnish the information called for by paragraph 3 of Article 22.

#### Cuba (ratification: 1954)

The Committee notes that Legislative Decree No. 67 of 19 April 1983 repeals Act No. 1323 of 1976 and provides, in section 57, that the State Committee for Statistics shall be the competent authority for the introduction of a system of statistical information. The

Committee also takes note of the latest statistics concerning average earnings for the whole of industry, construction and agriculture, communicated to the ILO for publication in the Year Book of Labour Statistics.

The Committee notes, however, that the Government is still unable to supply full data in accordance with the provisions of Part II (Average earnings and hours actually worked), Part III (Time rates of wages and normal hours of work) and Part IV (Wages and hours of work in agriculture) of the Convention.

The Government states in its report that the competent bodies make every possible effort to create the machinery enabling it to give effect to these provisions of the Convention. The Committee takes note of this statement and asks the Government to report any information on progress made in this connection.

#### Uruguay (ratification: 1954)

The Committee notes the Government's report and the documents annexed thereto.

Part II of the Convention. 1. The Committee notes, from the Government's report that the sample of categories of enterprises has been under revision since 1980. The Committee requests the Government to specify the percentage of enterprises from the main branches of the mining and manufacturing industries (including building and construction) covered by the selected sample (Article 5, paragraph 2).

2. With reference to the document "Annual Survey of Manufacturing Industries, 1981" (Encuesta Anual de Actividad Económica, Industrias Manufactureras, año 1981), sent by the Government, the Committee notes with interest that data concerning remuneration and hours of work in the manufacturing industry are published annually. The Committee requests the Government to continue supplying documents concerning this industry published by the Department of Statistics and Censuses (Dirección General de Estadística y Censo).

3. The Committee notes that data concerning average earnings are compiled for the purpose of establishing indices of average earnings in the private and public sector, and also by branch of activity, but only for the region of Montevideo. It also notes that the Government is not at present able to establish statistics regarding working hours in the mining and construction industry. The Committee hopes that the Government will indicate in its next report progress made to ensure the publication of statistics regarding average wages and hours of work in the mining and construction industry (Article 5 of the Convention) and also in respect of index numbers by branch of activity at the national level (Article 12).

4. The Committee notes the efforts made by the Government in respect of enterprises to ensure the application of Article 10 (publication of data on average earnings for each sex). It requests the Government to report on all progress made in this connection.

5. In its report, the Government refers to documents entitled: Survey of the workforce in the private sector in Montevideo in 1981

(Encuesta de mano de obra del sector privado de Montevideo en 1981), and Wages, 1982 (Salarios, 1982). The Committee requests the Government to send the text of these publications.

Part III. The Committee notes the Government's statement that it is possible to calculate time wage rates on the basis of data collected to establish the index of average earnings. It also notes that the Department of Statistics and Censuses intends to publish data on normal working hours in the form of a Paasche index (base 1980).

The Committee requests the Government to indicate in its next report the progress made in this connection, in conformity with Articles 13 to 20.

Part IV. The Committee notes the data contained in the document: Development of rural wages, 1983 (Evolución del salario rural, 1983) published by the Ministry of Labour and Social Security. The Committee requests the Government to indicate the source of the information on which these statistics are based in conformity with Article 22, paragraph 3 (b).

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Barbados, Egypt, Guatemala, Kenya, Nicaragua, Syrian Arab Republic.

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

Cuba (ratification: 1953)

With reference to its earlier comments concerning the application of Article 18, paragraph 3, of the Convention, the Committee notes with satisfaction that the Ministry of Transport has adopted resolution No. 68 of 30 July 1982, which provides in particular for the establishment of a standard form of individual control book for the drivers of vehicles.

\* \* \*

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

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

Argentina (ratification: 1956)

The Committee notes the Government's statement that the draft laying down conditions of employment for personnel on board, referred to in the Committee's previous comments, has yet to be addressed by the Congress, owing to its heavy legislative agenda. The Committee trusts that the Government will very shortly adopt the measures

necessary to give full effect to the Convention, a matter which has now been subject to comment by the Committee since 1960.

[The Government is asked to report in detail for the period ending 30 June 1985.]

Panama (ratification: 1971)

The Committee notes with interest the information provided by the Government in reply to the Committee's previous comments, and in particular the adoption of Resolution No. 614-2570 ALCN of 31 August 1984 and its Annex concerning crew accommodation and catering facilities aboard ship. With regard to the Government's earlier request to the ILO for technical assistance in implementing Cabinet Decree No. 6 of 19 May 1983 concerning the application of this Convention, the Committee requests the Government to provide information on any developments in this field.

With reference to the legislation now in force, the Committee would appreciate further information on the following points:

Article 1, paragraph 1, of the Convention. The Committee notes that section 8 of Resolution No. 614-2570 ALCN permits the authority to make exceptions for vessels constructed before the Convention's entry into force and for non-fishing vessels of less than 500 gross registered tons. The Committee draws the Government's attention to the Convention's application to "sea-going vessels, whether publicly or privately owned, which are engaged in the transport of cargo or passengers for the purpose of trade".

Article 2(c). The Committee requests the Government to provide information on the steps taken under Cabinet Decree No. 6 of 1983 to issue rules regarding the certification of catering staff (section 2) and to organise training courses (section 3).

Article 2(d). The Government is requested to indicate how the functions of research and educational and propaganda work concerning methods of ensuring proper food supply and catering service are carried out.

Article 3. The Committee notes that Cabinet Decree No. 6 refers to consultation with regard to inspection (section 4). It requests the Government to indicate the manner in which co-operation is ensured with the organisations of shipowners and seafarers and with national or local authorities concerned with food and health questions (other than inspection) with regard to food and catering on board ship.

Article 5, paragraph 2(a). The Government is requested to indicate the measures taken under Decree No. 6 to issue regulations concerning the provision of food supplies in conformity with the Convention.

Article 6. The Committee notes the Government's statement that it plans to include a section concerning maritime labour matters in the maritime safety inspection report forms used for annual inspections world-wide. The Government is requested to provide full information on the functioning of the inspection system now in use with regard to food and catering matters.

Articles 9 and 10 and Point V of the report form. The Committee notes that Cabinet Decree No. 6 calls for an annual report to be

prepared, with copies to be given to the interested parties and sent to the Office (which has, however, not yet received a copy). The Committee further notes from the Government's report that statistics and inspection service resumés are prepared in accordance with the number of inspections done per day, week, month and year, but not by category of infraction. It requests the Government to forward copies of this annual report and to indicate any measures contemplated for gathering statistics which would indicate infractions of food and catering regulations and the penalties imposed therefor.

Article 12. The Government is requested to provide the information requested in the report form regarding any measures taken to give effect to this Article of the Convention.

[The Government is asked to report in detail for the period ending 30 June 1985.]

Peru (ratification: 1962)

Further to its previous observations and to the discussion of the application of the Convention by the Conference Committee in 1984, the Committee again notes with regret that regulations concerning food and catering on board ships have still not been adopted. It notes the Government's statement that a committee, charged with updating and revising the regulations governing the national merchant marine, has considered the possibility of including the provisions of the Convention in these regulations. It also notes that a list of daily rations has been drawn up for the crew by the Naval Medical Centre, and that this list is to be officially approved by appropriate legal measures. Considering, however, that no effective action has been taken to implement the Convention since its ratification, the Committee can only urge the Government to take the necessary measures to ensure its full application.

[The Government is asked to supply full particulars to the Conference at its 71st Session and to report in detail for the period ending 30 June 1985.]

Spain (ratification: 1971)

With reference to its previous comments, the Committee notes the registration, by resolution of 7 May 1982, of the General Agreement for the Merchant Marine, which in particular concerns food and safety and health on board (sections 14, 15 and 43), and the adoption of the Ministerial Order of 10 September 1983, Rule 22 of which governs, inter alia, the construction and ventilation of crew accommodation.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Greece, Guinea-Bissau.

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

Requests regarding certain points are being addressed directly to the following States: Djibouti, Norway.

**Convention No. 71: Seafarers' Pensions, 1946**

A request regarding certain points is being addressed directly to Peru.

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

Requests regarding certain points are being addressed directly to the following States: Italy, United States, Yugoslavia.

**Convention No. 77: Medical Examination of Young Persons (Industry), 1946**Dominican Republic (ratification: 1973)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

With reference to its earlier comments, the Committee notes that the draft regulations prepared by the Ministry of Labour in 1980 are still under study with a view to adoption. They should give effect to the following provisions of the Convention: Article 2, paragraphs 1 and 4 (thorough medical examination for employment and specification of the authority competent to issue the document certifying fitness for employment); Article 3 (medical supervision up to the age of 18 years); Article 4 (annual medical examination up to the age of 21 years in occupations that involve high health risks); Article 6 (vocational guidance, physical and vocational rehabilitation of children and young persons found by medical examination to have physical handicaps or limitations); Article 7 (methods of supervision for ensuring the strict enforcement of the Convention).

The Committee hopes that the draft regulations will be adopted in the very near future and requests the Government to keep it informed of any development in this connection.

Ecuador (ratification: 1975)

The Committee notes the report furnished by the Government and observes that the Bill to amend section 152 of the Labour Code, which



was prepared during direct contacts in 1980, has still not been adopted.

The Committee trusts that the Bill will be adopted in the near future and that it will give effect to the following Articles of the Convention: Article 2 (prohibition from admitting young persons under 18 years of age to employment or work in the undertakings and jobs covered by the Convention unless they have been found fit for the employment or work in question by a thorough medical examination); Article 3 (periodic supervision of fitness for employment by means of medical examinations repeated at intervals of not more than one year); Article 4 (periodic medical examinations until at least the age of 21 years in occupations that involve high health risks); Article 6 (vocational guidance and physical and vocational rehabilitation of children and young persons found by medical examination to be unsuited to certain types of work or to have physical handicaps or limitations).

[The Government is asked to report in detail for the period ending 30 June 1985.]

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Belgium, Comoros, Greece, Luxembourg, Nicaragua.

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

Ecuador (ratification: 1975)

Articles 2, 3, 4 and 6 of the Convention. See under Convention No. 77.

Article 7, paragraph 2(a). The Committee observes once more that the report furnished by the Government contains no new information regarding measures to give effect to this provision of the Convention. It urges the Government to indicate the measures of identification it considers adopting, in accordance with this provision, for ensuring the supervision of the application of the system of medical examination for fitness to children and young persons engaged either on their own account or on account of their parents in itinerant trading or in any other occupation carried on in the streets or in places to which the public have access.

[The Government is asked to report in detail for the period ending 30 June 1985.]

Iraq (ratification: 1960)

With reference to its earlier comments, regarding Article 7, paragraph 2, of the Convention, the Committee notes with satisfaction that section 38 of the Public Health Act of 1981 stipulates that all

itinerant traders and persons trading from fixed premises must undergo a medical examination prior to employment, as certified in a health book.

Israel (ratification: 1953)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous comment concerning the following point:

Article 4 of the Convention. The Committee had observed that the regulations to be issued under section 16(b) of the Youth Labour Law, which were to determine the kinds of non-industrial work involving particular danger to health and requiring a medical examination for fitness for employment and its periodic renewal up to the age of 21 years, had not yet been adopted. The Committee had noted the statement by the Government to the effect that workers employed in hospitals in occupations involving high risks for health were required to undergo periodic medical examination, irrespective of their age, in accordance with regulations on occupational safety.

The Committee trusts that it will finally be possible for the Government to overcome the difficulties standing in the way of the adoption of the above-mentioned regulations, as it has been expressing its intention of doing for many years, and that it will provide information on the progress made in this connection. It also requests the Government to communicate the text of the existing regulations on occupational safety.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Comoros, Greece, Luxembourg, Nicaragua.

**Convention No. 81: Labour Inspection, 1947**

Central African Republic (ratification: 1964)

Article 11, paragraph 2, of the Convention. The Committee observes that the joint Order of 1981 of the Ministry of the Public Service, Labour and Social Security and the Ministry of Finance, referred to by the Government in its previous report, to fix the rates of the risk and hardship allowances paid to public servants, which also cover the travelling expenses of labour inspectors, has not been transmitted to the ILO. It hopes that a copy of this text will be enclosed with the next report of the Government.

Articles 20 and 21. The Committee regrets to note that since the ratification of the Convention one single report of inspection, that for 1969, which in any case covered only certain aspects of labour inspection, has been transmitted to the ILO. It trusts that

the Government will not fail to take the necessary measures without delay so that in future annual reports on the work of the inspection services containing all the information called for by Article 21 of the Convention shall be published and transmitted to the ILO within the periods laid down by Article 20.

Chad (ratification: 1965)

The Committee notes the statement by the Government to the effect that the state of war the country is passing through prevents it from observing most of its obligations deriving from the Convention. The Committee hopes that changes in the situation will enable the Government to take the necessary measures in due course to give effect to Articles 3 (paragraph 2); 7, 10, 11, 12 (paragraph 2); 13 (paragraph 2(b)); 16, 20 and 21 of the Convention, about which it is addressing a direct request to the Government.

Comoros (ratification: 1978)

The Committee takes note with satisfaction that the 1984 Labour Code, under section 156, gives effect to Article 3, paragraph 1(c) of the Convention (obligation for the inspector to bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions) and that sections 176, 167, 162 and 163 of the Code ensure respectively the application of the following provisions of the Convention, which have formed the subject of its comments on earlier occasions: Article 8 - the eligibility of women as well as men as members of the inspection staff; Article 12, paragraph 2 - the possibility for the inspector not to inform the employer of his presence; Article 13, paragraph 2(b) - the right of inspectors to take measures with immediate executory force in the event of imminent danger to the health or safety of workers; and Article 17, paragraph 2 - the freedom of inspectors to decide between giving warning and advice instead of instituting or recommending proceedings.

Finland (ratification: 1950)

Referring to its previous observation the Committee has taken note of the information supplied by the Government to the Conference Committee in June 1984 following the comments made by the Central Organisation of Finnish Trade Unions on some aspects of the application of the Convention.

In its communication the Government indicates that in order to make the employment of inspection personnel more effective, the Act on administration of labour protection was amended in 1980 so that the jurisdiction between the State and municipal inspectors now can be negotiated between the competent authorities within certain limits. In addition the Ministry of Social Affairs and Health appointed a

working group in 1982 to examine how labour inspections at the district and local levels should be developed.

The Committee would be grateful if the Government would communicate information on the proposals presented by the above-mentioned working group and on the practical results achieved in strengthening the labour inspectorates.

As far as conditions of work and occupational safety are concerned, the Government indicates that the available statistical data on industrial injuries seem to show a minor positive trend during the last few years.

Furthermore, the Government states that in its directives issued to the district and local authorities in 1981 the National Board of Labour Protection has drawn attention to the compulsory notification to the public prosecutor of all cases where there is reason to suspect that provisions and regulations concerning labour protection have been violated. It has also suggested measures which should be considered if the public prosecutor does not take legal proceedings following such notification. In addition, the authorities supervising the activities of the public prosecutor have tried to ensure, by providing education, that such negligence would not occur in future.

#### Iraq (ratification: 1951)

Article 15(a) of the Convention. In reply to comments made by the Committee over numerous years, the Government stated on several occasions that new Regulations governing labour inspection would prohibit expressly inspectors and deputy-inspectors of the inspection committee from having any interest whatsoever in the enterprises subject to their authority. In its last report, the Government no longer mentions these Regulations but states that sections 307 and 338 of the Penal Code give effect to this provision of the Convention. The Committee notes that these sections provide for penalties for abuses committed by public employees in the course of their duties, but do not contain provisions which ensure the application of Article 15(a) of the Convention, under which labour inspectors shall be prohibited from having any direct or indirect interest in the undertakings under their supervision. It therefore hopes that the Government will not omit to take at an early date the measures necessary to bring the legislation into conformity with the Convention on this point.

Articles 20 and 21. The Committee notes the statistical information communicated by the Government with its report. This information, which covers an indeterminate period of time, relates to undertakings under the supervision of the inspectorate, the number of workers occupied in these undertakings and the number of offences committed. The Committee wishes once again to point out that annual reports on the activities of the inspectorate must be published and communicated to the ILO within the time-limits fixed under Article 20 of the Convention. It again expresses the hope that the Government will not fail to take the measures necessary to ensure, in future, that these time limits are respected and that the annual reports contain all the information called for under Article 21.

Italy (ratification: 1952)

The Committee notes the information sent by the Government in reply to its previous observations concerning the operation of the system of inspection in respect of safety and health established by the Act of 28 December 1978. Certain issues are dealt with in a direct request.

Jamaica (ratification: 1962)

Article 13, paragraphs 2(b) and 3, of the Convention. The Committee notes with regret that no progress has yet been made to give effect to these provisions of the Convention (measures with immediate executory force in the event of imminent danger). It points out that, in its report on the application of the Convention for the period ending 30 June 1971 and, in 1983, before the Conference Committee, the Government stated the opinion that legal proceedings represented the most appropriate machinery in this connection. The Committee can only renew its hope that the Government will draw up the required provisions allowing the labour inspectors the right to appeal to the judicial authorities so that, in the event of imminent danger for the safety and health of workers, these authorities may take measures with immediate executory force.

Article 14. The Committee notes with interest, from the Government's report, the adoption in 1983 of the Quarries Control Act, which provides for the reporting of industrial accidents and occupational diseases. It would be grateful if the Government would attach a copy of this text to its next report.

The Committee also notes that a parallel act regarding mines is in preparation. It hopes that this will soon be adopted and requests the Government to indicate, in its next report, the progress made in this connection.

Jordan (ratification: 1969)

In its observation for 1984, the Committee expressed the hope that the draft Labour Code referred to by the Government would be adopted shortly and would contain provisions giving effect to the following Articles of the Convention: Article 11, paragraph 2 (reimbursement of travelling expenses to labour inspectors); Article 12, paragraph 1(a), (b) and (c)(iv) (power of labour inspectors to visit workplaces and remove for purposes of analysis samples of materials and substances used or handled); Article 13 (power of inspectors to take steps with a view to remedying defects constituting a threat to the health or safety of the workers); Article 14 (obligation to inform the inspectorate of industrial accidents and cases of occupational disease); and Article 15 (inspectors to be prohibited from having any direct or indirect interest in the undertakings under their supervision).

Since the report of the Government no longer mentions the draft Labour Code, the Committee requests the Government to refer to the

direct request addressed to it and to furnish with its next report detailed information on the measures it intends to take to give full effect to the above-mentioned Articles of the Convention.

Mauritania (ratification: 1963)

The Committee notes with regret that for the second consecutive year the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee notes that, since the ratification of the Convention, no report on the activities of the labour inspection services for the country as a whole has yet been published. It wishes to stress the importance it attaches to the publication of annual inspection reports, which constitute an essential element for the assessment of the practical results obtained by the labour inspection services and more generally to the effective implementation of social legislation. It hopes therefore that the Government will not fail to take the necessary steps to ensure that in future an annual report on inspection, containing all the information required under Article 21 of the Convention, is published and communicated to the ILO within the time-limits prescribed by Article 20.

Nigeria (ratification: 1960)

Article 20 of the Convention. The Committee notes the information on the work of the inspection services contained in the annual reports of the Federal Ministry of Employment, Labour and Productivity for 1972-73 and 1973-74. It also notes that arrangements have been made for the publication of the subsequent annual reports and expresses the hope that these may henceforth be published and transmitted to the ILO within the periods laid down by Article 20 of the Convention.

Paraguay (ratification: 1967)

Articles 20 and 21 of the Convention. The Committee regrets to note that, despite the assurances given by the Government, no report of inspection has so far been transmitted to the ILO. It trusts that the Government will not fail to take the necessary measures to ensure that annual reports of inspection containing all the information called for by Article 21 of the Convention are published and transmitted to the ILO within the periods laid down by Article 20.

Portugal (ratification: 1962)

The Committee notes the report of the Committee set up by the Governing Body of the ILO to examine the representation made by the General Confederation of Portuguese Workers - National Interunion

(CGTP-IN) under article 24 of the Constitution of the ILO alleging non-observance by Portugal of several Conventions, including Conventions Nos. 81 and 129 on labour inspection. The report was adopted by the Governing Body at its 229th Session (February-March 1985).

The CGTP-IN alleges amongst other things that labour inspection is currently crippled by lack of resources. The Government recognises that the General Inspectorate of Labour does not yet have at its disposal all the desirable human, material and financial resources required for its satisfactory, integral and total functioning. It states that measures have been taken with a view to remedying the situation as far as possible taking into account the budgetary restrictions imposed by the general economic situation of the country.

The Committee of Experts shares the opinion of the Committee set up by the Governing Body that the most important single measure that can be taken to enable the Inspectorate to fulfil its duties effectively is the substantial reinforcement of all the means made available to the labour inspection services under the regulations contained in Legislative Decree No. 327/83 of 8 July 1983. It requests the Government to refer to the recommendations in paragraph 85 of the report of the above-mentioned Committee (document GB.229/6/16) and particularly in point (c) wherein the Government is requested to include in the reports that it is required to submit under article 22 of the Constitution of the ILO detailed information on -

- (i) the numerical strength of the inspection staff and the number of inspectors in the various classes, for both the central and the regional services and especially the number and functions of newly recruited staff;
- (ii) the geographical distribution of the inspection services, with an indication of posts that are vacant;
- (iii) changes in the budget of the General Inspectorate of Labour in respect of both staff and material resources;
- (iv) the statistics of inspection visits, offences recorded and penalties imposed.

The Committee trusts that the Government will provide with its next report detailed information on the above-mentioned points which concern the application of Articles 10, 11, 16 and 18 of Convention No. 81 and Articles 14, 15, 21 and 24 of Convention No. 129.

#### Sierra Leone (ratification: 1961)

The Committee notes with regret that for the second consecutive year the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

Articles 20 and 21 of the Convention. The Committee regrets to note that the last report on the work of the labour inspection services received in the ILO relates to the year 1969, despite the assurances given several times by the Government that the reports for the following years would be transmitted in due course.

The Committee hopes that the Government will make every effort to ensure the publication of the annual inspection reports containing all the information specified in Article 21 of the Convention.

Suriname (ratification: 1976)

The Committee notes with satisfaction the adoption of Decree No. 35 of 25 May 1983 concerning the labour inspectorate, which gives effect to the majority of the Articles of the Convention. It requests the Government to supply in its next report additional information on certain points raised in a direct request.

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In addition, requests regarding certain points are being addressed directly to the following States: Angola, Burkina Faso, Cape Verde, Chad, Comoros, Djibouti, Gabon, Grenada, Guatemala, Ireland, Italy, Jamaica, Jordan, Kenya, Madagascar, Mauritania, Morocco, Niger, Paraguay, Portugal, Qatar, Suriname, Syrian Arab Republic.

**Convention No. 84: Right of Association (Non-Metropolitan Territories), 1947**

Requests regarding certain points are being addressed directly to the following States: Fiji, Zaire.

Information supplied by Somalia in answer to a direct request has been noted by the Committee.

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

A member of the Committee, Mr. Gubinski, stated that he did not associate himself with the observations of the Committee regarding the application of the instruments on freedom of association in a number of socialist countries because, in his opinion, account should be taken of the realities of the economic and social regimes existing in these countries.

Equality of treatment requires that account be taken of the different situations and living conditions that have been determined by history in the different areas of economic and social relations. To judge all countries according to criteria which are relevant to only one socio-economic system necessarily involves a risk of inaccurate evaluations being made, and consequently of favouring one group of countries and prejudicing others.

Another member of the Committee, Mr. Ivanov, associated himself with Mr. Gubinski's observation. At the same time he stated that he was not in agreement with the Committee's comments on the USSR. He



emphasised that in the world of today characterised by the existence of different social, economic, political and legal systems, the standards of universal international Conventions, which were generally democratic in their social nature, might engender in the course of their implementation norms of internal legal systems which might be socialist or capitalist. This meant that social realities produced as a result of the implementation of international labour Conventions or social realities with which these Conventions were confronted might be different in capitalist and socialist countries although in both cases these realities might be in conformity with the Conventions. This was especially true of those Conventions that touched upon fundamental principles and structures of the existing social systems, such as Convention No. 87. In these circumstances, there was a tendency to assume that the methods and results of the implementation of these Conventions in the capitalist countries were the only ones which were in conformity with the Conventions. This approach to the implementation of these Conventions made itself felt on occasion and, in particular, in the Committee's comments relating to the application of Convention No. 87. Such an approach was incompatible with the very foundation of international law, which was peaceful coexistence. In this particular case, this had led to an erroneous evaluation of the USSR legislation.

In the light of the foregoing statements, the Committee wishes to recall its position as stated in its previous reports. The Committee has never ignored the fact that the social realities existing in countries based on different social and political systems, although differing one from another, may be in conformity with particular ILO Conventions. Divergencies between national legislation or practice and a ratified Convention may, however, occur in countries belonging to any of these systems. In compliance with its terms of reference, while itself noting the various political, economic and social conditions existing in different countries, the Committee has to examine and has in fact examined, from a strictly legal point of view, to what extent countries which have ratified Conventions give effect in their legislation and practice to the obligations which derive therefrom and are binding upon them, irrespective of their political, social or economic systems. The Committee's observations contain the conclusions drawn by it from a uniform application of this objective approach, in the strict framework of the guarantees provided for in the Convention concerned.

#### Algeria (ratification: 1963)

The Committee takes note of the information supplied by the Government in its report.

In its previous comments, the Committee pointed out that the legislation adopted recently reinforces the single-trade-union system established in 1971 in favour of the General Federation of Algerian Workers (UGTA), which is named therein as the sole workers' organisation. These legislative provisions are the following:

- Ordinance No. 71-75 of 16 November 1971; section 2 provides that a trade union section shall be set up by the UGTA in any unit,

undertaking or private sector where there are more than nine workers; section 3 states that the electoral system, the method of organisation and the number of members making up the executive committee of a trade union section shall be fixed by the by-laws of the UGTA.

- Ordinance No. 75-31 of 29 April 1975; sections 85 and following confer on the UGTA an exclusive role in collective bargaining.
- Ordinance No. 76-57 of 5 July 1976 (National Charter); in accordance with Title II, Chapter I, 5, it is the prerogative of the UGTA to defend the interests of the workers.
- Ordinance No. 76-97 of 22 November 1976 (Constitution); section 100 places under the protection and control of the Party (FLN) all mass organisations, which are alone entitled to organise the workers and peasants.
- Act No. 78-12 of 5 August 1978; section 23 prescribes that the by-laws and regulations of the UGTA shall determine the principles and procedures for setting up a trade union and section 24 recognises the right of all workers to join voluntarily the union designated UGTA.

As the Committee has already observed, these various provisions grant and regulate trade union rights that might be in conformity with the Convention if their exercise were not confined to the UGTA, the only central trade union organisation, to which all trade unions sections set up under its by-laws are affiliated.

In the General Survey it submitted to the 69th (1983) Session of the International Labour Conference, particularly paragraphs 132 to 138, the Committee expresses the opinion that a system of trade union unity expressly set up by the legislation makes it impossible to set up a second organisation to represent the interest of the workers, a situation that is inconsistent with the principle of free choice, as set forth in Article 2 of the Convention. The Committee feels bound to point out that, even where, at some point in the history of a nation, all workers have preferred to unify the trade union movement, they should, however, be able to safeguard their freedom to set up, should they so wish in the future, unions outside the established trade union structure.

The Committee notes that the bill mentioned previously concerning the mission of the trade union movement and the exercise of the right to organise under Act No. 78-12 is awaiting approval by the Government. It urges the Government, at the time of approval, to take the above comments into consideration, in order to give effect to the Convention on these points.

#### Argentina (ratification: 1960)

The Committee takes note of the latest positive developments in the trade union situation, respecting in particular the elections of the officers of trade union organisations, and also of the report of the ILO mission that went to Argentina in May 1984 with the aim of preparing the new trade union legislation.

The Committee notes in particular the statement by the Government in its latest report to the effect that it is considering the problems

raised by Act No. 22105 in consultation with the sectors directly concerned, with a view to drafting a lasting text that shall not be open to criticism. The Government adds that, when the new legal system to govern the institutional life of workers' occupational associations has been approved by the legislative authority, a copy of the Act will be sent to the ILO.

The Committee expresses the hope that the text in question will be adopted shortly and that it will take account of the comments concerning all the discrepancies between the national legislation and the Convention and in particular those contained in Act No. 22105 of 1979 and Decree No. 640 of 1980 issued under it.

Bangladesh (ratification: 1972)

The Committee takes note of the report of the Government and also of the comments made by the Bangladesh Free Trade Union Congress on the application of the Convention. The Committee has also examined the report of the Committee on Freedom of Association concerning Case No. 1214, approved by the Governing Body at its 224th Session (November 1983).

First, the Committee notes with satisfaction that the Industrial Relations (Regulation) Ordinance No. XXVI of 1982, which was the subject of its comments in 1983, has recently been repealed. It assumes that the legal provisions now in force in respect of freedom of association are contained in the Industrial Relations Ordinance No. XXIII of 1969 as amended by Act No. XXIX of 1980, and that the situation is now as it was previously.

The Committee, therefore, recalls the points raised in its previous comments:

1. The Committee noted that, under section 2(xxviii)(b) of the Industrial Relations Ordinance, the definition of a worker excludes a person who is employed in a managerial or administrative capacity. It noted the Government's statement that it is not possible to determine the nature of the employment covered by this provision or the number of persons concerned. The Committee points out that, by virtue of Article 9, only the armed forces and the police may be excluded from the scope of the Convention and that the rights it sets forth must, therefore, also be recognised to public servants and managerial staff. It requests the Government to adopt appropriate measures to guarantee the application of the principles of the Convention to these categories of workers.

2. The Committee pointed out that section 7A(1)(a)(ii) and (b) of the Industrial Relations Ordinance limits the right to be a member or officer of a trade union to persons actually employed in an establishment or group of establishments concerned. The Committee considers that a provision of this kind restricts the right of workers to establish and to join organisations of their own choosing (Article 2 of the Convention), to elect their representatives in full freedom and to organise their administration and activities (Article 3). It notes with interest the Government's statement that it is prepared to examine these provisions and that measures to ease them are under study. The Committee points out that the free

exercise of the right to establish and to join unions implies the free determination of the structure and composition of unions. It also considers that restrictive conditions attached to trade union office constitute interference in the internal affairs of the unions. The Committee, therefore, hopes that these provisions will be repealed in the near future.

3. The Committee takes note of section 29 of the rules on the trade union rights of public servants employed in government bodies. It notes in particular that the right to join associations representing their interests is subject to many conditions, laid down unambiguously, for example: section 29(a) associations must bring government servants together by category, and (b) they must not be connected with other associations. Furthermore, under section 29(d) they cannot issue publications or articles without the approval of the Government, and (f)(ii) the associations cannot have financial relations with any trade union registered under the 1969 Ordinance.

With regard to the prohibition contained in section 29(c), under which these associations of government servants cannot participate in any political activity, the Committee points out that provisions of this kind are incompatible with the principles of the Convention. In the General Survey that it submitted to the 69th (1983) Session of the International Labour Conference, particularly paragraphs 195 to 198, the Committee emphasises that the activities of a trade union cannot be restricted solely to occupational questions, since the choice of a general policy - in economic matters for example - is bound to have consequences on the situation of workers.

The Committee observes that these aspects of the legislation run counter to the right of workers to establish and join organisations of their own choosing (government servants are confined to a single association for their category), laid down by Article 2 of the Convention, and to the right that every trade union should have to exercise its activities, to formulate its programmes and to organise its administration without interference from the public authorities, in accordance with Article 3.

The Committee, therefore, points out that the principles set forth by the Convention apply to all categories of workers, with the sole exception of the armed forces and the police, which can be excluded by virtue of Article 9. It requests the Government to reconsider the situation in the light of the above comments with a view to giving full effect to Articles 2 and 3 of the Convention in respect of this category of workers.

The Committee observes, however, that the Bangladesh Free Trade Union Congress points out in its comments that only employees of the railways and the posts and telecommunications can form trade unions and that the Bangladesh Public Servants' United Council is not entitled to be registered under the 1969 Ordinance and has no right to bargain collectively. It has not seemed to the Committee in the past that the legislation in force permits such a situation. The Committee would again recall that under Article 9 only the armed forces and the police may be excluded from the scope of the Convention and that all categories of workers, including public servants, with the exception of those mentioned above, should, therefore, enjoy the rights set forth in the Convention and be able to exercise them freely.

The Committee, accordingly, would request the Government to ensure that all categories of workers covered by the Convention enjoy trade union rights and are able to exercise them.

4. In addition, under section 10(g) of the 1969 Ordinance, as amended by section 5 of Act No. XXIX of 1980, the Registrar may cancel the registration of a trade union if the number of members is below 30 per cent of the workers of the establishment or group of establishments for which the union was formed. Under section 11A(1) of the 1969 Ordinance, such cancellation results in the dissolution of the union. The Committee considers that a procedure of this kind, which allows the administrative authority discretionary power over the existence of a trade union, constitutes in practice a restriction on the right of workers to establish and to join organisations of their own choosing without previous authorisation (Article 2), whereas the law of the land must not impair the guarantees provided for in the Convention (Article 8). The Committee notes that appeal to the labour courts is now possible (section 11 of the Ordinance) and that an amendment is still under study. It points out, however, that the existence of an appeals procedure does not in itself constitute an adequate guarantee, since this modifies neither the nature of the powers conferred on the authority responsible for registration nor the condition, imposed by section 7(2) of the Ordinance, that 30 per cent of the workers in the establishment must associate to enable a trade union to be established. The Committee considers that, where the legislation lays down a criterion of a minimum number of members, this number should be a reasonable one and should not constitute an obstacle to the establishment of organisations. The Committee considers the figure of 30 per cent excessive and requests the Government to re-examine this condition and to relax the legislative provision on this point.

5. Lastly, the Committee has noted that, under Rule 10 of the Industrial Relations Rules, 1977, the Registrar or any other officer authorised by him may enter the premises of a trade union or federation of trade unions and inspect and seize any record, register or other document. This procedure, under which an administrative authority has wide powers of supervision over the internal affairs of a trade union, is incompatible with the right of workers to organise their administration (Article 3). The Committee would again request the Government to reconsider the provision in question.

#### Belgium (ratification: 1951)

In the comments it has been making for several years, the Committee has pointed out that the national legislation is likely to impair the rights of trade union organisations to further and defend the interests of their members on the following points:

- the obligation placed on a trade union to be affiliated to an organisation represented on the National Labour Council so as to be considered representative in the private sector and to be able to sit on a joint committee (section 3 of the Act of 5 December 1968);

- the similar obligation placed on a union in the public sector for it to be able to take part in the work of the general bargaining committees (section 7(1) of the Act of 19 December 1974);
- the provisions of a collective agreement concluded outside a joint body deemed null and void if they are contrary to the agreements concluded within the National Labour Council or a committee or subcommittee to which the undertakings concerned belong (section 10(3) of the Act of 1968).

The Committee, however, has observed that the worker members of the National Labour Council (Act of 29 May 1952) consist entirely of representatives of representative workers' organisations chosen by the King from among the candidates put forward by the interoccupational organisations that are federated at the national level and it has pointed out on many occasions that these provisions may prevent a union that is the most representative in a given branch of activity from participating in collective bargaining in its own sector on the grounds that it is not affiliated to an interoccupational organisation represented on the National Labour Council. The Committee has therefore invited the Government to reconsider the above-mentioned provisions of the Acts of 1968 and 1974 in order to ensure that the criteria of representativity fixed by the law allow the most representative workers' unions in a given sector or a given category of workers the possibility of participating in the collective bargaining procedures with a view to representing and defending the collective interests of their members.

The Committee notes with regret that in its latest report the Government confines itself to repeating its previous statements to the effect that the system established by the Act of 5 December 1968 merely adds to the possibility open to the trade union organisations of negotiating collective agreements at every level whether national or sectoral. The Government admits, however, that these agreements would not have the value of those concluded in accordance with the Act of 5 December 1968, but it asserts that they would have the value accorded them by ordinary law.

The Committee points out that workers' organisations should be able to formulate their programmes in full freedom and that the public authorities must refrain from any interference that would restrict this right. In addition, it considers that by rendering null and void the provisions of collective agreements which are contrary to an agreement concluded within the National Labour Council by virtue of the 1968 Act, the public authorities impair the right of the most representative trade union organisations of a given category not represented on the National Labour Council to defend the interests of their members. The Committee therefore asks the Government to indicate in its next report the measures taken or under consideration to bring its legislation into conformity with the Convention.

#### Bolivia (ratification: 1965)

The Committee notes the discussion which took place at the International Labour Conference in 1983 and that Bolivia was mentioned among the cases of progress in the application of the Convention.

With reference to its previous comments, the Committee notes that the Government, in its latest report, states that, in preparing and drafting the general labour bill, for which the National Reform Committee is responsible, it has taken account of the discrepancies existing between the national legislation and the Convention.

1. Right to organise of public servants

The Committee notes with interest that the Government has communicated the text of a draft decree granting the right to organise to public servants. This draft was prepared on 22 February 1983; it has been approved by the Chamber of Deputies at three successive readings and is to be approved under the same conditions by the Senate. The Committee points out, however, that the draft in question excludes from the right to organise the staff of the Ministry of the Interior, Migration and Justice, the staff coming directly under the President of the Republic and the staff of diplomatic and consular services abroad, among others, and that the Executive is to determine the scope of the text in question. The Committee recalls that, under the Convention, only the armed forces and the police may be excluded from the right to organise (Article 9) and that the categories of staff mentioned in the draft should be entitled to establish their own organisations (see paragraph 88 of the General Survey of 1983 on Freedom of Association and Collective Bargaining).

2. Other discrepancies

The Committee points out that the discrepancies existing between the General Labour Act and the Decree issued under it and the Convention relate to the following points: the denial of the right to organise to homeworkers, domestic staff and casual workers (section 4 of the Decree), the requirement of previous authorisation for the establishment of a trade union (sections 99 of the Act and 124 of the Decree), the impossibility of setting up more than one union in an undertaking (section 103 of the Act), the wide powers of supervision of the Labour Inspectorate over the activities of trade unions (section 101 of the Act), the possibility that trade union organisations may be dissolved by administrative authority (section 129 of the Decree), the power of the Executive to prohibit strikes by imposing compulsory arbitration (section 113(c) of the Act).

The Committee hopes that legislation which conforms with the Convention will be adopted shortly to ensure to public servants the right to organise and to bring the national legislation generally into conformity with the Convention and asks the Government to inform it of any progress made in these matters.

Furthermore, the Committee is addressing a direct request to the Government on certain other points concerning strike action and the election of trade union leaders.

Bulgaria (ratification: 1959)

The Committee takes note of the information provided by the Government in its report.

In its previous comments, the Committee pointed out that, under section 7 of the Labour Code, the acquisition of legal personality by any occupational organisation was conditional on the approval of the central management of the occupational organisation that already existed.

The Committee takes due note of the Government's statement that the words "other trade union groups" contained in the second sentence of section 7 apply not to trade unions but to structural sections of trade unions such as training schools, clubs, health centres, etc.

The Committee observes, however, that on several occasions the central management of occupational organisations is referred to by name in the legislation, and that varied functions are attributed to it in respect of work, state social insurance, safety and health in the undertaking and collective agreements. The Committee points out that this special reference could prevent any union that were to be established independently of the existing system from exercising its activities of defending the interests of the workers belonging to it.

The Committee therefore expresses the hope that the Government will take the necessary measures to eliminate the reference in the law to a specified trade union organisation.

Burma (ratification: 1955)

The Committee takes note of the information supplied by the Government in its reports and observes that the Government again declares its intention to revise the labour legislation in order to bring it into conformity with the Convention.

The Committee points out that, for many years, its comments have related to the legislative provisions establishing a trade union monopoly (section 9 of Act No. 6 of 1964, as amended in 1976, and sections 2 and 6(b) of the Regulations issued under it, No. 5 of 1976) contrary to Articles 2, 5 and 6 of the Convention, under which workers have the right to establish and to join organisations of their own choosing.

The Committee notes the statement in the report of the Government that there are no legal provisions prohibiting workers' and employers' organisations from establishing or joining federations or confederations.

Furthermore, the Committee notes the reference by the Government to the rights conferred by section 158 of the Constitution on every citizen to join freely the social organisations admitted by law and the statement that the unification of the trade union movement results from the will of the workers themselves.

The Committee observes that, even if membership of the existing trade union, (the "Asiayone"), is, as the Government emphasises in its report, entirely voluntary and devoid of all discrimination, the above-mentioned legislative provisions clearly establish a single-trade-union structure. It does not appear to the Committee



that workers have the possibility of establishing other trade union organisations for furthering and defending their occupational interests outside the framework of the "Asiayone".

Referring to the General Survey that it submitted to the 69th (1983) Session of the International Labour Conference, particularly paragraphs 132 to 138, the Committee points out that, even in a situation where, at some point in the history of a nation, all workers have preferred to unify the trade union movement, they should, however, be able to safeguard their freedom to set up, should they so wish in the future, unions outside the established trade union structure.

The Committee therefore requests the Government to re-examine the situation in the light of the above comments and to inform it of any developments in this connection.

#### Byelorussian SSR (ratification: 1956)

The Committee takes note of the report of the Government and of the statement made by a Government representative at the Conference in 1983.

The Committee notes in particular that the new Act concerning work collectivities, which is still to be promulgated, will grant greater rights to trade unionists.

With regard to the information supplied by the Government, the Committee observes that it relates to texts or to situations similar to those in the USSR. The Committee therefore requests the Government to refer to the comments made in respect of the USSR under this Convention.

#### Cameroon (ratification: 1962)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee takes note of the information supplied by the Government to the Conference Committee in 1981 and that contained in the latest report. The Government states that section 4(2) of Order No. 24/MTLS/DEGRE of 1969, which excludes the possibility of more than one trade union for the same branch of activity in a given central organisation, is due to a concern for the rational organisation of trade unions and does not in any manner prejudice the furthering and defending of the interests of members. The Committee points out that a provision of this kind restricts the right of workers, without distinction whatsoever, to establish and join organisations of their own choosing (Article 2 of the Convention).

The Committee further notes the Government's statement that it is impossible to establish an exhaustive list of administrations, services or sectors of the economy in which the exercise of the right to strike may be prohibited by the administrative authorities under section 165(3) of the Labour

Code and section 2 of Decree No. 74/969 of 1974, that is to say the services and undertakings considered to come within a vital sector of economic, social or cultural activity. The Committee points out that in certain sectors, such as the public service and essential services, a prohibition may be applied, subject to the provision of adequate guarantees to safeguard the interests of the workers (appropriate, impartial and rapid procedures of conciliation and arbitration) and that the notion of essential services must be restricted to services whose interruption would endanger the life, personal safety or health of the whole or part of the population.

The Committee therefore considers that a prohibition of strikes in sectors that are so broadly defined severely limits the possibilities open to the trade unions of furthering and defending the interests of their members (Article 10) and their right to organise their activities (Article 3).

The Committee would be grateful if the Government would introduce appropriate amendments in respect of the above-mentioned points.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

#### Central African Republic (ratification: 1960)

The Committee takes note of the statement made by a Government representative to the Conference Committee in 1983. It notes, however, that the situation concerning which it had made comments has not changed in the manner which it had recommended.

In addition, the Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee has examined the conclusions reached by the Committee on Freedom of Association at its February 1983 meeting in the case respecting the Central African Republic (Case No. 1040), approved by the Governing Body at its March 1983 Session, particularly with respect to the suspension of all trade union activities and the arrest of the Secretary General of the UGTC. The Committee can only state that the general suspension of all trade union activities deprives workers' organisations of all possibility of furthering and defending the interests of their members. It considers that such measures seriously limit the guarantees provided for by the Convention, in particular that of Article 3, which lays down the right of workers' organisations to organise their administration and to formulate their programmes.

The Committee therefore trusts that the Government will very shortly take the necessary measures to remove the restrictions in question in order to ensure the application of the Convention.

Furthermore, the Committee points out that it has commented several times since 1963 on the following provisions of the Labour Code of 1961, which affect the application of the Convention:

- the members of the executive committee of a trade union must have belonged to the occupation for five years (section 10);
- collective agreements must be discussed by delegates of employers' or workers' organisations "belonging to the occupation or occupations concerned" (section 22);
- restrictions are placed on the trade union rights of foreigners (section 6(2)).

The Committee has studied a draft ordinance enclosed with the Government's report, which is to amend certain provisions of Act No. 61/221 of 2 June 1961 issuing the Labour Code. It observes that when this text is adopted it will bring the legislation into conformity with the Convention.

The Committee also trusts that the draft in question will be adopted in the very near future.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

[The Government is asked to supply full particulars to the Conference at its 71st Session.]

#### Chad (ratification: 1960)

The Committee takes note of the information supplied in the report of the Government in reply to its comments.

The Committee observes in particular that, in the draft revision of the present Labour and Social Welfare Code, the legislative texts that gave rise to its observations are to be amended or repealed (namely section 36 of the Labour Code prohibiting the trade unions from all political activity, the Ordinance of 26 November 1975 suspending all strikes throughout the country and Ordinance No. 001 of 8 January 1976 prohibiting public and similar employees from exercising the right to organise). In view of the time that has passed since the coming into force of these restrictions on the exercise of those trade union rights guaranteed by the Convention, the Committee trusts that the amendments referred to will be adopted in the very near future. It requests the Government to keep it informed of developments in the situation.

With regard to the possibility of international affiliation, the Committee notes that the two workers' unions at present in existence are free to affiliate with the international organisations of their choice and do so.

The Committee hopes that the direct contacts mission requested last year by the Government, but which, for practical reasons, has not yet been carried out, will assist in improving the situation on these points.

#### Colombia (ratification: 1976)

The Committee takes note of the information communicated in the latest report of the Government in reply to its previous comments and those of the General Confederation of Labour.

In its previous comments the Committee has raised several discrepancies between the national legislation and the Convention:

1. Establishment of workers' organisations

- the prohibition on setting up more than one works union per undertaking (sections 357 and 364(i) of the Labour Code, section 26 of Decree No. 2351 of 1965 and section 11(1) and (2) of Decree No. 1373 of 1966).
- the requirement of too high a number of trade union organisations for the establishment of a local or regional federation (ten) or a national confederation (20) (sections 27 and 28 of Decree No. 1469 of 1978 on freedom of association).
- the obligation to obtain recognition of legal personality from the Ministry of Labour (sections 366 and 372 of the Labour Code as supplemented by section 5 of Decree No. 1469 of 1978, and section 423 of the Labour Code in respect of federations and confederations).

The Government states that first-level unions, which are generally weaker than industry unions, become still weaker when they proliferate, which affects their power to negotiate. This is also true of national confederations. Furthermore, the Government states that the Administrative Claims Code (Decree No. 1 of 1984) guarantees the possibility of appealing against administrative acts such as resolutions of the Ministry of Labour refusing legal personality to a union (section 50) and that a trade union organisation which has been refused legal personality may apply for the restoration of its rights (section 85).

The Committee notes the Government's argument on the risk of the weakening of the bargaining power of first-level unions, regional federations and national confederations where they have an inadequate number of workers or trade union organisations. It considers nevertheless that by prohibiting the creation of more than one union per undertaking and requiring the affiliation of a minimum of ten organisations at the regional level and 20 at the national level, the provisions in question may well prevent the establishment of first-level unions, federations and confederations (see paragraph 240 of the General Survey on Freedom of Association and Collective Bargaining prepared by the Committee of Experts in 1983). Furthermore, the Committee observes that the appeals provided for by section 50 of the Administrative Claims Code are only administrative and not judicial. Section 85 seems to confer the possibility of judicial appeal on a point of law for the restoration of a right. The Committee considers, however, that if such judicial appeal is to constitute an adequate guarantee, the judges should be able not only to ensure that the legislation has been correctly applied but also to re-examine both the substance of the matter and the grounds determining the administrative decision in the light of the provisions of the Convention (see paragraph 117 of the above-mentioned General Survey).

The Committee therefore asks the Government to amend its legislation so as to permit the establishment without hindrance and

without previous authorisation of first-level unions, federations and confederations.

2. Interference in the internal  
administration of trade unions

The questions raised relate to the following points:

- ministerial approval of amendments to the constitutions of first-level unions and those of federations and confederations (sections 369, 370 and 425 of the Labour Code and section 15 of Resolution No. 4 of 1952).
- regulation by Resolution No. 4 of 1952 of questions that should be governed by the constitutions of the unions rather than by law (quorum at the general assembly, composition of executive bodies, electoral procedure, etc.).
- supervision of the internal management and meetings of unions by public servants (section 486 of the Labour Code and section 1 of Decree No. 672 of 1956), strict rules for trade union meetings (Decree No. 2655 of 1954) and presence of authorities at general assemblies convened to vote the calling of a strike (section 444(2) of the Labour Code).
- the obligation to be Colombian for election to trade union office (section 18(a) of Resolution No. 4 of 1952).
- the election of union officers to be submitted for approval by the administrative authorities (section 21 of Resolution No. 4 of 1952 and sections 10 to 13 of Decree No. 1469 of 1978).
- the suspension, with loss of the right to organise, of leaders who have been responsible for the dissolution of their union (sections 380(2)(b) and (c) and 4 of the Labour Code).
- the obligation to belong to the occupation for election to trade union office (sections 388(1)(c) and 432(2) of the Labour Code, and section 18(c) of Resolution No. 4 of 1952 for first-level unions and 422(1)(c) for federations).

The Government states that section 486 of the Labour Code, which is still in force, is intended to prevent employers, workers and officers or members of trade union organisations from infringing the provisions concerning conditions of employment and the protection of workers following their occupation and exercising the right to freedom of association. It states that interference by the administrative authorities in respect of the approval of election to trade union office and the application of penalties to trade union officers when they cause, by their own fault, the dissolution of a union is intended only to supervise the application of specific legal provisions designed to protect the members. Furthermore, the Government states that the provisions on membership of an occupation are logical.

The Committee observes that section 486 of the Labour Code confers on the officials of the Ministry of Labour the power to summon to their office leaders and members of trade union organisations to demand from them information on their role and the submission of books, registers and other documents, and also confers on these officials the power to be present at any moment without notice at a trade union meeting to prevent the infringement of the provisions mentioned by the Government.

The Committee recalls that the freedom of unions to hold meetings is a condition indispensable to the effective exercise of trade union rights and that the public authorities should refrain from any interference that would restrict this right or impede its lawful exercise. The Committee also considers that the application of the provisions concerning the management of trade unions must be left mainly to the trade unionists themselves, supervision over management not going further than the obligation to furnish periodical financial reports. Lastly, the Committee, while noting the Government's comments on the need for officers to belong to the occupation, hopes that the Government will amend the provisions on the membership of the occupation so as to ensure that a dismissed trade union officer does not lose his office and to permit the candidature of persons who have previously belonged to the occupation; the Committee also hopes that the Government will make section 18 of Resolution No. 4 of 1952 (restriction to Colombians of the right to manage unions) more flexible so as to enable organisations to choose their leaders in full freedom and foreign workers to attain trade union office, at least after a reasonable period of residence in the host country.

The Committee therefore asks the Government to amend its legislation in order to ensure to workers and their organisations the right to draw up their constitutions, elect their representatives and organise their administration without interference from the public authorities.

### 3. Right of trade unions to further and defend the interests of the workers

The questions raised by the Committee relate to the following points:

- the prohibition placed on trade unions from taking part in political matters or holding meetings on them (section 378(a) of the Labour Code, section 16 of Decree No. 2655 of 1954 and sections 12 and 50 of Resolution No. 4 of 1952).
- the prohibition of federations and confederations from calling a strike (section 417(1) of the Labour Code).
- the prohibition of strikes not only in the essential services in the strict sense of the term but also in a very wide range of public services that are not necessarily essential (section 430 of the Labour Code and Decrees Nos. 414 and 437 of 1952, 1543 of 1955, 1593 of 1959, 1167 of 1963 and 57 and 534 of 1967).
- compulsory arbitration empowering the Minister of Labour to end a labour dispute that has lasted 40 days (section 2 of Decree No. 939 of 1966) and the President of the Republic to order the termination of a strike affecting the interests of the national economy (section 3(4) of Act No. 48 of 1968).
- the sentences of imprisonment during the temporary suspension of the right to strike under emergency powers (Decree No. 2004 of 1977).
- the automatic dismissal of trade union leaders who have intervened or participated in an illegal strike (section 450(2) of the Labour Code).

The Government does not comment on the prohibition of political activities by trade unions, but states that while the calling of a strike by a federation or a confederation in a whole sector of economic activity or the classification as essential of some services does little harm to developed nations, it is very harmful to countries that are trying to overcome the obstacles of underdevelopment. It adds that the Convention does not deal with essential services. It further explains that the power of the President of the Republic, under Act No. 48 of 1968, to terminate a strike seriously affecting the national economy by submitting the dispute to compulsory arbitration is not discretionary since it comes into play only subject to the positive opinion of the Supreme Court (Labour Chamber).

The Committee, while noting the comments of the Government on the difficulties faced in overcoming the obstacles of economic underdevelopment, emphasises that the peaceful exercise of the right to strike has always been considered by the supervisory bodies to be one of the essential means that should be available to the workers and their organisations for advancing their occupational claims. The prohibition or restriction of its exercise is compatible with the Convention only in respect of public servants acting in their capacity as agents of the public authority or in essential services in the strict sense of the term (and not in the public services in general) where the interruption of such activities due to a strike would endanger the life, personal safety or health of the whole or part of the population.

The Committee therefore hopes that the Government will amend its legislation so as to change the provision prohibiting political activities by trade unions and to abolish the excessive restrictions on the peaceful exercise of the right to strike. Resort to compulsory arbitration should apply only to essential services in the strict sense of the term, and the suspension of the right to strike under emergency powers should be confined to the immediate period of the emergency.

The Committee would be grateful if the Government would indicate in its next report the measures it could take to bring its legislation into full conformity with the Convention in the light of the above comments.

#### Congo (ratification: 1960)

The Committee notes that the Government's report contains no reply to its previous comments. It must therefore repeat its previous observation which read as follows:

In its earlier comments, the Committee has pointed out that the introduction of the check-off system for the benefit of the Congo Trade Union Confederation by Decree No. 73-167/MJT of 18 May 1973 strengthens the single-trade-union system at present in force in the country and that section 173 of the 1975 Labour Code, Chapter V, Title VI, obliges the first-level unions or unions in undertakings to conform to the conditions laid down in the rules of the trade union organisation. The Committee points out that there is only one trade union organisation in the

country, the Congo Trade Union Confederation, which is designated by name in a decree and thus benefits by compulsory financing from all the workers.

The Committee has always considered that, where the national rules impose trade union security either by compulsory membership of a trade union or by the payment of trade union dues in such conditions that it reinforces trade union monopoly, these rules are contrary to the Convention, since they are likely to affect the right of workers to establish and join organisations of their own choosing.

The Committee again asks the Government to indicate the measures taken or under consideration to ensure the application of the Convention on this essential point.

[The Government is asked to supply full particulars to the Conference at its 71st Session.]

#### Costa Rica (ratification: 1960)

##### 1. Right of trade union leaders to hold meetings on plantations

In comments it has been making for several years, the Committee has asked the Government to adopt specific provisions to guarantee the right of access of trade union leaders to plantations and the right of workers to hold meetings there.

The Committee notes with regret that the Government's report contains no information on the measures taken in this connection and can only express once more the hope that measures will be taken shortly to give statutory effect to the right of access of trade union leaders to the plantations and their right to hold trade union meetings there.

##### 2. Right of trade unions to further and defend the interests of the workers

Observing that the legislation prohibits strikes in a very wide range of services declared to be public that are not essential services in the strict sense of the term, the Committee has invited the Government to amend the Labour Code so as to permit the exercise of the right to strike of workers carrying out the activities listed in clauses (a), (b), (d) and (e) of section 369 of the Labour Code.

The Government states in its report that the draft reform of the Labour Code, which was to provide for the elimination of section 369(b) (prohibiting strikes in stock-raising and forestry activities since such strikes might be damaging to the produce) has not been adopted. It adds, however, that in practice strikes by the workers in question are prohibited not because of their work in the public services but for other reasons.

In view of the importance of the right to strike in the furthering and defence of the interests of the workers, the Committee again asks the Government to abolish the excessive restrictions on the peaceful exercise of this right contained in the legislation. It



recalls that the prohibition of strikes should be confined to public servants acting in their capacity as agents of the public authority or to essential services in the strict sense of the term, namely those the interruption of which would endanger the life, personal safety or health of the whole or part of the population.

The Committee therefore asks the Government to indicate in its next report the measures taken to bring its legislation into conformity with the Convention on these two points.

#### Czechoslovakia (ratification: 1964)

The Committee notes the Government's report. It observes, however, that the information that it contains has already been provided in previous reports.

1. Further to its previous comments, the Committee notes that, according to the report, the unity of the trade union movement has come about by a free decision of the workers who consider that the unity of the trade union movement is an aim in itself and the best way of serving their interests. In support of this the Government recalls that 97 per cent of workers are members of the Revolutionary Trade Union Movement which lends a representative character to this organisation and which led to a special statute being subsequently devoted to this organisation by law. The Government also recalls that Act No. 74 of 1973 gave workers the possibility of freely constituting trade unions, and that consequently there is not a system of trade union monopoly imposed by law. The Committee had already noted this information. It observes that, despite the absence of legislative restrictions on representing their members, electing their delegates, formulating their programmes or defending the interests of their members, workers' organisations which might be constituted would not have the de facto possibility of exercising their activities and implementing their programmes as a result of the large number of powers granted by the law to the Revolutionary Trade Union Movement in the trade union field. The Committee recalls that the Revolutionary Trade Union Movement is referred to by name in the Constitution (article 5) and in various legislative provisions and that its role, together with that of its internal organisations, is of such a nature as to hinder other workers' organisations from being able to exercise such functions. For example, Act No. 37 of 8 July 1959 establishes works committees of the basic organisations of the Revolutionary Trade Union Movement. Similarly, the Labour Code of 1965, as amended, provides, for example, that the participation of the Revolutionary Trade Union Movement in labour relations governed by the Code is implicitly contained in that part of the Code concerning labour relations (Tenth basic principle); it also provides for collective agreements to be concluded on behalf of the workers by the organs of the Revolutionary Trade Union Movement.

The Committee notes that, according to the report, the exclusive trade union rights and functions allocated to the Revolutionary Trade Union Movement and to its constituent bodies are the result of their basic representative character as trade union organisations and that, if other organisations including a significant number of workers were

to be formed, the Government would be prepared to reconsider the existing legislation. The Committee requests the Government to indicate what it means by the expression "significant number". Furthermore, it draws the Government's attention to the fact that, even if it is in general terms in the interest of workers and employers to avoid an increase in the number of competing organisations, trade union unity imposed indirectly by legislation is contrary to the express standards laid down in the Convention. The Committee considers that the legislation should grant the same rights to all trade union organisations that it does to the Revolutionary Trade Union Movement even if the latter, as the representative trade union, has preferential rights concerning collective bargaining, which is not in itself incompatible with the Convention.

The Committee requests the Government to reconsider the situation in the light of the comments it has made.

2. The Committee noted in its previous comments that members of collective farms were not covered by the provisions of the Labour Code concerning trade union bodies (sections 3 and 267(a)). The Government states that those members who exercise activities of an industrial character have already joined trade union organisations but that the others are distinct from workers by virtue of their employment relationship, and hence could not be referred to as workers or employees.

The Committee notes that, according to the report, the economic interests of these members are defended by the Union of Co-operative Farmers, but that if their activity becomes specialised or acquires an industrial character their working relationship becomes closer to that of an industrial working relationship and is no longer of a co-operative nature. The Committee takes due note of this information and requests the Government to indicate whether these farmers can constitute an organisation other than the Union of Co-operative Farmers to defend their specific economic interests given that, like all other workers covered by the Convention, they should be able to constitute the organisations of their own choosing, in conformity with Article 2 of the Convention.

#### Denmark (ratification: 1951)

The Committee takes note of the information contained in the report of the Government and of the adoption of Act No. 300 of 6 June 1984, which concerns, inter alia, occupational associations.

The Committee also takes note of the comments of the Danish Federation of Trade Unions (LO) and the Salaried Employees' and Civil Servants' Confederation (FTF) on the application of the Convention.

It observes that, according to these trade union organisations, the collective agreements providing for the indexation of wages on the cost of living were suspended by the Government in October 1982, because of their inflationary effect, for a period up to January 1985, which was extended by Parliament to January 1987, thereby putting a brake on wage claims. These organisations also mention situations in which the Government has taken legislative action to prevent or end strikes in certain sectors of the public service (namely those in

which radio operators and engineers work). The Committee also takes note of the information furnished by the Government in reply to these comments. The Government explains in particular that its action to end the strike, which had already lasted four months, in the sector of wireless operators was necessary, since, because of the climatic conditions of the country, the prolongation of this strike would have had serious consequences. With regard to its action to prevent the strike in the engineering sector, the Government explains that a strike in this sector would have created conditions in which human life would have been endangered and would have led to considerable loss of property.

First, the Committee points out that, in the General Survey that it submitted to the 69th (1983) Session of the International Labour Conference, particularly paragraph 200, it emphasises that the right to strike is one of the essential means available to workers and their organisations for the promotion and defence of their economic and social interests. Secondly, the Committee points out that restrictions on the right to strike should be limited to services whose interruption would endanger the life, personal safety or health of the whole or part of the population. Since wages form an important aspect of the living and working conditions in an undertaking and are a question of economic policy, the Committee would draw the attention of the Government to the fact that freezing wages for more than four years is a restriction on the right of trade union organisations to organise their activities and formulate their programmes in full freedom for the defence of their economic interests (Article 3 of the Convention).

The Committee requests the Government to re-examine these questions in consultation with the trade union organisations concerned, in the light of the principles stated above, and to keep it informed of any developments in the situation.

#### Dominican Republic (ratification: 1956)

The Committee takes note of the information supplied by the Government in its report.

It observes that following the report of the Commission of Inquiry on the employment of Haitian workers in the sugar plantations, the Government stated that it was going to repeal Resolution No. 13/74 concerning the presence of inspectors of the Department of Labour at certain trade union meetings.

The Committee notes with satisfaction that Resolution No. 13/74 has been repealed by Resolution No. 21/83 of 5 December 1983, issued by the Secretary of State for Labour.

Furthermore, the Committee has pointed out that the discrepancies between the legislation and the Convention relate to the following points:

- the exclusion from the scope of the Labour Code, by virtue of section 265, of agricultural workers in agricultural, agro-industrial, stock-raising or forestry undertakings employing not more than ten workers continuously and permanently;

- the exclusion from the scope of the Code, by virtue of section 3, of public officials and other workers in the service of the public authorities. With regard to these workers, other legislative provisions (Act No. 2059 of 19 July 1949, Act No. 56 of 24 November 1965 and section 13 of Act No. 520) contain important restrictions on the trade union rights they should enjoy under the Convention;
- the major restrictions on the exercise of the right to strike by virtue of sections 373, 374 and 377;
- the prohibition of the right to strike in the permanent public services, listed in section 371 (including public transport and the sale of fuel for transport) which, in the opinion of the Committee, do not come within the definition of essential services in the strict sense of the term, that is to say those the interruption of which would endanger the life, personal safety or health of the whole or part of the population.

In its latest report, the Government states that the comments of the Committee, including those concerning the exclusion of agricultural workers in undertakings employing not more than ten permanent workers, will be taken into consideration during the revision of the legislation, either in the Labour Code or in separate legislative provisions. Furthermore, it announces that trade union activities have recently increased and that 140 new trade unions were established in 1984, in particular agricultural workers' unions spread over the whole territory.

The Committee, while appreciating the Government's statements on the strengthening of the trade union movement in the Dominican Republic, particularly in agriculture, can only point out that the Government first announced its intention of revising the legislation a long time ago. The Committee therefore urges the Government to bring its legislation into conformity with the Convention in the near future and asks it to indicate in its next report any progress made in this connection.

[The Government is asked to supply full particulars to the Conference at its 71st Session.]

#### Ecuador (ratification: 1967)

With reference to its previous comments, the Committee takes note of the information supplied by the Government in its report. It, nevertheless, considers that several provisions of the national legislation continue to impair the application of the Convention:

- the prohibition placed on public servants from setting up trade unions (section 10(g) of the Act on the civil service and administrative careers of 8 December 1971), although they have the right to associate and to appoint their representatives (section 9(h) of the above-mentioned Act). Articles 2 and 10 of the Convention guarantee to all workers without distinction whatsoever (and therefore to all public servants) the right to establish organisations to further and defend their occupational and economic interests and not merely simple associations;

- the obligation to belong to the undertaking for election to the managing committee of a workers' association (section 445 of the Labour Code of 1978). The legislation ought to allow the candidature of persons who have previously belonged to the undertaking or occupation. In addition, the Committee asks the Government to indicate whether any other form of first-level trade union exists other than works unions, for example, unions of workers in the same profession or grouping workers of several undertakings.
- the obligation to be Ecuadorian for membership of the managing committee of a works council (section 455 of the Code). The legislation ought to permit organisations to choose their leaders without hindrance and foreign workers working legally in the country to attain trade union office, at least after a reasonable period of residence in the host country;
- the administrative dissolution of a works council when its membership drops below 25 per cent of the total number of workers (section 461 of the Code). In undertakings employing a large number of workers the legislation should not permit the dissolution of the works council on the pretext that the level of unionisation in the undertaking is less than 25 per cent;
- the prohibition of strikes by public employees (section 503, final subsection, of the Code) and public servants (section 10(g) of the Act on the civil service and administrative careers). Prohibitions on the exercise of the right to strike are compatible with the Convention only in respect of public servants acting in their capacity as agents of the public authority or in essential services in the strict sense of the term (and not the public services in general) where the interruption of such activities due to a strike would endanger the life, personal safety or health of the whole or part of the population;
- the prohibition placed on unions from taking part in the activities of political or religious parties, with the requirement that provisions to this effect shall be included in the by-laws of the unions (section 443(11)). The legislation should not impair the right of trade unions to express in public their opinions on the economic and social policy of the Government for purposes of furthering and defending the interests and the social and economic welfare of the workers;
- the penalty of imprisonment laid down by Decree No. 105 for the instigators of collective work stoppages.
- the granting of exclusive rights to bargain collectively, to "works councils" (sections 457 and 501 of the Code) whereas the Committee considers that this right should be accorded specifically to federations and confederations.

The Government explains, in respect of public servants, that only public employees - and not the workers of public institutions, who have the right to strike under section 453 of the Labour Code - do not have the right to form unions and go on strike, but that in practice associations exist in all public institutions. Collective agreements have therefore been signed between several public or semi-public institutions and their employees. The Government admits that public servants do not have the right to strike, but states that workers in

the public sector covered by the Labour Code do enjoy this right, provided that they have given notice and set up a minimum service (section 503 of the Code). Moreover, the Government considers that it is unnecessary to amend sections 443(11) (which prohibits trade unions from engaging in party politics) and 461 (which concerns the dissolution of works councils covering a very small number of workers), and states that the repeal of Decree No. 105 would require action by the legislative authority.

The Committee takes note of these statements but can only express once again the hope that the Government will re-examine the situation in the light of the above considerations and asks it to indicate in its next report the measures taken or under consideration to bring the legislation into full conformity with the Convention.

[The Government is asked to supply full particulars to the Conference at its 71st Session.]

#### Egypt (ratification: 1957)

The Committee has studied the written and oral information supplied by the Government to the Conference Committee in June 1984 and also in the report of the Government.

It observes that several provisions of the national legislation affect the application of the Convention:

- the single-trade-union system laid down by law in favour of an organisation mentioned by name, the Confederation of Egyptian Trade Unions (sections 7, 13, 14, 16, 17, 31, 41, 52 and 65 of Act No. 35 of 1976 on trade unions as amended by Act No. 1 of 1 January 1981);
- the denial of the right to belong to a trade union committee on persons occupying managerial posts in the public and private sectors (section 19(e) of the Trade Union Act);
- the regulation of the internal management and the activities of trade unions (exclusion from the right to vote and election to trade union office of the unemployed and the retired: section 23; obligation to have been a member of the trade union organisation for a year for election to office: section 36(c); need for the approval of the Confederation of Trade Unions to be a candidate: section 41; and supervision of the financial administration of trade unions by the Confederation: section 62 of the Trade Union Act);
- the power of the Public Prosecutor to call for the removal from office of the executive committee of a trade union organisation responsible for the abandonment of work or deliberate absenteeism in a public service or a service meeting a public need (section 70(2)(b) of the Trade Union Act) and the establishment of a system of compulsory conciliation and arbitration for collective labour disputes (sections 93 to 106 of the Labour Code, Act No. 137 of 6 August 1981).

The Committee has taken note of the repeated statements by the Government on the historical nature of Egyptian trade union unity, which is due to the fact that the Trade Union Act has been drafted by the Egyptian workers and discussed by the workers themselves and that

it is the workers' members of the People's Council who placed it before this Council, bearing in mind the obligations of the Confederation of Trade Unions to the Organisation of African Trade Union Unity, which favours a single-trade-union system at the national level.

The Committee, while appreciating the Government's statements on this point, can only point out once more that, even where a de facto monopoly exists as a consequence of the grouping together of all the workers, national legislation should not institutionalise this factual situation by mentioning by name the single central organisation, even if the existing trade union so requests. Even where, at some point in the history of a nation, all workers have preferred to unify the trade union movement they should, however, be able to safeguard their freedom to set up, should they so wish in the future, unions that are able to group together in higher-level trade union organisations outside the established trade union structure (see paragraph 137 of the the General Survey of the Committee of Experts of 1983 on Freedom of Association and Collective Bargaining).

The Committee therefore asks the Government to indicate the measures taken or under consideration to eliminate in its legislation all reference to the Confederation of Egyptian Trade Unions.

With regard to the denial of the right to belong to a trade union committee on persons occupying managerial posts in the public or private sector, the Committee takes note of the information supplied by the Government to the effect that these workers, representing the administration or the employers, have been excluded from the right to membership of a trade union committee in order to prevent all interference by employers in trade union activities. Nevertheless, according to the Government, these persons are entitled to join occupational associations.

With regard to the regulation of the internal administration and the activities of trade unions, the Government states that the legislation has taken account of the wishes of the Confederation of Egyptian Trade Unions to lay down certain rules that the Confederation considers necessary in the interests of the workers, but that the Ministry of Labour has sent a letter to the Confederation of Trade Unions asking it to consider the possibility of amending these provisions in accordance with the comments of the Committee.

The Committee notes this information with interest and hopes that the next report will mention the progress made in this connection.

With regard to the system of compulsory arbitration for the settlement of collective disputes, the Committee notes the Government's statement that in practice it is the workers who generally call for arbitration and that in most cases the efforts of the Ministry of Labour result in a decision in favour of the workers. Furthermore, some strikes took place in 1983 and 1984 and no worker who had participated in a strike has been prosecuted.

The Committee takes note of this information, but observes that the legislation does not guarantee the right to strike to the workers and that, on the contrary, the Public Prosecutor can obtain the removal of a trade union committee that has provoked the abandonment of work or deliberate absenteeism in a public service.

The Committee can only point out that the peaceful exercise of the right to strike is one of the essential means that must be available to the workers and their organisations for furthering and defending their occupational, economic and social claims. Restrictions on its exercise are compatible with the Convention only in respect of public servants acting in their capacity as agents of the public authority and in essential services in the strict sense of the term (and not in the public services in general) where the interruption of activities due to a strike would endanger the life, personal safety or health of the whole or part of the population.

The Committee therefore urges the Government to indicate in its next report the measures taken or under consideration to bring the legislation into conformity with the Convention in the light of the above considerations.

#### Ethiopia (ratification: 1963)

The Committee takes note of the information communicated by a Government representative to the Conference Committee in 1984 and the report submitted by the Government.

The Committee would again refer to the points already raised by it in its previous comments.

1. The Committee has noted that, under section 9(4) and (5) of Proclamation No. 222, the coming together of unions results in a single union at the national level, namely the All-Ethiopia Trade Union (AETU), one of whose functions is to represent the workers and trade unions of Ethiopia (section 6), which, in turn, have to report to the higher level unions (section 11). It has also noted that the procedure laid down by section 6(7) of the Proclamation confers on the single national trade unions (AETU and AEPA) the exclusive right to draft the by-laws of all trade unions and associations.

The Committee notes the statement by the Government that the aim of the Convention is not to make trade union diversity an obligation and that the establishment and maintenance of a single-trade-union structure are the legal expression of the will of the workers. The Committee would point out, however, that the principle of the free choice of workers' and employers' organisations set forth in Article 2 of the Convention is not intended to favour the thesis of trade union diversity, the implication of the Convention being that this diversity must at least be possible in every case. In paragraph 137 of the General Survey which it submitted to the 69th (1983) Session of the International Labour Conference, the Committee stated that "even in a situation where, at some point in the history of a nation, all workers have preferred to unify the trade union movement, they should, however, be able to safeguard their freedom to set up, should they so wish in the future, unions outside the established trade union structure".

A de facto single-trade-union system should not be made compulsory by law and appropriate measures should be taken to give effect to the principles that are referred to by the Committee in its comments.



2. With regard to the All-Ethiopia Peasant Association (AEPA), the Committee observes, as it has already done, that the Government reaffirms that the AEPA is not a trade union organisation governed by the Proclamations, but a mass organisation of independent peasants, established voluntarily by them. The Committee points out, however, that the peasants' associations are governed by Proclamation No. 223 of 1982, sections 6 and 7 of which confer on them aims, powers and duties that are similar to those accorded the trade union organisations by Proclamation No. 222 at the ideological, economic, social and educational levels. The Committee further notes the statement of the Government that these independent peasants are not to be confused with agricultural workers, who are to be found only on the state farms. The Committee would again point out that peasants, even when they have become collective owners of the land, remain rural workers and should, accordingly, enjoy the trade union guarantees laid down by the Convention, their organisations being workers' organisations. The Committee draws the attention of the Government to the fact that rural workers united in associations should be able to set up and join organisations freely without previous authorisation and to draw up their rules, elect their representatives in full freedom and to formulate their programmes without interference from the public authorities, in accordance with Articles 2 and 3 of the Convention. The Committee points out that these Articles of the Convention are infringed by the following provisions of Proclamation No. 223 of 1982: section 9 on the minimum area for the establishment of a first-level association, section 73 on registration by the Ministry without any indication of the procedure or possible ways of appeal in the event of refusal; section 17(2) on the issuing of the internal regulations by the AEPA; section 5 on the conditions for election to trade union office; and section 7 on the determination of the powers and duties of the associations. Furthermore, the Committee observes that there is no legislative or other provision to govern the dissolution of the associations.

The Committee, therefore, requests the Government to ensure that the Articles of the Convention are applied to rural workers' associations and to indicate any relevant legislative provisions concerning the dissolution of these associations.

The Committee notes further that the agricultural workers of state farms are not covered by Proclamation No. 223. It, therefore, requests the Government to indicate any legislative provisions through which the Convention is applied to this category of workers and to state whether they are considered to be public servants of the State.

3. The Committee has pointed out in previous comments that trade unions other than the All-Ethiopia Trade Union (AETU) cannot affiliate with international organisations. It added that, under Article 5 of the Convention, freedom to affiliate is recognised to every trade union, whether it be at the national level, first level or for a branch of industry. The Committee notes that the Government considers the existing situation to be a logical part of the single-trade-union system established in the country by the workers. The Committee, therefore, refers to its comments at point 1 above and draws the attention of the Government to the necessity, in order to give effect to the Convention, of safeguarding the rights of unions

that might be established outside the AETU to establish and join federations and to affiliate with international trade union organisations. The Committee requests the Government to ensure that effect is given to this provision of the Convention.

4. The Committee takes note of the statement by the Government that the procedures of sections 106 and 99(3) of the Labour Proclamation No. 64 of 1975, contain no prohibition of the right to strike. In its previous comments, the Committee has called attention to the fact that section 106 of the Proclamation makes illegal any strike initiated where the dispute has not been referred to the Labour Division of the High Court, whose decisions are final by virtue of section 99(3) or, where it has been so referred, if 50 days have not elapsed before any decision is given, which makes any strike practically impossible and thus considerably restricts the possibility open to trade union organisations of defending the interests of their members. Since, by virtue of Article 3 of the Convention, a certain number of means must be available to the workers for furthering and defending their economic and social interests, and since the right to strike is an essential one of these means, the Committee requests the Government to take the necessary steps, in particular by legislative action, to enable the workers to exercise these trade union rights.

5. Furthermore, the Committee has also noted that, under section 5 of Proclamation No. 222, the unions are obliged to disseminate among the workers the development plans of the Government as well as Marxist-Leninist theories, and to implement the decisions, directives and orders of higher authorities. Proclamation No. 223 sets forth the same obligations for peasants' associations (sections 15(4) and 22(5)) and further specifies that every member of a peasant association has the duty to accept and implement the National Democratic Revolution Programme of Ethiopia (section 13(1)).

The Committee observes that a trade union which wished to formulate another programme would find itself in conflict with the law. These detailed provisions defining the scope of the unions and also section 6(7), under which the All-Ethiopia Trade Union issues the by-laws of its unions in accordance with the legislation, and section 17(2) of Proclamation No. 223 on peasants' associations, under which the AEPA lays down in detail the powers of the General Assembly of the first-level peasants' associations, are contrary to the principles of freedom of association. The Committee hopes that the Government will take the necessary action to bring its legislation into conformity with the Convention.

6. The Committee has pointed out that public servants and domestic staff do not enjoy the trade union rights granted by Proclamation No. 222. It notes the Government's statement that their right to organise is treated separately by the new Labour Code, which is still being examined. The Committee requests the Government to inform it of any development in this connection and to transmit a copy of the new Code as soon as this is adopted.

7. With reference to the employers' organisations, which the Committee has considered not to constitute employers' organisations within the meaning of the Convention - according to which their principal aim should be to further and defend the interests of the employers - the Committee notes the Government's statement that the

amendments to the Proclamation of 1978 on the Chamber of Commerce have been approved and will be published shortly. The Committee requests the Government to send it a copy of the relevant texts.

[The Government is asked to supply full particulars to the Conference at its 71st Session and to report in detail for the period ending 30 June 1985.]

Gabon (ratification: 1960)

The Committee takes note of the report of the Government and of the statement made by a Government representative to the Conference Committee in 1984.

With reference to its previous comments, the Committee notes the Government's statement that the system of trade union monopoly established by section 174 of the Labour Code for the single national central organisation, the Trade Union Confederation of Gabon (COSYGA), meets a desire for trade union unity freely expressed by the trade union organisations themselves. The Committee is bound to point out that, in the General Survey it submitted to the 69th (1983) Session of the International Labour Conference, it emphasised in paragraph 137 that the legislation must not institutionalise a de facto monopoly, for example by designating the single central organisation by name, even if the existing trade union organisation so requests. The Committee added that, even in a situation where, at some point in the history of a nation, all workers have preferred to unify the trade union movement, they should, however, be able to safeguard their freedom to set up, should they so wish in the future, unions outside the established trade union structure, as provided by Article 2 of the Convention. The Committee notes that section 174 makes the legal establishment of an occupational organisation dependent on its affiliation to the central organisation, whether of employers or of workers, and both clause 22 of the rules of COSYGA and section 173 of the Code restrict the possibility of association to a single union for a given occupation or region. The Committee considers that these provisions conflict with the principle of freedom to establish organisations set forth in Article 2 of the Convention. It requests the Government to make the necessary amendments to bring its legislation into conformity with the Convention on this point.

The Committee observes that although, as the Government points out, section 173 of the Labour Code contains no prohibition of the right to strike, the effect of the conciliation and arbitration procedures provided for by sections 239 et seq. is that, in the event of a collective dispute, any resort to a strike is practically prohibited. The Committee notes the Government's statement that some 20 strikes have taken place during the past four years and that the instigators of these strikes were not affected. It requests the Government to indicate the duration of these strikes since, under the law, any dispute must be notified immediately to the administrative authority for submission to the conciliation procedure and then, if this unsuccessful, to the procedure before the Arbitration Board, whose decisions are final. The Committee understands the wish of the Government to favour co-operation and dialogue between the social

partners, but points out that under Article 3 of the Convention workers' organisations should have the right to formulate their programmes, and that under Article 10 they should be able to further and defend the interests of their members without interference by the public authorities. The Committee trusts that these possibilities will be granted to the trade union organisations in the near future.

In its previous comments, the Committee referred to Act No. 13/80 of 2 June 1980 to establish a trade union solidarity tax deducted each month by the employers for the benefit of COSYGA, the rate being fixed by decree. The Committee notes the Government's statement that this tax is not to be confused with trade union dues fixed freely by the occupational organisations, and that the State can levy the taxes that it considers correct and allocate them as appropriate. The Committee points out that, under article 32 of the constitution of COSYGA, the resources of this central organisation are derived in part from the contributions of the workers, no mention being made of a solidarity tax. From the provisions of Act No. 13/80 and the constitution of COSYGA, the single central organisation, it would seem to the Committee that this tax resembles trade union dues, imposed moreover on all the workers, even if it is not so called. It also seems that the purpose of the tax is to reinforce the trade union monopoly system in favour of COSYGA. The Committee draws the attention of the Government to the above observations concerning trade union monopoly and the reinforcement of this system by financial means, and points out that these measures conflict with the principles set forth by Article 3 of the Convention, under which trade union organisations have the right to organise their administration without interference by the public authorities. Moreover, since the Government states that a distinction must be made between the solidarity tax and members' dues, which means that each member must make two trade union payments, the Committee requests the Government to specify the way in which trade union dues are paid and how their amount is fixed.

With regard to the constitutions of first-level unions, the Committee notes that the Government, replying to its comments, states that they are freely drawn up by the unions themselves, the central organisation having no powers of censorship. The Committee takes note of the precise provisions concerning the administration of first-level unions in the constitution of COSYGA itself. It requests the Government to send a copy of the constitution of a provincial trade union.

With regard to the right to organise of certain classes of civil servants who are excluded from the scope of Act No. 2/81 of 18 June 1981 to establish the general conditions of service of civil servants by section 6 of the Act, including firemen, prison security staff, magistrates and the staff of public industrial and commercial establishments and bodies - a question that has already been the subject of previous comments - the Committee notes that, according to the report of the Government, firemen and prison security staff form part of the armed forces and therefore come under the same special conditions of service. The Committee is of the opinion that the functions exercised by these two categories of public employees ought not normally to justify their exclusion under Article 9 of the Convention from the right to organise. Furthermore, the Committee

takes due note that the general conditions of service of public servants apply to magistrates in so far as they do not conflict with the conditions of service of magistrates (Act No. 11/74 of 21 January 1975) and that magistrates thus enjoy the right to organise. With regard to the staff of public and quasi-public industrial and commercial establishments and bodies, the Committee notes that these persons come under either the provisions of the Labour Code or those of special conditions of service. The Committee requests the Government to supply details in this connection, giving in particular a list of the categories that come under the Code and those that come under special conditions of service.

German Democratic Republic (ratification: 1975)

The Committee takes note of the report of the Government. It points out that its previous comments related to the right of workers to establish organisations of their own choosing, the right to organise of members of collective farms and the right to strike.

1. In the past, the Committee pointed out that section 44 of the Constitution and section 6 of the Labour Code expressly mention the Confederation of Free German Trade Unions (FDGB) as the only central organisation, recognised, with its affiliated unions, for the furthering and defence of the interests of workers. The Committee thus noted that a system of trade union unity is explicitly established by the legislation, in violation of Article 2 of the Convention, the principle of which, moreover, is not to favour either the thesis of trade union unity or that of trade union diversity.

In its report, the Government points out that all citizens, by virtue of section 29 of the Constitution, enjoy freedom of association in defence of their interests and that the unification of the trade union movement within the FDGB is a manifestation of the will of the workers themselves and the consequence of historical circumstances. The Government again mentions the participation of the unions at every level of social and economic life and emphasises that it does not interfere in their internal affairs. The Committee takes note of this information but points out that, in the General Survey it submitted to the 69th (1983) Session of the International Labour Conference, particularly paragraphs 136 to 138, it stresses that a system of trade union unity confirmed in the law is incompatible with the standards of the Convention. Where a de facto monopoly results from the voluntary grouping together of the workers, the legislation must not institutionalise this situation by referring by name to the single central organisation, and the workers must be able to safeguard their freedom to set up, should they so wish in the future, unions outside the established trade union structure. It would appear to the Committee that it is impossible for workers wishing to establish another trade union existing legally and carrying on the activities of furthering and defending the interests of its members to be able to do so.

The Committee requests the Government to reconsider the situation in the light of its comments and to ensure that the provisions establishing a monopolistic trade union system are amended in order to

enable workers so desiring to establish the organisations of their own choosing.

2. In its previous comments, the Committee pointed out that the members of collective farms are excluded from the scope of the Labour Code and thus from the provisions on trade union rights. It has taken note of the information provided by the Government that the interests of peasant co-operators are represented by the Peasants' Mutual Assistance Association (VDGB) in political, economic and cultural matters. The Committee then asked the Government whether the defence of these interests also affected the social aspect of the life of these workers, in particular conditions of employment.

The Committee notes that Orders of May 1984 confirmed and broadened the role of the VDGB in the social field and in respect of conditions of employment. Furthermore, it notes that workers employed by agricultural co-operatives (who come under the Labour Code), and are thus not members of the VDGB, may join the "Agricultural, Food and Forestry Union", which represents their political, economic, social and cultural interests, interests that are different from those of the above-mentioned category of workers.

It would appear to the Committee that agricultural workers, whether members of the co-operative or not, can belong to an organisation for the defence of their interests, but only to a single organisation. The situation prevailing in the other sectors has thus been established in agriculture in a modified form. The Committee refers to its above comments and draws the attention of the Government to the fact that compulsory trade union unity is in conflict with Article 2 of the Convention. It requests the Government to indicate any provisions enabling peasants, whether members of agricultural co-operatives or not, to establish trade unions outside the VDGB and the Agricultural Union and, if such provisions do not exist, to reconsider the situation with a view to guaranteeing them this right.

3. With regard to the right to strike, the Committee noted that it is not expressly provided for in the legislation and that possibilities have been created of resorting to mutual arrangements and court procedures to settle collective disputes.

The Committee points out that the Government is repeating its previous arguments on the constitutional right of the unions to participation and co-management, which ensures that their interests are protected and that, as a rule, either disputes cannot arise or collective disputes are settled by resorting to special forms of co-management. According to the Government, this system and the possibility open to the unions of drafting legislation, which ensures that no laws are adopted without their agreement, make the establishment by law of the right to strike superfluous.

The Committee takes note of the Government's point of view, in particular of the statement that no provision of the Convention expressly mentions the right to strike, but is bound to point out that it has stressed in paragraphs 199 to 206 of the General Survey that under Article 3 of the Convention workers' organisations should have a number of means of furthering and defending their economic and social interests and that the right to strike is an essential one of these means.

Since the law neither prohibits nor authorises the right to strike, the Committee requests the Government to state, in the event of the failure of conciliation or the dissatisfaction of the workers with its results, what means are available to them of asserting their interests.

Federal Republic of Germany (ratification: 1957)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee notes a decision of 17 February 1981 of the Federal Constitutional Court handed down in the case of a constitutional complaint on the question of "whether, in charitable church-run institutions, trade unions have the right to inform, recruit and attend to their members through trade union delegates who do not work in these institutions". The Committee notes that the Federal Constitutional Court decided that there was no legal basis guaranteeing the right of access to the undertaking of a trade union delegate who does not work there and that such a right could not be deduced from the interpretation of the constitutional right to freedom of association (Article 9, paragraph 3, of the Federal Basic Law). The court also stated that such a right of entry was in any case excluded in undertakings where the trade union was already represented.

The Committee takes note of the Government's arguments and those of the DGB in this connection.

The Committee recalls that, under the Convention, workers have the right to establish and join organisations of their own choosing (Article 2) and that workers' organisations have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes (Article 3).

In the Committee's opinion, the rights of workers on the one hand and their organisations on the other, provided for in the Convention, imply that the management of trade union organisations should be able to remain in contact with the members of the trade unions and vice versa. In cases such as the Federal Republic of Germany where trade unions are organised on a wider basis than by undertakings, trade union leaders, even those who do not work on the premises, should therefore have access, where necessary, to the workplace, because this right could constitute for the workers' organisations an essential condition for the promotion and defence of the interests of their members (Article 10 of the Convention).

However, the Committee must also point out that, under Article 8 of the Convention, workers and their organisations are obliged to respect the law of the land, it being understood that the law of the land shall not be such as to impair, nor shall it be so applied as to impair the guarantees provided for in the Convention. The Committee therefore considers that the granting

of facilities to trade union leaders so as to have access to the workplace should not unduly affect the running of the undertaking concerned.

The Committee hopes that, in the interest of the harmonious development of industrial relations, the Government will take the appropriate measures in the light of the Committee's comments. It requests the Government to supply information on any developments in the situation.

#### Ghana (ratification: 1965)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

Referring to the comments it has been making since 1968 on the excessively wide powers invested in the Registrar with regard to the registration of trade unions and the issue of certificates of registration, as well as on the absence of any provisions concerning the right to form federations and confederations or the right to join international organisations of workers, the Committee notes that the Government has requested and obtained advice from the ILO on the manner of bringing its legislation into conformity with the Convention.

The Committee notes with interest the Government's assurances that it will take into consideration the amendments suggested by the ILO in the current two-year programme of codification of all existing labour legislation.

The Committee expresses the firm hope that this assistance will lead to the adoption, in the near future, of measures ensuring the observance of the Convention.

#### Greece (ratification: 1962)

The Committee takes note of the information supplied by the Government in its report.

##### 1. Retired journalists

With reference to its previous comments, the Committee notes with satisfaction that section 14(3)(b) of Act No. 1264 of 1982, which prohibited retired journalists from voting or being elected to trade union office, has been repealed by section 7 of Act No. 1446 of 1984.

##### 2. Seafarers

The Committee noted with regret in its previous observation that Act No. 1264 of 1982 on freedom of association continued to exclude seafarers from its scope. The Committee urged the Government to endeavour to adopt provisions in the near future conforming to the Convention in respect of this category of workers.



The Government states in its report that the Ministry of the Merchant Marine is studying the question with a view to preparing an act on freedom of association and trade union defence of seafarers in conformity with the law and practice in force in other maritime countries and that it will take account of the opinion of those concerned and also of the general interests of Greek navigation.

The Committee can only express once again the firm hope that legislation in conformity with the Convention will be adopted in the near future and it asks the Government to keep it informed of any developments in this connection.

3. Collection of union dues  
and financing of the operating  
costs of the labour centre

The Committee has asked the Government to provide information on the solution finally adopted with respect to the collection of union dues, by means of a general collective agreement or of an arbitration award or, failing that, of a Presidential Decree, which should have prescribed within three months, on a provisional basis, the system for the collection of dues and their repayment by the employers (section 6(2) and (3) of Act No. 1264 of 1982).

The Government states that the question has not yet been settled since the most representative organisations of employers and workers have not yet notified their final positions. The Government refers to difficulties relating to the absence of any provision concerning the collection of the dues of public servants.

The Committee recalls that the Government itself has informed the Committee on Freedom of Association (Case No. 1193, 230th Report) that the Workers' Institute, known as the workers' hostel, has been made responsible provisionally, but in accordance with objective criteria, for aiding the operation of the most representative second-level trade union organisations, namely the labour centres (section 23 of Act No. 1346 of 1983). It has stated that, in accordance with Act No. 1264, this system of financing is to be finally abolished within a period of three months from the date of promulgation of the above-mentioned Presidential Decree and that the General Confederation of Labour of Greece and the Federation of Greek Industries have submitted to the Government proposals aimed at helping to draw up the Presidential Decree in question.

The Committee, like the Committee on Freedom of Association, trusts that section 23 of Act No. 1346/83 does not confer on the Government any power to interfere in the financial administration of the trade unions. It therefore asks the Government to indicate whether the system for financing the operating costs of the labour centres provided for by section 23 of the Act in question has been abolished and, if so, to explain the solution finally adopted for the collection of union dues and the financing of the operating costs of the labour centres.

Guatemala (ratification: 1952)

The Committee takes note of the information supplied by a Government representative to the Conference Committee in June 1984, of the discussion that followed on the application of this Convention, of the information contained in the latest report of the Government and of the legislation in force in Guatemala.

The Committee notes in particular that Legislative Decree No. 88-83 of 8 August 1983 has abolished the state of alert and that the Government has communicated a draft legislative decree containing provisions intended to give fuller effect to Convention No. 87.

The Committee considers, however, that important discrepancies between the national legislation and the Convention still exist on the following points:

Right to organise

- the absence of regulations governing the right to associate granted to public servants by section 63 of Legislative Decree No. 1748 of 10 May 1968 on the civil service;
- the prohibition on workers in the employment of the State from establishing trade unions or associations (section 57 of Legislative Decree No. 24-82 of 27 April 1982 to promulgate the Fundamental Statute of Government and repeal of the 1965 Constitution (section 109)).

The Committee takes note of the draft legislative decree sent by the Government and observes that section 7(2) of this draft provides that the right of association granted by section 63 of Decree No. 1748 shall be exercised in accordance with the provisions laid down in the Labour Code.

The Committee notes the contradiction existing between section 63 of Legislative Decree No. 1748 of 1968 and section 57 of Legislative Decree No. 24-82 of 1982 and recalls that Article 2 of the Convention grants the right of association to all workers without distinction whatsoever, including workers in the employment of the State. It therefore trusts that section 57 of the Fundamental Statute of Government (prohibition on workers in the employment of the State from establishing trade unions or associations) will be repealed.

Activities of trade unions

- the strict supervision of the activities of the unions by the Government (section 211(a) and (b) of the Labour Code of 16 August 1961);
- the impossibility for the unions of taking part in politics (section 207 of the Labour Code);
- the dissolution of trade unions that have taken any part in matters concerning electoral or party politics (section 226(a) of the Code);
- the prohibition on all trade unions from taking part in party politics (section 51(12)(1) of Legislative Decree No. 24-82 of 1982);

- the prohibition on employees of the State and their unions from all political activities and from strikes (section 63 of the Civil Service Act of 1968).

The Committee observes that section 8 of the draft legislative decree (which provides for the amendment of section 226 of the Labour Code concerning the dissolution of trade unions that have taken part in electoral or party politics) will introduce the possibility for these unions of intervening with public bodies with a view to the cultural, economic and social advancement of the workers in accordance with their constitutions, these actions not being covered by the prohibition placed on unions from taking part in matters of electoral or party politics.

The Committee trusts that the amendment of section 226 of the Labour Code will also apply to sections 207 of the Labour Code (impossibility for trade unions of taking part in politics), 63 of the Civil Service Act (prohibition on persons in the employment of the State from taking part in political activities) and 51(12)(1) of the Fundamental Statute of Government (prohibition on trade unions from taking part in party politics).

#### Right to elect trade union leaders in full freedom

- the restriction to Guatemalans of the possibility of being elected to trade union office (sections 51(12)(2) of the Fundamental Statute of Government and 223(b) of the Labour Code).

The Committee points out that Article 3 of the Convention confers on workers' organisations the right to elect their representatives in full freedom. It hopes that the Government will relax section 223(b) of the Labour Code and section 51(12)(2) of the Fundamental Statute of Government (restriction to Guatemalans of the right to lead trade unions) so as to enable these organisations to exercise without hindrance the choice of their leaders and to enable foreign workers to attain trade union office, at least after a reasonable period of residence in the host country.

#### Right of trade unions to further and defend the interests of the workers

The Committee observes that several provisions of the Labour Code and the special laws seriously restrict the exercise of the right to strike:

- the obligation to obtain a majority of two-thirds of the workers in the undertaking or production centre (section 241(c)) and a majority of two-thirds of the members of a trade union (section 222(f) and (m)) for the calling of a strike;
- the prohibition of strikes or work stoppages placed on agricultural workers at harvest time with a few exceptions (sections 243(a) and 249);
- the prohibition of strikes or work stoppages placed on workers in undertakings or services in which the Government considers that the suspension of their work would seriously affect the national economy (sections 243(d) and 249);

- the possibility of calling the national police to ensure the execution of work in the event of an illegal strike (section 255);
- the imprisonment and trial of offenders (section 257);
- the prohibition of strikes by workers in decentralised autonomous and semi-autonomous state bodies (section 4 of the decree issued under the Civil Service Act, Decree No. 1786 of 6 September 1968), by state servants (section 63 of the Civil Service Act of 1968) and by workers in the employment of the State and in public services (sections 57 and 54 of Legislative Decree No. 24-82 of 1982).

Moreover the Committee observes that the Penal Code lays down heavy penalties for illegal strikes:

- the possibility of imposing a sentence of from one to five years' imprisonment on those who carry out acts intended to paralyse or disturb undertakings contributing to the development of the national economy, with a view to harming national production (section 390(2) of the Penal Code as amended in 1973);
- the possibility of imposing a sentence of from six months to two years' imprisonment on public employees and employees of public service undertakings who collectively abandon their duty and possibility of doubling the sentence for those who incite to the collective abandonment of work (section 430 of the Penal Code of 1973).

The Committee points out that the peaceful exercise of the right to strike is one of the basic means that must be available to the workers for furthering their occupational claims. The prohibition or restriction of its exercise is compatible with the Convention only in respect of public officials acting in their capacity as agents of the public authority or in essential services in the strict sense of the term (and not in public services in general) where the interruption of such activities due to a strike would endanger the life, personal safety or health of the whole or part of the population.

The Committee observes that section 7(3) of the draft legislative decree repeals section 4 of Decree No. 1786 of 6 September 1968, which prohibits workers in decentralised autonomous and semi-autonomous state bodies from resorting to strikes or arbitration for the settlement of their differences. Nevertheless, in view of the many discrepancies existing between the legislation and the Convention, the Committee hopes that the Government will amend its legislation to guarantee to workers the peaceful exercise of the right to strike and that suitable guarantees will be granted to protect workers in the public service and in essential services who are denied an important means of defending their occupational interests, perhaps through conciliation and arbitration procedures.

In conclusion, the Committee, while hoping that the draft decree sent by the Government will be adopted in the near future, emphasises the necessity of amending the provisions of the Labour Code, the Penal Code, the Civil Service Act and the Fundamental Statute of Government in order to remove the present restrictions and to ensure the application of the Convention. It asks the Government to keep it informed of developments in the situation on these various points.

[The Government is asked to supply full particulars to the Conference at its 71st Session and to report in detail for the period ending 30 June 1985.]

Haiti (ratification: 1979)

The Committee notes with regret that no report has been received from the Government. It has, however, examined the information furnished by a government representative to the Conference Committee in June 1984 and the text of the Decree of 24 February 1984 to revise the Labour Code of 12 September 1961.

1. The Committee notes, in connection with the action taken on the report of the Commission of Inquiry instituted to examine, among other things, the application by Haiti of Conventions Nos. 87 and 98 in respect of Haitian workers in the sugar plantations of the Dominican Republic, that the Government has again declared, before the Committee of the International Labour Conference in June 1984, its intention of including in the text of employment contracts concerning these workers a special clause guaranteeing their rights to freedom of association and collective bargaining.

The Committee asks the Government to state whether this clause has actually been included in the contracts of employment for the 1984-85 season and whether it will be included in future contracts.

2. The Committee observes, moreover, that the legislation as a whole still contains certain restrictions that may affect the exercise of the freedom of association guaranteed by the Convention:

- the obligation to obtain the approval of the Government, on such conditions as may please the public authority, before establishing an association of more than 20 persons (section 236 of the Penal Code), whereas the legislation should permit the establishment of trade union organisations, federations and confederations without previous authorisation (Articles 2 and 5 of the Convention);
- the wide powers of supervision by the authorities over the trade unions (section 34 of the Decree of 4 November 1983, formerly section 400 of the Act of 28 August 1967 respecting the Department of Social Affairs), whereas the public authorities should refrain from any interference that would restrict the rights of trade union organisations (Article 3);
- the imposition of compulsory arbitration by the Arbitration Board, automatically or at the demand of the Secretary of State for Labour or of only one of the parties to a dispute, with a view to ending a strike (sections 185, 190, 199 and 200 of the amended Labour Code), whereas workers and their organisations should have the right to further and defend their interests by means including recourse to strikes, and the public authorities should refrain from restricting this right (Articles 3 and 10).

The Committee therefore considers that it is desirable that recourse to compulsory arbitration with a view to ending a strike be confined to cases of strikes in essential services in the strict sense of the term, that is to say those whose interruption would endanger the life, personal safety or health of the whole

or part of the population, and arbitration should be possible when both parties call for it.

3. The Committee asks the Government to state whether there are at present in Haiti trade union organisations affiliated to international workers' organisations and, if so, to indicate their names.

4. Lastly, the Committee observes that public servants are governed not by the Labour Code but by special laws set forth in section 389 of the Labour Code as amended.

The Committee therefore asks the Government to state whether public servants have the right to organise and, if so, by virtue of what text.

#### Honduras (ratification: 1956)

With reference to its previous comments, the Committee notes that the Government repeats its statements to the effect that the draft Labour Code under preparation and at present before the Congress should bring the legislation into conformity with the international standards laid down in the Conventions ratified by Honduras. The Committee points out that the comments it has made on the Labour Code relate to the following points:

- the amendment of section 2 of the Labour Code so as to extend the right to join trade unions expressly to workers in agricultural or stock-raising undertakings not regularly employing more than ten workers, with a view to bringing this provision into conformity with Article 2 of the Convention;
- the amendment of section 472 of the Labour Code, which is inconsistent with Article 2 of the Convention in not permitting the existence in a given undertaking, institution or establishment of more than one works union and providing that, where there is already more than one union, only that with the greatest number of members shall remain in existence;
- the amendment of section 510, which is inconsistent with Article 3 of the Convention in requiring that union officers shall, at the moment of election, be normally engaged in the occupation or function characteristic of the union and have exercised it for more than six months during the preceding year;
- bringing into conformity with Article 6 of the Convention section 537, which provides that federations and confederations are not entitled to call a strike, and section 541, which provides that the leaders of federations and confederations shall have been engaged in the corresponding occupation or function for more than one year before election;
- the requirement of a majority of two-thirds at the general assembly of a trade union for calling a strike (sections 495 and 563);
- the necessity of government authorisation or six months' notice for the suspension or paralysis of work in public services that do not depend directly or indirectly on the State (section 558). This provision is open to criticism in so far as it applies to certain services - such as transport or services

connected with petroleum - that are not essential services in the strict sense of the term, that is to say services the interruption of which would endanger the life, personal safety or health of the whole or part of the population;

- the power of the Minister of Labour and Social Security to end a dispute between employers and workers on the application of either party in services for the production, refining, transport and distribution of petroleum (section 555(2) of the Code).

The Committee again expresses the hope that legislation in conformity with the Convention will be adopted in the near future and asks the Government to keep it informed of any progress occurring in these fields.

[The Government is asked to supply full particulars to the Conference at its 71st Session and to report in detail for the period ending 30 June 1985.]

#### Hungary (ratification: 1957)

The Committee takes note of the report of the Government.

In its previous comments, the Committee pointed out that the unitary trade union structure established under the Labour Code (sections 11 to 17) excludes the possibility for the workers of establishing, in accordance with Article 2 of the Convention, any other trade union organisation independent of this existing structure that would have the power to further and defend the interests of the workers.

Moreover, the Committee would point out that the Central Council of Trade Unions (SZOT) is the only central trade union organisation mentioned in section 12 of the Labour Code, and thus the only one to be consulted by the Council of Ministers or to be called on to give its agreement in the cases laid down by this provision (regulations respecting the living and working conditions of wage earners and certain ordinances). It also points out that the works committee of a trade union is the only interlocutor representing the workers in collective bargaining with the employer, in the adoption of works rules on labour protection and in the supervision of their application. In this connection, the Committee already noted that, according to the Government, the executive body in the undertaking is the meeting of the members or, where the number of members makes it necessary, an elected committee to which the law grants essential trade union rights.

Referring to its General Survey submitted to the 69th (1983) Session of the International Labour Conference, and particularly paragraphs 134, 136, 137 and 138, the Committee would point out that a system under which the Labour Code refers specifically and exclusively to the works committee of the trade union and the National Council of Trade Unions in order to grant these the right to protect and to bargain on behalf of the workers in the undertaking would prevent another trade union from being able to carry on trade union activities in full freedom. In the opinion of the Committee, even if a trade union may legally be set up outside the unitary system established by law, as the Government emphasises, such an organisation could not in

practice have the necessary powers to enable it to defend the interests of its members. The Committee points out that trade union pluralism must remain possible and that this should be made clear in the legislation. It requests the Government to take measures to guarantee to any unions that might be established outside the existing structure the possibility of furthering and defending the interests of their members.

#### Jamaica (ratification: 1962)

The Committee notes that the Government's report contains no reply to its previous comments. It must therefore repeat its previous observation which read as follows:

The Committee takes note of the latest report of the Government and the appendices enclosed with it. The Committee notes that the points raised in its previous observation have been submitted to the Tripartite Committee set up to review the labour legislation. It therefore points out again that section 9 of the Labour Relations and Industrial Disputes Act (Act No. 14 of 1975), as amended, amounts to a prohibition of strikes in services defined as essential in the law, which cover several sectors of economic activity such as banking, transport, the loading and unloading of ships, oil refining, etc. The Committee recognises that resort to strikes may be prohibited in essential services subject to adequate guarantees (appropriate, impartial and rapid procedures of conciliation and arbitration). The concept of essential services, however, must be restricted to services whose interruption would endanger the life, personal safety or health of the whole or part of the population. The Committee is therefore of the opinion that the above-mentioned list is too extensive to be compatible with the Convention.

With regard to the power conferred on the Minister by Act No. 14, as amended in 1978, which enables him to refer all disputes to compulsory arbitration, the Committee points out that this procedure, which may lead indirectly to the prohibition of the right to strike, considerably restricts the power of the trade unions to further and defend the interests of their members (Article 10 of the Convention) and their right to organise their activities (Article 3).

The Committee hopes that the Tripartite Committee will take its comments into account and that suitable amendments will be introduced in the legislation on these points.

#### Japan (ratification: 1965)

The Committee notes the information supplied by the Government in its report and to the Conference Committee in 1984, as well as the comments made by the General Council of Trade Unions of Japan (SOHYO) on 5 November 1984, by the Japanese Confederation of Labour (DOMEI) on 14 December 1984 and in a communication from the National Railway



Workers' Union (KOKURO) on 15 February 1985 transmitted by SOHYO on 19 February 1985.

1. The Committee first notes that the KOKURO's observations on the situation of employees of the Japanese National Railways were transmitted to the Government on 1 March 1985. The Government has not yet transmitted its comments thereon. The Committee hopes that full information on these matters will be available from the Government at its next session so that the Committee may examine the issues raised by KOKURO.

2. The Committee observes that SOHYO repeats its observations of past years concerning the acquisition of legal personality by the National Union of Local and Municipal Government Employees (JICHIRO) and the legislative definition of public servants at the managerial, supervisory and confidential level. It also takes note of the Government's detailed replies to these two issues. In the Committee's opinion, no new information has been made available to warrant any change in the conclusions it reached on these matters in its observations of 1981, 1983 and 1984, namely that these two situations do not involve infringements of freedom of association.

3. Both DOMEI and SOHYO contest the strike ban contained in the National Public Service Law and the latter supplies detailed statistics on sanctions which have been applied between October 1982 and October 1983 to public servants who have participated in strike action, ranging from warnings, reprimands, admonitions and wage cuts to dismissals. The Government replies, as it has in the past, that disciplinary sanctions are inevitable in a legal situation where strikes are prohibited and it points out that reductions in pay increments after repeated warnings, being an indication of the quality of the public servant's work, are agreed upon between the labour and management involved and provided for in a collective agreement. The Government repeats that penal sanctions for strike action are imposed only on those who conspire, instigate or incite other public servants to strike and not on strike participants. It adds that no case leading to the imposition of penal sanctions was reported in the last decade (although one case involving a 1974 teachers' strike is before the Tokyo High Court).

Given that there is no change in this situation on which the Committee made detailed comments in 1984, it would repeat its previous conclusions, namely that the principle whereby the right to strike may be limited or prohibited in the public service or in essential services (whether public, semi-public or private) would become meaningless if the legislation defined the public service or essential services too broadly. In the view of the Committee such a prohibition should be confined to public servants acting in their capacity as agents of the public authority or to services whose interruption would endanger the life, personal safety or health of the whole or part of the population. Moreover, if strikes are prohibited or restricted in the public service or in essential services, appropriate guarantees must be afforded to workers who are thus denied one of the essential means of defending their occupational interests. Restrictions should be offset by adequate, impartial and speedy conciliation and arbitration procedures in which the parties concerned can take part at every stage and in which the awards should

in all cases be binding on both parties. Such awards, once rendered, should be rapidly and fully implemented (see the observation under Convention No. 98). Moreover, the Committee has stated that, as regards strikes, penal sanctions should only be imposed where there are violations of strike prohibitions that are in conformity with the principles of freedom of association. In addition, in these cases, the sanctions should be proportionate to the offences committed, and penalties of imprisonment should not be imposed in the case of peaceful strikes. Generally, as regards the question of the right to strike and the application of disciplinary sanctions, the Committee would again request the Government to re-examine the situation in the light of the above principles and to continue to supply information on any action that may be taken concerning the application of these principles.

4. As regards the denial of the right to organise for fire-fighters, the Committee notes that the Government heard the opinions from the parties concerned at the Inter-Ministerial Conference on Public Employees' Problems and that it approached a cross-section of fire defence personnel for their views on this matter. According to the Government's summary of the latter's opinions, if the right to organise were recognised, the spirit of solidarity and unity between organisations would be weakened and if such personnel had the right to strike this would cause anxiety to the public and would damage the co-operation between volunteer fire-fighting teams and fire defence personnel; moreover, the working conditions of fire defence personnel were discussed at various levels and there have been positive improvements through mutual communication between labour and management. The Government adds that it has never interfered with the National Council of Fire-Fighting Personnel, and would not do so unless the Council committed any illegal activity. Although SOHYO states that there is discrimination by employers against members of the Council, the Government maintains that fire defence personnel have never met with unfair treatment because of belonging to the Council.

The Committee notes that extensive deliberations are taking place concerning the right to organise of this category of workers with the participation of SOHYO and DOMEI affiliates from the public sector. It requests the Government to keep it informed in future reports on any developments in the matter.

#### Kuwait (ratification: 1961)

The Committee takes note of the discussion on the application of this Convention that took place at the Conference Committee in June 1984 and of the information contained in the Government's report.

The Committee points out that several provisions of the Labour Law in the Private Sector, No. 38 of 1964, are not in conformity with the Convention and that they should be amended:

- there must be at least 100 workers to establish a trade union (section 71 of the Law) and at least ten employers to form an association (section 86);

- foreigners must have resided five years in Kuwait before they may join a trade union (section 72);
- at least 15 members must be Kuwaiti before a union may be established (section 74);
- a certificate of good reputation and good conduct must be obtained before a person may join a trade union (section 72);
- a certificate must be obtained from the Minister of the Interior stating that he has no objection to any of the founding members before a trade union may be established (section 74);
- not more than one trade union may be set up for a given establishment or activity (section 71);
- trade unionists who are not of Kuwaiti nationality may not vote, except to elect a representative whose only right is to express their opinions to the trade union leaders (section 72);
- the authorities have wide powers of supervision over books and records (section 76);
- the assets of the trade union fall to the Ministry of Social Affairs and Labour in the event of dissolution (section 77);
- trade unions are prohibited from engaging in any political or religious activity (section 73);
- trade unions may associate only if they represent the same occupation or industries producing similar goods or providing similar services (section 79);
- organisations and their federations are prohibited from forming more than one general confederation (section 80).

The Committee has studied the draft Labour Code, which, according to the Government, is intended to bring its legislation into conformity with the Convention. The Committee notes with interest, in particular, that the draft in question does not reproduce certain provisions that have been the subject of its previous comments. These are that there must be at least 100 workers to establish a trade union and ten employers to form an association, that foreigners must have resided five years in the country before they may join a trade union, that at least 15 members must be Kuwaiti before a union may be established, that a certificate of good reputation and good conduct must be obtained before a person may join a trade union, that a certificate must be obtained from the Minister of the Interior stating that he has no objection to the establishment of a trade union, that foreign trade unionists may not vote except to elect a representative with powers to express their opinions, that the assets of a dissolved trade union fall automatically to the Ministry of Social Affairs and Labour and that trade unions are prohibited from engaging in any political or religious activity.

The Committee observes with regret, however, that the draft maintains a system of trade union monopoly imposed by law (section 114 of the draft prohibits the formation of more than one union per establishment or occupation and more than one federation for trade unions whose members carry on the same activity, and section 112 permits the formation of only one confederation).

The Committee takes note of the Government's opinion that, in the interests of the trade union movement, the situation should not change.

The Committee recalls, however, that the imposition of a trade union monopoly in the undertaking or the occupation, apart from being

contrary to Article 2 of the Convention which confers on workers the right to establish the unions of their own choosing, may well facilitate acts of interference on the part of the employer or employers concerned (see paragraph 133 of the General Survey of 1983 on Freedom of Association and Collective Bargaining).

Furthermore, the Committee observes that section 108 of the draft provides that the by-laws of trade union organisations shall be based on the model by-laws laid down by order of the competent minister and that section 110 provides that an order shall be issued by the competent minister indicating the conditions and rules for the membership of non-Kuwaiti workers.

The Committee asks the Government to supply a copy of the model by-laws and of the order in question.

The Committee hopes that the amendments made in the draft Labour Code for a fuller application of the Convention will be adopted shortly. It again asks the Government to indicate the measures taken or under consideration to give effect to the Convention on all points, in particular by eliminating from the law every reference to trade union monopoly and by guaranteeing to non-Kuwaiti workers the exercise of trade union rights and eligibility for trade union office after a reasonable period of residence.

#### Liberia (ratification: 1962)

The Committee notes that the Government's report has not been received. It takes note, however, of the discussion which took place in the Conference Committee in 1984, in particular, of the assurances given by a representative of the Government that the prohibition of political activities and strikes was to be lifted on 26 July 1984, and that the adoption of the new Labour Code was imminent. In addition, the Committee has examined the conclusions of the Committee on Freedom of Association on this point which it reached in Case No. 1219, approved by the Governing Body at its 226th Session (May-June 1984). In the absence of any further information from the Government, the Committee is obliged to repeat its previous observation which read as follows:

Following its previous comments, the Committee notes that the draft Decree and revised Labour Code should, according to the Government's statement, in the first place, recognise the trade union rights of workers in state undertakings and, by means of an amendment to the Civil Service Act, extend this right to the civil service, and secondly, repeal section 4601-A of the Industrial Practices Act prohibiting trade unions or workers' industrial organisations from exercising any privilege or function on behalf of agricultural workers, and by so doing thus ensure the application of Article 2 of the Convention.

The Committee recalls that the draft of the new Code has been under consideration for many years and that both it and the Conference Committee have long been making comments on this. It trusts that the announced texts which, according to the Government, have been improved since 1980 towards ensuring better application of the Convention, will be adopted forthwith.

As regards Decree No. 12 of 30 June 1982 which prohibits strike action in all sectors of the economy and refers all cases of labour disputes to the exclusive arbitration of the administrative authorities, the Committee refers to its General Survey submitted to the 69th (1983) Session of the International Labour Conference, and in particular to paragraphs 200, 205, 206 and 226. It emphasises that, regardless of the justifications mentioned, such measures should be strictly limited in time as they imply a considerable restriction of the possibilities that the trade unions have to promote and defend the interests of their members (Article 10 of the Convention) and the rights that they have to organise their activities (Article 3).

The Committee recalls, furthermore, that the prohibition of strikes should not be admitted except in the case of the civil service, that is to say, officials acting as agents of the public authorities, or essential services in the strict sense of the term, i.e. those whose interruption would endanger the life, personal safety or health of the whole or part of the population. In these circumstances, the Committee asks the Government to take the measures necessary to have Decree No. 12 repealed or amended accordingly.

[The Government is asked to supply full particulars to the Conference at its 71st Session.]

#### Madagascar (ratification: 1960)

The Committee takes note of the report of the Government, which mainly refers to its previous reports.

The Committee points out that its previous comments related to the trade union rights of seafarers and public servants, the possible control by the State of organisations coming under Decree No. 76-008 and the possibility of requisitioning workers in the event of strikes.

With regard to seafarers, the Committee pointed out that workers of this category are excluded from the Labour Code by section 1, since they are governed by the Mercantile Marine Code of 1960, incorporated in the Maritime Code of 1966. In the past, the Government had stated that seafarers nevertheless come under the general system of the Labour Code except in respect of conditions of recruitment and employment, which are governed by the Maritime Code, and that they therefore enjoy the trade union guarantees and rights recognised to other workers in the Code. Since these rights do not appear clearly or precisely in the legislation, the Committee considers that it would be desirable for specific legislative provisions to be adopted to guarantee to seafarers the exercise of the trade union rights provided for by the Convention or for section 1 of the Labour Code to be amended to this end. The Committee, moreover, requests the Government to furnish a copy of Ordinance No. 60-047 of 15 June 1960 to issue the Mercantile Marine Code and Ordinance No. 62-012 of 10 August 1962 amending it.

With regard to public servants, the Committee has already noted that by virtue of section 4 of Act No. 79-014 the right to organise is granted to them under Ordinance No. 76-008 of 20 March 1976 to issue

the regulations of the Malagasy Revolutionary Organisations (ORM). The Committee notes the insistence of the Government that the establishment of these organisations is not compulsory and it points out that under sections 8 and 9 these ORMs can exercise their rights and activities only after obtaining approval through a Cabinet Order pronounced by the President of the Republic on the report of the Minister of the Interior. The Committee observes that, if the right of association is in fact recognised to public officials, the trade union associations that they may establish are subject to administrative restrictions contrary to the Convention. They can form only revolutionary associations governed by Ordinance No. 76-008 subject to approval, which is contrary to Article 2, and over which the State, by virtue of section 24 of the Ordinance, may at any moment exercise supervision, which is contrary to Article 3. Moreover, these are, by virtue of section 25, liable to dissolution by administrative authority, which is contrary to Article 4 of the Convention. The Committee draws the attention of the Government to the fact that, like other workers, public officials should enjoy the rights set forth in the Convention, namely to establish freely without previous authorisation trade union organisations that can carry on their activities without interference by the public authorities and are not liable to be dissolved by the administrative authorities. The Committee, therefore, hopes that the Government will adopt suitable measures to guarantee these rights to workers in this category.

With regard to the above-mentioned Ordinance, the Committee also notes the Government's statement that the setting up of an ORM is not compulsory, that none of the trade unions existing before the adoption of this text has established such an organisation and that they have all continued their activities in accordance with the provisions of the Labour Code. As to the unions that have set up an ORM, the Committee requests the Government to state whether they continue to be governed by the Labour Code or whether they have lost this status and assumed in full that of Ordinance No. 76-008. Furthermore, since the Government makes a distinction between trade union organisations established before the Ordinance and those established afterwards, the Committee requests the Government to state in its next report under what legal rules it has been possible to establish trade union organisations since 1976.

Similarly, the Committee has examined the provisions of Ordinance No. 78-006 of 1 May 1978 setting up the Charter of Socialist Undertakings which, as regards access to the Workers' Committee, favours the members of trade unions belonging to one of the ORMs of the National Front for the Defence of the Revolution. The Committee points out that legislative provisions which favour one trade union over another directly influence the workers' choice since they will be more inclined to join the union best able to serve them. It asks the Government to re-examine the situation in the light of its comments and draws the Government's attention to the fact that these provisions could conflict with the free choice of the workers set out in Article 2 of the Convention.

With reference to its previous comments, the Committee points out that by virtue of Act No. 69-15 of 16 December 1969 concerning the

requisitioning of persons and property, and particularly sections 20 and 21, the right to requisitioning comes into force when "the state of national necessity is proclaimed", in the event of "a threat ... to a sector of national life", and where it will be "strictly confined to safeguarding the interests of the nation". Since such emergency measures might possibly be taken in the event of a strike which meets these criteria, the Committee requests the Government to indicate the practical cases that may come within the definitions of national necessity, threat to a national sector or the interests of the nation and to state whether such requisitionings have already been carried out in cases of strikes.

The Committee trusts that the Government will supply with its next report all the information requested and will reconsider in the near future the situation of seafarers and also that of public servants in respect of their trade union rights, in the light of the above comments.

[The Government is asked to supply full particulars to the Conference at its 71st Session and to report in detail for the period ending 30 June 1985.]

#### Malta (ratification: 1965)

The Committee takes note of the report of the Government, which contains no information replying to its comments. It also takes note of the various observations submitted by the Confederation of Malta Trade Unions (CMTU) on the application of the Convention.

In its previous comments, the Committee raised the question of the absence of legal provisions to recognise groups of trade unions and noted that these groups had no recognised status unless the law expressly accorded them one. Moreover, the Committee observes that one confederation, the CMTU, exercises its trade union activities in reality as a group and is mentioned in the Industrial Relations Act, 1976, as a future element in the Joint Negotiating Council that was to be set up.

The Committee requests the Government to state whether this legal situation in some way prevents a federation or confederation which was desired to be set up from fully exercising its trade union activities. The Committee points out that under Article 5 of the Convention trade unions have the right to establish federations and confederations, and that Article 6 extends to these organisations the rights recognised in Articles 2, 3 and 4 of the Convention.

Furthermore, the Committee has observed that, under section 27 of the Industrial Relations Act, 1976, the competent minister may refer a collective labour dispute to the Industrial Tribunal for settlement without the agreement of all the parties to it, which may result indirectly in the prohibition of the right to strike and so restrict the possibilities open to the trade unions of furthering and defending the interests of their members (Article 10) and the right of occupational organisations to organise their activities (Article 3).

The Committee points out that such restrictions on the right to strike can be applied only to essential services in the strict sense of the term, that is to say those whose interruption would endanger

the life, personal safety or health of the whole or part of the population. It would again request the Government to consider restricting the scope of section 27 to collective disputes that may occur in these services.

Mauritania (ratification: 1961)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee examined the report of the Committee on Freedom of Association respecting Case No. 1088, approved by the Governing Body at its 221st Session (November 1982), which, in particular, drew the attention of this Committee to the deterioration in the trade union situation. The Committee observes that the draft amendments to the Labour Code are still under study, particularly those in relation to section 1 of Book III, which prohibits the establishment of more than one union in a given trade or occupation or similar trades or occupations and restricts the right of workers to establish and join organisations of their own choosing (Article 2 of the Convention). and sections 40 and 48 of Book IV, under which a strike may be prohibited by submitting the collective dispute to an arbitration procedure, which is contrary to the right of workers to organise their administration and activities (Article 3) and to further and defend the interests of their members (Article 10).

The Committee again expresses the hope that the revision of the Labour Code will take into account its comments, which were repeated by the Committee on Freedom of Association during the examination of Case No. 1088, and it would be grateful if the Government would provide information on any development in the situation.

Mexico (ratification: 1950)

In comments that it has often repeated, the Committee has pointed out the discrepancies between the Federal Act on State Employees of 1963 and the Convention in respect of the right to organise of public servants:

- the prohibition of the coexistence of two or more unions in the same state body (sections 68, 71, 72 and 73 of the Federal Act on State Employees);
- the prohibition of a worker in the service of the State from leaving the union he belongs to (section 69);
- the prohibition of the re-election of trade union officers (section 75);
- the prohibition of unions of public servants from joining trade union organisations of workers or peasants (section 79);



- the extension to the Federation of Unions of Workers in the Service of the State of the restrictions applicable to the trade unions (section 84).

In its observation of 1983, the Committee noted the Government's statement that under the legislation the term "trade union" was confined to the most representative association or group within a service, but that this did not mean that other minority organisations might not exist with the right to defend their members and did not prohibit the formation of federations or confederations by existing minority groups. The Committee pointed out that the minority organisations referred to by the Government could not obtain legal personality and therefore concluded that the legal status conferred on these minority organisations did not meet the requirements of the Convention. It asked the Government to take the necessary measures to bring the legislation into conformity with the Convention and to keep it informed of any developments.

The Committee notes with regret that the present report contains no information in this connection. In these circumstances, the Committee can only express once more the hope that the Government will re-examine its legislation in the light of the principles of freedom of association and that it will communicate information on any measures taken or under consideration to bring the Federal Act on State Employees into conformity with the Convention.

Furthermore, in view of the time that has passed since the comments were first made, the Committee draws attention to the fact that the International Labour Office is at the disposal of the Government and of all parties concerned to provide any necessary assistance in bringing about the adoption of legislation in conformity with the standards and principles of the ILO in this field.

#### Mongolia (ratification: 1969)

The Committee notes the information contained in the Government's report.

In its previous comments, the Committee pointed out that the existence of a single-trade-union system in the country resulted from the very terms of its legislation. In the first place, sections 4 and 185 of the Labour Code confer trade union functions (collective bargaining, representation of workers' interests, solution of labour problems, etc.) solely on the trade union committees mentioned, which excludes the possibility of workers setting up any other trade union organisation which could promote and defend their interests.

1. The Committee notes the Government's statement that the legislation does not prohibit or restrict the founding of trade unions other than those already in existence and, if there is no other trade union, this is because the workers have not up to now expressed the wish to found one. In this context, the Government indicates that the unitary system of trade unions in existence in the country, as it is devised and legally sanctioned in its present form, results from the wishes of the workers who saw a disadvantage in the fragmentation and disunion of the trade union movement.

The Committee notes the connection between this new statement and the one that it noted in the past concerning employers who were not forbidden by law to constitute organisations of their own choosing, but who are in fact members of the same trade union organisation as the workers of the undertaking that they manage.

The Committee is bound to draw the Government's attention to the possibility that should be given to workers' organisations, if set up outside the existing trade union structure, to defend their members' interests and to formulate their programmes, as envisaged by Article 3 of the Convention. The Committee points out that, although the legislation does not in theory prevent a trade union from being constituted, the provisions of the Labour Code, by specifically and exclusively conferring trade union functions on the trade-union committees, are in themselves an obstacle to other trade union organisations being able to exercise, in practice, activities of a trade union nature.

2. Furthermore, the Committee noted that section 82 of the Constitution names the People's Revolutionary Party of Mongolia as the leader and guide of all state bodies and other organisations of the working masses. In the opinion of the Committee, this provision would seem to imply that no mass organisations, particularly trade unions, would have any possibility of operating outside the Party framework. In this context, the Government states that the trade unions support the policy of the Party and administer their affairs with complete independence. However, in the opinion of the Committee, the fact that the link between the Party and workers' organisations as a whole is established by the Constitution limits the right of trade unions to organise their activities and to formulate their programmes in conformity with Article 3 of the Convention.

The Committee requests the Government to reconsider the situation in the light of its comments in order to give full effect to the Convention.

Furthermore, the Committee reiterates its request concerning the text of regulations relating to the rights of trade union committees to which the Government had referred in 1977. It urges the Government to attach a copy of them to its next report.

#### Netherlands (ratification: 1950)

The Committee takes note of the Government's report, the discussions which took place in the Conference Committee in 1984 as well as the observations submitted by the Confederation of the Netherlands Trade Union Movement (FNV) in communications dated 16 July, 24 September and 6 December 1984, and by the Federation of Christian Trade Unions (CNV) in a communication dated 14 January 1985.

1. First, the Committee would repeat its request to the Government to keep it informed of the steps taken to give effect to the Government's stated intention to amend the Wage Determination Act of 1970 so as to allow intervention in free collective bargaining in the private sector only in exceptional circumstances, and to communicate a copy of the revised Act, once this has been adopted.

2. The Committee notes that, on 27 June 1984 Parliament extended the Temporary Act of Conditions of Employment in the Collective Sector until 1 April 1985, which legislation was the object of previous comments. According to the FNV, despite the importance attached to consultation with trade unions and employers in the non-profit sector, the Minister of Social Affairs and Employment did not discuss the prolongation of the Temporary Act with the parties concerned. The Committee also notes that, on 27 July 1984, the Government submitted to Parliament draft permanent legislation for this sector, namely a Bill concerning conditions of employment in the national insurance and subsidised sectors which, according to the FNV, maintains the policies which have regularly been criticised by the Committee of Experts and the Conference Committee. The Committee notes the Government's statement on the draft permanent legislation that when an institution is financed to a large extent by public funds (collective resources), the government must have the right ultimately to determine the extent of its financial liability; it also notes, with regard to the draft permanent legislation, that, according to the Government, regular consultations with the organisations of employers and workers concerned took place in a tripartite working party specially created for this purpose but that, despite a number of changes to the first draft of the Bill, complete agreement could not be reached. In a communication dated 22 January 1985 the Government states that Parliament will very soon start its deliberations on the proposed permanent legislation.

As regards the prolongation, on 27 June 1984, of the Temporary Act on Conditions of Employment in the Collective Sector, the Committee can only draw attention to the comments it made previously regarding this legislation, and in particular, that the wide powers given to the Minister of Social Affairs and Employment under the Temporary Act to intervene in collective bargaining and to declare inoperative already concluded collective agreements do not conform to the criteria established by the Committee in this domain; in other words the Act was not an exceptional measure imposed for a reasonable period of time and it was not accompanied by adequate safeguards to protect workers' living standards.

As regards the proposed permanent legislation for this sector, having examined the Bill in question, the Committee observes that collective agreements concluded or amended in this sector may be objected to by the Minister of Social Affairs and Employment before they enter into force (sections 7 and 9(4)) on the basis that they do not conform with the financial scope set by the Government under section 5 and that the Minister continues to have wide powers to designate which sectors shall be covered by the legislation (section 2). The Committee also takes note with interest of the new feature of the Bill, namely that, before setting the financial scope under section 5, the Government must have taken part in the tripartite central-level consultations to be held once a year for the purpose of agreeing upon a wage-ceiling (section 4).

As the Committee already pointed out in its comments in 1977, Article 3(1) of Convention No. 87 provides that workers' and employers' organisations have the right (amongst others) to organise their activities. The Committee considers that collective bargaining

is an important part of the activities of such organisations for the protection of the interests of their members. Indeed, as was indicated in the preliminary work for the adoption of Convention No. 87 "one of the main objects of the guarantee of freedom of association is to enable employers and workers to combine to form organisations independent of the public authorities and capable of determining wages and other conditions of work by means of freely concluded collective agreements" (ILO: Freedom of Association and Industrial Relations, Report VII, ILC, 30th Session, Geneva, 1947, p. 52).

In reply to the Government's comments, the Committee would point out that it considers that measures restricting collective bargaining concern both Convention No. 87 and Convention No. 98. Under Article 3(2) of Convention No. 87, the public authorities should refrain from any interference which would restrict this right or impede the lawful exercise thereof. Convention No. 98, on the other hand, requires positive action on the part of the public authorities with respect to collective bargaining since it aims at encouraging and promoting the full development of machinery for the voluntary negotiation of collective agreements.

As regards the new Bill concerning conditions of employment in the national insurance and subsidised sectors, the Committee understands that Government interference in collective agreements will depend on the extent to which negotiated settlements at the sectoral level will respect the wage ceilings that have been agreed following annual tripartite central-level consultations. While once again drawing attention to the criteria and principles mentioned above, the Committee would request the Government to keep it informed as to the progress made towards the adoption of this legislation and of the manner in which it is applied in practice, once adopted.

3. The Committee has also taken note of the observations made by the FNV and the CNV in communications of 6 December 1984 and 14 January 1985 respectively to the effect that the Government, in a Bill concerning sickness pay, has introduced an interim measure whereby it can prevent the negotiation of payment by employers of amounts over and above the allowances granted under the Sickness Pay legislation in cases where a collective agreement has expired and is being re-negotiated.

The Committee hopes that the Government's comments on these observations of the FNV and the CNV will be made available to enable it to examine these matters at its next meeting.

#### Nicaragua (ratification: 1967)

With reference to its previous comments, the Committee notes the information contained in the Government's report.

It particularly notes with satisfaction that the right to strike, which had been suspended by several successive Decrees under the National Emergency Act, was re-established by Decree No. 1480 of 6 August 1984.

The Committee also made comments on several provisions of the Labour Code and the Occupational Associations Regulations concerning the following points:

- the exclusion of independent workers in urban and rural sectors, persons working in family workshops and public officials from the scope of the Labour Code (sections 2, 3, 9 and 175 of the Code);
- the requirement of an absolute majority of workers of an undertaking or a workplace to constitute a trade union (section 189 of the Code);
- the general prohibition of political activities by trade unions (section 204(b) of the Code);
- the restrictions on the right to strike (sections 225(3), 228(1), and 314 of the Code);
- the possibility of obliging trade union leaders to present the trade union's books and registers at the request of any of the members of the trade union (section 36 of the Regulations).

The Committee recalls that during the direct contacts which took place between the national authorities and a representative of the Director-General in December 1983, the authorities had indicated that sections 204(b), 225 and 314 could be modified as desired by the Committee.

The Committee notes with interest the information provided by the Government in its report to the effect that, to bring the legislation into line with the Convention, the Government envisages amending section 189 of the Code in order to recognise the possibility of a multiplicity of trade unions in the undertaking and amending section 204(b) of the Code in order to eliminate the prohibition of political activities by trade unions. It also envisages amending section 36 of the Regulations on Trade Union Associations so as to require that requests for the presentation of the trade union's books and registers should be made by at least 10 per cent of the members of the trade union.

The Committee also takes due note that under section 187 of the Labour Code state employees, whether they are workers or officials (except those whose responsibilities are of a public nature), enjoy the same benefits as those set out in the Code for workers in the private sector.

Regarding independent workers in urban and rural sectors and workers in family workshops, the Committee notes that, according to the Government, although these persons are excluded from the Labour Code which governs the relations between employers and workers, this exclusion does not prevent the persons in question from forming trade unions. The Government adds that the right of all persons to found occupational associations is recognised by the Statute of Rights and Guarantees of Nicaraguans (section 24) and that section 5 of the Regulations on Occupational Associations describes social and occupational associations as groups whose objective is the promotion of mutual assistance between workers and farmworkers, even when the latter are not involved in a worker-employer relationship. The Committee also takes due note of these explanations.

The Committee, however, notes with regret that the Government wishes to maintain as they are sections 225, 228 and 314 of the Labour Code concerning restrictions on the right to strike. According to the Government, it is necessary to maintain the requirement of a majority of 60 per cent to call a strike, to prohibit strikes in rural occupations when there is a risk of the products' deteriorating if

they are not handled immediately and to be able to end a strike that has lasted 30 days through compulsory arbitration if no solution has been found after the date of authorisation of the strike.

In this respect, the Committee is bound to point out that recourse to strike action is one of the essential means that must be available to workers and their organisations in order to promote and defend their interests and that restrictions on strikes are only acceptable in the public service for public servants acting in their capacity as agents of the public authority and in essential services or sectors in the strict sense of the term, namely those the interruption of which would endanger the life, personal safety or health of the whole or part of the population.

Consequently, the Committee invites the Government to re-examine its position on these points so as to enable a simple majority of the voters involved in a labour dispute in a bargaining unit (and not 60 per cent of the workers) to be able to decide on a strike, and to ensure that recourse to arbitration to end a strike is only used at the request of the two parties or when the strike affects an essential service in the strict sense of the term.

The Committee expresses the hope that legislation conforming to the Convention will be adopted in the near future and requests the Government to keep it informed of all developments in this respect.

#### Pakistan (ratification: 1951)

The Committee takes note of the report of the Government and of the information communicated by it to the Conference Committee in 1983. The Committee has also taken note of the reports of the Committee on Freedom of Association concerning Case No. 1175 adopted by the Governing Body at its 225th Session (February 1984) and its 229th Session (February 1985).

With reference to its previous comments, the Committee observes that the questions it raised related essentially to the right to strike and the supervision of trade union funds by the Registrar.

#### Recourse to strikes and trade union rights

The Committee has observed that, despite the possibility under section 32(1) of the Industrial Relations Ordinance, of calling a strike after conciliation proceedings have failed, the right to strike is subject to the restrictions set forth in section 32(2) and section 33(1) of the Ordinance. The Committee has observed that in normal times, an end may be put by the government authorities to a strike that causes serious hardship to the community or is prejudicial to the national interests or that takes place in public utility services.

The Committee points out that the power to prohibit strikes in circumstances which the Government may, at its discretion, describe as a situation of hardship or one that is prejudicial to the national interests or which take place in public utility services may well result in a very wide prohibition of the right to strike that, in the

opinion of the Committee, should be confined to essential services in the strict sense of the term.

Furthermore, the Committee has observed on a previous occasion that, by virtue of section 4 of the Export Processing Zone (Control of Employment) Rules, workers in these zones do not have the right to strike. It notes the Government's statements to the effect that restrictions in respect of labour law (no recourse to strikes or collective bargaining) are generally placed on these workers to meet the conditions laid down by multinational organisations before making investments in the country. The Government also states that these workers enjoy better conditions of employment than the other workers in the country in general. The Government adds, however, that it intends to reconcile the necessity placed on it of curtailing the trade union rights of the workers in these zones in order to maintain the social peace and attract investors with the obligations it has assumed by ratifying the Convention. It further announces that this question is at present under study. The Committee is aware of the economic difficulties mentioned several times by the Government but points out the importance it attaches to the full enjoyment by workers without distinction whatsoever of the trade union rights provided for by the Convention.

Referring, moreover, to Case No. 1175 presented to the Committee on Freedom of Association, the Committee notes that the following have been recognised under section 33 as being public utility services: the petroleum and gas industry, harbour services and transport services. These are not services, in accordance with the definition given by the Committee in paragraph 214 of its General Survey of 1983, whose interruption would endanger the life, personal safety or health of the whole or part of the population.

Furthermore, the Committee notes with regret that Martial Law of 16 October 1979 is still in force and any recourse to a strike is thus prohibited.

The Committee therefore requests the Government to ensure that any prohibition or restriction in respect of strikes is confined to essential services in the strict sense of the term.

The Committee also notes that Martial Law Regulation No. 52 of 1981, mentioned in Case No. 1175, completely prohibits trade union activities in the Pakistan International Airlines Corporation. The Committee points out that Articles 2 and 3 of the Convention guarantee to all workers, without distinction whatsoever, the right to establish and to join organisations of their own choosing which must be able to carry on the activities of defending their members' interests and formulating their programmes.

The Committee requests the Government to adopt the necessary measures so that these workers may enjoy the trade union rights provided for by the Convention.

#### Supervision of trade union funds

With regard to section 8 of the Industrial Relations Regulations, under which the Registrar may have any financial document of a trade union produced at any time, the Committee notes the Government's statement that the provincial governments and itself consider this

provision essential for the verification of the use made of trade union funds, since most trade unionists are illiterate and cannot therefore themselves supervise the proper use of the funds. It states, however, that recourse has not yet been had to this provision.

The Committee takes account of these special considerations but is bound to point out that in paragraphs 182 to 188 of its General Survey of 1983, it expresses the view that the supervision of union finances should not normally go beyond the requirement to submit periodic financial returns and that the discretionary power of the administrative authority to examine any trade union document presents a serious danger of interference. In the opinion of the Committee, investigatory measures should be restricted to exceptional cases, such as presumed irregularities that are apparent from annual financial statements or complaints reported by members of the trade union. Furthermore, in order to guarantee the impartiality and objectivity of the procedure, these controls should be conducted subject to review by the competent judicial authority.

The Committee hopes that the Government will re-examine the situation in the light of the above considerations.

#### Other questions

With regard to the freedom of association of government employees and the situation of civil servants above grade 16, the Committee notes from the report that trade unions are forbidden under Martial Law and that workers of this category are not, therefore, for the moment, in a position to form associations. The Government, however, goes on to refer to the process of democratisation, which, when it is completed, would make a clearer picture of the situation possible.

In its previous comments, the Committee also observed that workers in minority unions cannot be represented, as regards their individual claims by the union they have joined. It notes from the report that these workers may, under the Industrial Relations Ordinance, seek relief from the labour courts in the case of violation of their rights, irrespective of trade union membership.

The Committee draws the attention of the Government to the fact that, by virtue of the right of workers to join organisations of their own choosing provided for by Article 2, the members of trade unions should have the right, as regards their individual claims, even if their union is a minority one, to be represented by their own organisation for the defence of their occupational interests.

The Committee hopes that the movement towards democratisation will make it possible in the near future to achieve the re-establishment or the granting of trade union rights to all categories of workers coming under the Convention and to give full effect to this instrument.

[The Government is asked to supply full particulars to the Conference at its 71st Session.]



Panama (ratification: 1958)

In comments that it has been making since 1973, the Committee has pointed out discrepancies existing between the national legislation and the Convention in the Labour Code of 1971 as regards:

- the requirement of too high a number of members to establish an occupational organisation, at least 50 workers and ten employers (section 344 of the Labour Code);
- the prohibition of more than one union per undertaking (section 346);
- the requirement that 75 per cent of union members shall be Panamanian (section 347);
- the automatic removal from office of a trade union officer in the event of dismissal (section 359);
- the wide powers of supervision of the authorities over the records and accounts of trade unions (section 376(4));
- the exclusion of public servants from the scope of the Labour Code and consequently from the right to organise or to bargain collectively (section 2(2)).

The Committee has noted that two draft bills, the texts of which have been communicated to the ILO, were to bring the legislation into conformity with the Convention, one amending the above-mentioned provisions of the Labour Code and the other extending to public employees the provisions of Book III of the Labour Code concerning collective agreements.

Since the latest report of the Government indicates only that the drafts in question are still being studied by the authorities of the Ministry of Labour and Social Welfare, the Committee again expresses the firm hope that national legislation in conformity with all the requirements of the Convention will be adopted very shortly and asks the Government to supply a copy as soon as it has been promulgated.

Paraguay (ratification: 1962)

The Committee takes note of the information supplied by the Government in its report concerning Paraguayan legislation on the right to strike. It points out, however, that there are several discrepancies between the national legislation and the Convention.

1. Right of public officials to establish trade union organisations

- the exclusion from the scope of the Labour Code of officials in the employment of the State, municipalities and autonomous undertakings producing goods or supplying public services and, therefore, from the right to organise and the right to bargain collectively (section 2 of the Labour Code). Act No. 200 to issue the conditions of service of public servants accords these workers only the right to associate for cultural and social purposes and prohibits them from adopting collective resolutions against the measures taken by the competent authorities (sections 31(2) and 36).

The Committee has on many occasions stated that Article 2 of the Convention provides that all workers, including public officials, shall have the right to establish occupational organisations and not merely cultural and social organisations. Associations of officials, too, should therefore be able further and defend the economic interests of their members.

## 2. Right to strike

- the requirement of a majority of three-quarters of the workers actually serving in an undertaking or two-thirds of the members of a trade union for calling a strike or work stoppage (sections 353(b) and 367 of the Labour Code);
- the prohibition of strikes and work stoppages in too wide a range of public services, including transport, the distribution of fuel for transport and banks (sections 360 and 367);
- the impossibility of calling a strike so long as the compulsory conciliation and arbitration procedures have not been exhausted, which appears to prevent all recourse to strikes (sections 284, 293, 302 and 308 of the Code of Labour Procedure);
- the dismissal without compensation or notice of workers who have stopped work during the procedure (section 291).

The Committee points out that the right to strike is one of the essential means that must be available to workers' organisations for safeguarding their interests. It further points out that restrictions or prohibitions on the peaceful exercise of the right to strike are acceptable only in respect of public officials acting in their capacity as agents of the public authority or in essential services in the strict sense of the term, that is to say those the interruption of which would endanger the life, personal safety or health of the whole or part of the population. Other workers should be able to enjoy the right to strike and not be submitted to a system of compulsory arbitration.

The Committee again expresses the hope that the Government will take the necessary measures to bring its legislation into conformity with the Convention and asks it to supply information on any measures taken in this connection.

[The Government is asked to supply full particulars to the Conference at its 71st Session and to report in detail for the period ending 30 June 1985.]

## Peru (ratification: 1960)

With reference to its previous comments, the Committee notes with satisfaction that the Legislative Decree of 6 March 1984 respecting administrative careers and remuneration confirms the granting of the rights to organise and to strike to career members of the public service (section 24(11) and (m)). These rights had already been granted to them by section 61 of the 1980 Constitution.

In its previous comments, the Committee has asked the Government for details on certain points and made observations on the necessity

of amending the national legislation to bring it into closer conformity with the Convention.

1. Workers in the public sector  
other than public servants

The Committee points out that it has asked the Government whether the decrees respecting the right to organise of public servants (Decrees Nos. 003-82 PCM and 026-82 JUS applying to public servants in administrative careers) also apply to workers in the public sector who are not public servants, that is to say workers in public undertakings and autonomous institutions, and, if not, to indicate the texts that grant them the right to organise. The Government states that the decrees in question apply only to workers in administrative careers, workers in state undertakings being excluded and brought under the system applying to the private sector. The Committee takes due note of the explanation given by the Government to the effect that workers in this category come under the private sector and observes that the Legislative Decree of 1984 on administrative careers confirms the exclusion of state workers and those in mixed corporations from its scope (section 2(2)).

2. Public servants

The Committee has raised certain discrepancies existing between the national legislation and the Convention:

- the prohibition of the officers of a union of public servants from re-election immediately after the end of their term of office (section 16(2) of Supreme Decree No. 003-82 PCM);
- the requirement of too high a number of unions for the formation of a federation of public servants' unions (20) and of too high a number of federations for the formation of a confederation (10) (section 17(3));
- the prohibition of public servants' federations and confederations from forming part of an organisation representing other classes of workers (section 19).

The Committee considers that public servants should have the right to elect their officers without hindrance, that by requiring the affiliation of a large number of public servants' organisations these provisions may well prevent the creation of federations or confederations and that organisations of public employees should have the right to join federations or confederations which also cover organisations from the private sector.

3. Other questions

The Committee has asked the Government to amend its legislation to bring it into conformity with the Convention on the following points:

- the necessity of expressly recognising the right to organise of workers in hospitals and similar establishments;
- the necessity of changing the requirement of over 50 per cent of the manual workers for the creation of a manual workers' union,

over 50 per cent of the non-manual workers for a non-manual workers' union and over 50 per cent both of the manual and of the non-manual workers for a mixed union of manual and non-manual workers laid down by section 11 of Supreme Decree No. 009 of 3 May 1961, as amended by section 1 of Supreme Decree No. 021 of 21 December 1962;

- the necessity of changing the requirement of belonging to the undertaking for election to trade union office (Presidential Decree No. 001 of 15 January 1963);
- the necessity of amending Supreme Decree No. 009 of 1961 which prohibits trade unions from engaging in political activities as institutions (section 6).

The Committee has pointed out on many occasions that the requirement of too high a percentage of workers for the establishment of a trade union is an obstacle to the establishment of unions and may well make the establishment of a new union in an undertaking impossible when a union has already been registered. The Committee, while recognising that privileges in respect of bargaining may be granted to the most representative union, has always considered that the national legislation must not prevent workers from associating in more than one registered union per undertaking if they so wish. In this case the minority unions should be able to defend the individual interests of their members. With regard to the necessity of belonging to an undertaking for election to trade union office, the Committee points out that the dismissal of a worker who is a union officer may, by making him lose his office, impair the right of workers to elect their representatives. Lastly, the Committee points out the necessity of recognising to workers' organisations the right to take part in public life and to express their opinion on the economic and social policy of the Government, with a view to contributing to the economic and social welfare of their members. It therefore invites the Government to amend the prohibition of trade unions from taking part in any political activity.

The Committee observes the statement in the Government's report that its comments have been referred to the committee set up to draft the new trade union legislation for consideration during the drafting. The Committee also notes that the opinion of the employers' and workers' organisations concerned has been sought on its comments.

The Committee also takes note of the conclusions of the Committee on Freedom of Association in Cases Nos. 1081 and 1206 relating to draft legislation concerning strikes (214th and 236th Reports). It recalls that the Bill concerning strikes that is being drafted contains several provisions which are not compatible with the principles of freedom of association. It hopes that legislation governing the exercise of the right to strike that conforms to the principles of freedom of association will be adopted shortly.

The Committee trusts that trade union legislation conforming to the Convention will be adopted in the near future and asks the Government to keep it informed of any progress achieved in these various fields.

Philippines (ratification: 1953)

The Committee takes note of the written and oral information communicated by the Government to the Committee of the International Labour Conference in June 1984 and of the discussion that was held in this Committee.

The Committee points out that the discrepancies existing between the national legislation and the Convention relate to the following points:

1. Right of trade unions to further and defend the interests of their members

- requirement of a two-thirds majority of union members in a bargaining unit for the calling of a strike (section 264(f) of the Labour Code as amended by Act No. 130 of 5 October 1981);
- a very broad and non-restrictive list of cases of labour disputes that may affect the national interest, in which the Government may end the disputes through compulsory arbitration accompanied by a prohibition on strikes and the possibility of dismissing trade union leaders and workers participating in an illegal strike (section 264(g) and (i) and section 265 of the Code as amended by Act No. 227);
- penalties of up to six months' imprisonment for participation in an illegal strike (section 273(a) as amended on 2 June 1982);
- immediate deportation and prohibition from returning to the Philippines except with the special permission of the President of the Philippines of any foreign worker participating in an illegal strike (section 273(b) as amended on 2 June 1982);
- a sentence of penal servitude for life for organisers or leaders of strike pickets or collective actions deemed to be meetings or demonstrations held for propaganda purposes against the Government, mere participation being punishable by imprisonment (section 146 of the Penal Code as amended by Presidential Decree No. 1834, published in the Official Gazette of 25 July 1983).

The Government admits that the legislation authorises recourse to compulsory arbitration and confers on the Minister of Labor the power to put an end to labour disputes likely to lead to strikes contrary to the national interest, but it insists that the powers of the Minister are exercised with extreme caution, after consultation with the workers' and employers' organisations and attempts at conciliation. Furthermore, the parties are entitled to appeal to the Supreme Court in the case of compulsory arbitration. Moreover, legal strikes have taken place in all the industries listed in section 264 of the Labour Code, including banks and electric industries, and solidarity strikes have affected factories in the export processing zone. According to the Government, the requirement of a majority of two-thirds for calling a strike is intended to prevent wild-cat strikes and strikes resulting from rivalry between unions or within a union. The unions have no difficulty in assembling the majority in question. Besides, peaceful strike pickets are authorised except where in violation of section 273 of the Labour Code, when a sentence of six months' imprisonment may be imposed. Proceedings instituted under section

273 preclude prosecutions for the same acts under the Revised Penal Code. This provision, moreover, is subject to the supervision provided for by section 267 of the Labour Code, which provides that no trade unionist or trade union leader shall be arrested for trade union activities unless the Minister of Labor and Employment has been consulted. In addition, the Government states that where proceedings relating to a labour dispute are instituted, by virtue of a presidential directive of 1982 addressed directly to the prosecutors and judges, before the opening of the criminal inquiry the matter is referred to the ministry for administrative action through conciliation or arbitration. The Government adds that no conviction has been pronounced on the basis of the penal aspect of the law.

The Committee takes note of this information, and in particular of the fact that, according to the Government's statement, strikes have taken place in several sectors of the economy, including those set forth in the above-mentioned list, and that there have been no convictions. It observes, however, that the Government itself recognises in its written communication that it resorted to compulsory arbitration to end strikes in 23 cases in 1982 and in 33 cases in 1983. The Committee points out that the peaceful exercise of the right to strike is one of the essential means that workers and their organisations must have for advancing their economic and social occupational claims. The restriction or prohibition of its exercise is compatible with the Convention only in respect of public servants acting in their capacity as agents of the public authority or in essential services in the strict sense of the term, where the interruption of such activities due to a strike would endanger the life, personal safety or health of the whole or part of the population. Furthermore, strikes carried out as an expression of solidarity or a gesture of protest should be admissible.

The Committee trusts that the Government will amend its legislation in order to eliminate the excessive restrictions on the peaceful exercise of the right to strike and the heavy penalties that workers are liable to suffer for having led an illegal strike or for having taken part in picketing during an illegal strike, provided that it was not a strike called in a service the interruption of which would endanger the life, personal safety or health of the population.

2. Right of workers to establish  
organisations of their own choosing

- requirement that at least 30 per cent of the workers in a bargaining unit shall be members of a trade union for the union to be registered (section 344(c) of the Labour Code);
- requirement of too high a number of trade unions of the same region or branch (ten) to establish a federation or a registered national union (section 237(a);
- impossibility of registering more than one federation or national union per branch of activity in a given area or region (section 238).

The Government states that there has been no complaint on the grounds that a trade union has not been recognised because it has failed to meet the 30 per cent membership requirement and that workers

can join directly the 200 federations existing at present in the Philippines. As regards sections 237(a) and 238, the Government states that they fit the "one union, one industry" concept, endorsed by the trade union movement in 1974. It recognises, however, that this concept has been the subject of an appeal to the Supreme Court of the Philippines, and states that the Committee will receive a copy of the Court's decision as soon as it has been handed down. The Government states that all these provisions are part of the on-going review being undertaken of labour relations law and policy.

The Committee points out that the requirement of too high a percentage of workers for the establishment of a trade union and of trade unions for the establishment of a federation may constitute an obstacle to the rights of workers and their organisations to establish the trade unions and federations of their own choosing and that the possibility of registering only one federation per branch of activity for a given region establishes, at this level, a single-trade-union situation, which is contrary to Articles 2, 5 and 6 of the Convention. The Committee recognises that bargaining privileges may be granted to the most representative trade union, but it has always considered that the national legislation should not prevent workers and their organisations from associating in more than one registered union per undertaking or in more than one federation if they so wish. In this case, the minority unions or federations should be able to defend the individual interest of their members.

The Committee trusts that the Government will amend its legislation so as to guarantee to workers and their organisations the right to establish organisations of their own choosing and it asks the Government to supply a copy of the decision of the Supreme Court on the appeal against the "one union, one industry" concept as soon as it is handed down.

3. Right of workers without distinction  
whatsoever to join trade unions

- prohibition on the direct or indirect participation of foreigners in any form of trade union activity (section 270 of the Labour Code).

The Government indicates that the prohibition in question would apply only to foreigners without a work permit. Foreigners who have obtained a work permit would have the right to organise and the right to bargain collectively.

The Committee takes note of this explanation, but in view of the express prohibition contained in section 270 of the Labour Code, it urges the Government to amend its legislation on this important point in order to guarantee the right to organise to foreigners working in the Philippines by means of a specific provision in the legislation.

4. Powers of supervision of the authorities  
over the management of trade unions

- powers of inquiry conferred on the Minister of Labor in respect of the financial management of trade unions (section 275 of the Labour Code).

The Government maintains that the 75 recent audits of union accounts by the Bureau of Labor Relations have been carried out only on the application or complaint of trade unionists and that the amendment of this provision is under study.

In these circumstances, the Committee hopes that the Government will be able to amend its legislation on this point so as to guarantee that administrative supervision of the management of trade unions takes place only on the complaint of members and that it will be open to re-examination by the competent judicial authority.

The Committee trusts that the Government will adopt the necessary measures to bring the whole of its legislation into conformity with the Convention in the near future and asks the Government to report any progress made in this connection.

#### Poland (ratification: 1957)

The Committee takes note of the information supplied by the Government in its reports received in May and October 1983, April and October 1984 and March 1985. It has also taken note of the developments that have occurred in Poland since its previous observation in 1983, which have been widely referred to in the report of the Commission especially mandated to examine the complaint on the observance by Poland of Conventions Nos. 87 and 98. The Committee notes, in particular, that martial law has been lifted and that an Amnesty Act was adopted in July 1983 which, according to the Government, have contributed to the creation of a climate propitious to social peace and national understanding.

In the light of all the information in its possession, the Committee observes that several important provisions of the trade union legislation (Trade Union Act, Act respecting farmers' socio-occupational organisations, Act on the representation of non-manual workers employed by the State, all three adopted in October 1982) are not compatible with the rights recognised by the Convention. The following are the points in question:

Only one trade union organisation may exist in an undertaking until the Council of State has considered the application of the Trade Union Act, three years after its coming into force, that is to say in October 1985 (section 53(4) of the Trade Union Act, as amended by the Act of 21 July 1983). Furthermore, in the agricultural sector, the legislation imposes a single national federation of farmers (section 33(2) of the Act respecting farmers' socio-occupational organisations) and, as to the public service, the Act on the representation of non-manual workers employed by the State provides that these shall have the right to join the union of workers in the administration of the State (section 40). Similarly, workers employed in military units and in state undertakings within the jurisdiction of the Ministries of National Defence and the Interior can only establish trade unions as laid down in the legislation (section 14(1) of the Trade Union Act). The Government states in its reports that the Trade Union Act does not impose any restriction on the establishment of trade union structures, that all workers may join the new trade unions irrespective of their former trade union membership, and that



the National Federation of Farmers is not of a monopolistic nature since many farmers' organisations do not belong to it. The Committee takes note of these statements, but considers that the above-mentioned provisions establish to a varying extent single-trade-union systems and are thus incompatible with Article 2 of the Convention, under which workers have the right to establish organisations of their own choosing.

Under section 12 of the Trade Union Act, the right to organise is not recognised to officials of prison establishments. According to the Government, these officials constitute a militarised formation with a hierarchical and disciplinary system similar to that of the army. The Committee however maintains the opinion it expressed in its General Survey of 1983, namely that the functions exercised by this category of public servants should not normally justify their exclusion from the right to organise.

The Trade Union Act lays down a number of conditions for the calling of a strike, including the acceptance of the decision by the majority of the workers concerned and the prior agreement of the higher trade union body (section 38(1)). It also establishes a very extensive list of essential services in which strikes are prohibited (section 40). Furthermore, under section 37(1) the purpose of the strike shall be to defend the social and economic interests of a clearly defined group of workers. According to the Government, the provisions on the calling of strikes constitute a guarantee to ensure that a decision is taken democratically and that it expresses the will of the workers. The Government also states that the list of essential services will be revised in the light of the application of the Act in practice. With regard to section 37(1) of the Act, the Government states that strikes for political purposes extending beyond the framework of the undertaking, occupation or industrial sector are not authorised, but that other forms of protest are allowed, provided that they violate neither legal order nor the principle of social coexistence. The Committee takes note of these statements but is bound to point out that the imposition of conditions for the calling of strikes that are too severe may seriously jeopardise the possibility open to workers of organising such movements and that the prohibition of strikes should be confined to essential services in the strict sense of the term, that is to say those whose interruption would endanger the life, personal safety or health of the whole or part of the population. It also points out, as it has already done in its General Survey of 1983, that trade union organisations should have the possibility of resorting to protest strikes, including those called to criticise the economic and social policy of governments. In the opinion of the Committee, the above-mentioned provisions thus constitute obstacles to the right of trade unions to organise their activities (Article 3) with a view to furthering and defending the interests of their members (Article 10).

The Committee expresses the firm hope that the Government will take the necessary measures to bring its legislation, a review of which is planned for October 1985, into conformity with the Convention.

Furthermore, the Committee asks the Government to supply information on the following provisions:

With regard to the transfer of the assets of the former organisations dissolved by the Trade Union Act, the Committee notes that the assets of the trade union organisations have been transferred, as appropriate, to the new works unions or the newly set up federations. The process of transfer is still under way. In this regard the Committee is addressing a direct request to the Government.

The Committee again asks the Government to state whether the expression "unions and inter-union organisations" appearing in section 20 of the Trade Union Act covers federations set up on a geographical basis.

Lastly, the Committee asks the Government to provide information on the practical application of section 47 of the Trade Union Act, under which any person who leads a strike organised in violation of the provisions of the Act is liable to a penalty of up to one year's imprisonment. In this respect, the Committee would recall the opinion it already expressed in its General Survey of 1983 that penalties of imprisonment should not be imposed in the case of peaceful strikes. It would like in particular to have information on any convictions that may have been passed or that may be passed under this provision.

The Committee is addressing a direct request to the Government on other points.

[The Government is asked to supply full particulars to the Conference at its 71st Session and to report in detail for the period ending 30 June 1985.]

#### Portugal (ratification: 1977)

The Committee takes note of the information supplied by the Government in its report and of the comments submitted by the General Confederation of Portuguese Workers (CGTP-IN) concerning the application of the Convention. The Government, to which these comments have been communicated, has not yet transmitted its observations on them.

The Committee deals with the points raised in its previous comments in a direct request addressed to the Government.

#### Romania (ratification: 1957)

The Committee notes that the Government's report contains no reply to its previous comments.

With reference to its previous observation, the Committee observes that the information supplied by a Government representative to the Conference Committee in 1984 largely repeats the statement made by the Government representative before the Conference Committee in 1981 and the previous report of the Government. It has also taken note of the reports of the Committee on Freedom of Association respecting Case No. 1066, approved by the Governing Body at its 222nd Session (March 1983), 225th Session (February-March 1984) and 228th Session (November 1984).

The Government refers to Act No. 52/1945, under section 2 of which, as the Committee has already noted, all natural persons working in the same occupation or in similar or related occupations are entitled to associate freely in occupational trade unions without any need of previous authorisation. The Committee has also noted that, according to the Government, the trade union of a given unit (undertaking, establishment, institution, etc.) operates in accordance with its own rules and not those of the union for a given branch of activity or of the General Confederation of Trade Unions, and that each federation for a given branch of activity operates in accordance with its own rules and not those of the General Confederation of Trade Unions.

The Committee has pointed out, however, that section 164, read as a whole, of the Labour Code states that trade unions are occupational organisations set up by virtue of the right of association laid down in the Constitution and operating on the basis of the by-laws of the General Confederation of Trade Unions, the federations for the different branches of activity and the trade union organisations in the units.

Referring to its General Survey submitted to the 69th (1983) Session of the International Labour Conference, and in particular paragraphs 134 and 136, the Committee recalls that "sometimes legislation explicitly establishes a single trade union system ... This is the case when first-level organisations must conform to the constitutions of the single existing central organisation". The Committee stresses in this regard that "all these various systems of trade union unity or monopoly imposed by law are at variance with the principle of free choice of workers' and employers' organisations contained in Article 2 of Convention No. 87".

The Committee considers that the terms of section 164, which refers by name to the central trade union organisation, do not permit in the present case the establishment of a trade union that could draw up its own rules enabling it to operate independently of the General Confederation, branch federations and trade unions in the units. It, therefore, asks the Government to ensure that the right of trade unions to draw up their constitutions and carry on their activities in full freedom, in accordance with Article 3 is recognised legally to the workers.

With regard to the links between the Party and the trade unions, which have been the subject of previous comments, the Committee notes that the Government has already referred to Article 3, paragraph 2, of the Convention, which, in the view of the Government, concerns not interference of political parties in the internal organisation of trade unions but that of the public authorities, and that the Government has already stated that the trade unions are subject to no interference in their internal affairs and enjoy extensive rights. The Committee recalls that, in its opinion, section 26 of the Constitution establishes a close link between the Party and the trade unions and that, under section 165 of the Labour Code, the trade unions must mobilise the masses for the accomplishment of the programme of the Party and implement the policy of the Party in respect of the workers. The above-mentioned provisions imply, in the opinion of the Committee, a restriction on the rights of workers to

establish organisations of their own choosing and to formulate their programmes, which conflicts with Articles 2 and 3 of the Convention. The Committee also points out that the law of the land must not be such as to impair, or be so applied as to impair, the guarantees provided for in the Convention (Article 8).

The Committee trusts that suitable amendments will be made to the legislation and that they will take account of its comments, which were repeated by the Committee on Freedom of Association during the examination of Case No. 1066.

Furthermore, in previous comments, the Committee had asked the Government for information concerning the application of section 172(3) of the Labour Code, which provides that: "Any dispute between a person on the work staff and a unit concerning the formation, performance or termination of a labour contract constitutes a labour dispute and shall be resolved by the judicial commission, the law courts or other organs specified by law." The Committee understands from the statement made before the Conference Committee that this provision applies to any collective labour disputes that may occur. It requests the Government to indicate whether, in these cases, the decisions of the bodies which settle labour disputes are binding.

In addition, the Committee again requests the Government to provide information on any developments concerning the preparation of the new trade union legislation to which it has referred in earlier reports.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

#### Seychelles (ratification: 1978)

The Committee takes note of the information contained in the report of the Government. It observes, however, that this adds no new information to the general statements that were made in the first report submitted since the accession of the country to independence.

The Committee considers that it would be useful to recall the obligation on all States Members under article 22 of the Constitution of the ILO to transmit detailed reports on the effect given to ratified Conventions and to use as a basis the report forms adopted for the purpose by the Governing Body.

With reference to its previous comments, the Committee would point out that, after the voluntary dissolution of all trade unions, the "National Workers' Union", representing all categories of workers, was set up in 1979. Under the constitution of the "Seychelles People's Progressive Front", promulgated as a schedule to the national Constitution in 1979, the Union functions under the direction of the Front (section 4); for example, the consent of the Front is necessary for every decision, it must also approve the expenditure of the Union, and it receives 25 per cent of the total amount of union dues (section 12 of the constitution of the Front). The Committee has noted that the law in force provides for the existence of only one trade union organisation, mentioned by name and placed under the direction of a political party, as is confirmed by the comments of the National

Workers' Union, and thus establishes a system of trade union monopoly, which is contrary to the Convention.

The Committee has already pointed out in the General Survey it submitted to the 69th (1983) Session of the International Labour Conference, particularly in paragraphs 132 to 138, that trade union unity imposed directly or indirectly by law is in conflict with express standards of the Convention (Article 2) and that trade unions should have the right to organise their activities and to formulate their programmes in full freedom, and also to draw up their constitutions and elect their representatives in full freedom. The Committee feels bound to emphasise, in reply to the statement of the Government that the socialist development of the country will be carried out in accordance with the doctrine of the party, which advocates the support of a single national trade union organisation, that, even in a situation where, at some point in the history of a nation, all workers have preferred to unify the trade union movement, they should, however, be able to safeguard their freedom to set up, should they so wish in the future, unions outside the established trade union structure.

Lastly, the Committee considers it useful to recall that the resolution on the Independence of the Trade Union Movement (adopted by the International Labour Conference at its 35th Session, 1952) stresses, in particular, that governments should not seek to transform the trade union movement into a political instrument which they could use to achieve their political aims.

The Committee requests the Government to take appropriate measures to ensure that the legislation guarantees the above-mentioned rights. Furthermore, it requests the Government to supply a copy of the constitution of the National Workers' Union.

#### Syrian Arab Republic (ratification: 1960)

The Committee takes note of the information supplied by the Government in a communication to the Conference Committee in 1984.

The Committee is bound to repeat the points that it has raised in its previous comments.

1. With reference to Legislative Decree No. 84 of 1968 respecting trade unions, the Committee points out that section 7 imposes a single-trade-union system, that section 25 (less restrictive than it was, as a result of the abolition of the minimum of one year's work in the Syrian Arab Republic that was required for joining a trade union) restricts the trade union rights of foreign workers, that sections 32, 35 and 44 place restrictions on the free administration and management of trade unions, that sections 32 and 36 lay down rules for the depositing and allocation of trade union funds and that section 49(c) empowers the General Federation to dissolve on various grounds the Executive Committee of any trade union.

With regard to craftsmen and small employers, the Committee already pointed out that Legislative Decree No. 250 of 1969 also lays down, by virtue of section 2, a single system for the establishment of associations, that section 6(a)(4), (b) and (c) lays down rules for the incomes of organisations and that section 12 prescribes the manner

of financing federations. It notes in respect of this last provision, that, although the Government states that the federation draws up its financial rules itself and fixes among other things the percentage of the funds of associations that make up its income, the fact that its financial rules must, under section 6(c), be adopted by the ministerial authorities amounts to interference in the internal affairs of trade unions and is open to abuse.

The Committee notes that, with a view to considering solutions and proposing amendments, joint committees have been set up at the request of the Ministry of Labour and that the Government will notify in future reports any results obtained. Since the legislative provisions in question establish a system of trade union unity and enable the public authorities to supervise and direct the management of the unions, a situation violating the principles contained in Articles 2, 3 and 5 of the Convention, the Committee trusts that the discussions in progress will lead very shortly to the adoption of legislative measures to give effect to the Convention.

2. With regard to the peasants' co-operative associations set up by Act No. 21 of 1974, the Committee notes the Government's statement that, under section 9 of the Constitution, these co-operative associations are organisations grouping the labour force with the purpose of developing society and realising the interests of their members and that, under section 48 their structure, their relations and the scope of their work are determined by law. Since the Government continues to refer to the Constitution and to the provisions of the above-mentioned Act and does not state whether the members of these associations (the peasants) defined by section 1 of the Act may form other trade unions of their own choosing, the Committee concludes that the organisations governed by Act No. 21 of 1974 are in fact the only ones empowered to defend the economic and social interests of this category of workers. It emphasises that the structure laid down by this Act seems to it monopolistic, with the General Federation of Peasants at the top.

The Committee refers to the comments made above under point 1 and would emphasise that a system of trade union unity is incompatible with the standards of the Convention when no possibility remains open to the workers who so desire to establish and join a trade union organisation other than that already established.

3. In its previous comments, the Committee observed that a draft amendment to the Code of Agricultural Relations, which was to abolish section 160 prohibiting strikes in the agricultural sector, was under study. The Committee notes that the bill was submitted to the Office of the Prime Minister on 8 February 1981 and that it has been under study ever since. The Committee calls the attention of the Government to the fact that, under section 160, agricultural workers are still deprived of a means that the Committee considers essential for the defence of their occupational interests, and trusts that this bill will lead very shortly to the adoption of a text giving effect to Articles 3 and 10 of the Convention.

4. The Committee points out that the Government has in the past mentioned a draft Labour Code already submitted to the competent authority and trusts that suitable legislative measures will be

adopted in the near future and that they will take account of its comments.

[The Government is asked to report in detail for the period ending 30 June 1985.]

Togo (ratification: 1960)

The Committee takes note of the report of the Government and of the observations communicated by the National Confederation of Togolese Workers (CNTT) on its previous comments, which related to the deduction of trade union dues, from all salaries and wages, instituted by Ordinance No. 77-5 of 4 March 1977, the amount being fixed by Decree No. 77-66 of 14 March 1977.

The Committee previously pointed out that these provisions constituted interference by the public authorities in the internal affairs of trade unions, which was contrary to Article 3 of the Convention. It also pointed out that the institution by law of the compulsory deduction of trade union dues from all wages and salaries indirectly established a system of trade union unity, in violation of Article 2.

Noting with regret that the Government makes no reply on these points in its report, the Committee observes that the CNTT, on the other hand, provides detailed information on them in its communication to the ILO. According to this trade union organisation, it was on its application, and after the agreement of the workers concerned, that the Government adopted a text authorising the direct deduction of trade union dues, for its sole profit, from all wages (section 3 of Ordinance No. 77-5). With regard to trade union unity, the Committee notes the CNTT's statement that there is no legislation creating an obligation to this effect.

The Committee refers to the General Survey it submitted to the 69th (1983) Session of the International Labour Conference, particularly paragraphs 136, 137 and 138, and points out that, even in a situation where, at some point in the history of a nation, all workers have preferred to unify the trade union movement, they should, however, be able to safeguard their freedom to set up, should they so wish in the future, unions outside the established trade union structure and that the rights of workers who do not wish to join existing trade unions or the existing central organisation must also be protected. The legislation must therefore guarantee to the workers the possibility of this diversity. The Committee also points out that the principle of non-interference by the public authorities, set forth in Article 3 of the Convention, is essential to the protection of the free exercise by organisations of the right to organise their own administration, one aspect of which is to fix the amount of the dues. According to the comments of the CNTT, this amount was fixed in 1976 by the Congress of this organisation. The Committee, however, would draw attention to the monopolistic nature of the provisions on the deduction of dues and emphasise that legislation should not institutionalise a de facto situation of unity, even if it has been requested by the existing trade union organisation. Since trade union unity imposed by law is incompatible with the Convention,

the Committee requests the Government to re-examine the legislative situation in the light of its comments so as to guarantee to the workers the trade union rights set forth in Articles 2 and 3 of the Convention.

Tunisia (ratification: 1957)

The Committee takes note of the information supplied in the Government's report.

It recalls that its previous comments related to the following points:

- the need for approval by the central trade union organisation for the calling of a strike (sections 376 bis and 387 of the Labour Code), whereas the initiative of calling a strike should be left to the judgement of the competent trade union authorities and appear in the constitutions of the unions rather than in the legislation;
- the possibility of imposing compulsory arbitration to end a strike that may affect the national interest and of punishing strikers with penalties of up to eight months' imprisonment (sections 384, 386 and 388 of the Labour Code);
- the possibility of requisitioning establishments or staff by decree when a strike is considered to be such as to affect a vital interest of the nation (section 389 of the Labour Code)

The Committee notes with interest that the Government has communicated the text of a Bill to amend and supplement certain sections of the Labour Code concerning collective disputes. The Committee observes that the bill would replace the need for approval by the central trade union organisation by the need for approval by an absolute majority of the workers in the undertaking affected by the strike, with a view to avoiding wild-cat strikes which often have no connection with the workers' occupational interests. It would also provide for the establishment of a tripartite national arbitration board for the settlement of collective disputes, to which disputes could be referred by the two parties and to which the Prime Minister could decide to submit a dispute likely to disrupt the normal operation of the services that are essential to the safety and welfare of the national community.

The Committee, while appreciating the efforts made by the Government to bring its legislation into closer conformity with the Convention, considers that the absolute majority of the workers concerned that is required for the calling of a strike might be difficult to obtain and might jeopardise the possibility of calling strikes. It therefore invites the Government to amend its draft so that a simple majority of the voters in an undertaking may validly call a strike.

As to the possibility of referring a conflict to arbitration in essential services in the strict sense of the term, the Committee also appreciates that the Government is considering the replacement of the expression "national interest" of section 384 of the Labour Code by the expression "services essential to the safety and welfare of the population".



In this respect, the Committee recalls the importance of amending not only section 384 but also section 389 of the Labour Code so as to ensure that the power to requisition workers in the case of a strike affecting essential services is confined to services the interruption of which would endanger the life, personal safety or health of the whole or part of the population.

The Committee trusts that legislation in conformity with the Convention will be adopted in the near future and asks the Government to indicate in its next report any progress achieved in this connection.

#### Ukrainian SSR (ratification: 1956)

The Committee takes note of the report of the Government. It observes that this contains no new information in reply to its previous comments but refers to previous reports.

The points raised by the Committee refer to texts or to situations similar to those of the USSR; the Committee, therefore, requests the Government to refer to the comments made in respect of the USSR under this Convention.

#### USSR (ratification: 1956)

The Committee takes note of the report of the Government and of the information given during the discussion that took place in the Conference Committee in 1983. The Committee refers to the points that have been the subject of its comments for many years.

1. The Committee observed that the 1971 Regulation respecting the rights of local, factory and works trade union committees, which attribute all trade union functions specifically and solely to the trade union committee of the undertaking, establishment or production or work organisation, denies to any other organisation representing workers of the same category the possibility of carrying on activities in defence of its members' interests and of formulating its programmes.

The Committee observes that the terms of this text are so worded as to make no provision for the possible existence of other trade union organisations and to confirm the existence of a single-trade-union system.

As it has already done in previous comments, the Committee notes the statements by the Government that the basic principles of the labour legislation of the USSR and the provisions of the Labour Codes of the federated republics (for the RSFSR, section 7 concerning collective bargaining and section 230 concerning the rights of local, factory or works committees) do not prohibit the establishment of trade unions different from the existing ones, but observes that, if a trade union should be established, it would have no practical possibility of exercising the activities of defending the occupational and economic interests of its members, since these functions are attributed by the Regulations of 27 September 1971 to the trade union committees of the undertaking, establishment or organisation and by

certain provisions of the Labour Code of the RSFSR (sections 230, 231, 233, 234 and 235) of 9 December 1971.

The Committee again requests the Government to state whether any action has been taken with a view to establishing workers' organisations independent of the existing trade union structure and, if so, what the results have been.

The Committee points out that, in the General Survey that it submitted to the 69th (1983) Session of the International Labour Conference, in particular in paragraphs 132 to 138, it stresses that a system of trade union monopoly established indirectly by law is in contradiction with the principles set forth in the Convention, which are intended to guarantee to workers the possibility both in theory and in practice of establishing organisations of their own choosing in full freedom to represent their interests. In the opinion of the Committee, even in a situation where, at some point in the history of a nation, all workers have preferred to unify the trade union movement (a situation that, according to the Government, prevails in the country), they should be able to safeguard their freedom to set up, should they so wish in the future, unions outside the established trade union structure.

The Committee hopes, therefore, that the Government will re-examine the situation in the light of its comments.

2. The Committee points out that, under section 6 of the Constitution, the Communist Party is the force that directs and guides Soviet society and the nucleus of the "social organisations", terms that embrace the organisations representing the workers. In the view of the Committee, the law thus establishes a link between the Communist Party and the organisations in which the directing role falls automatically and permanently to the Party.

The Committee has examined all the information supplied in this connection by the Government and, in particular, the basic legislation on labour, which guarantees freedom of activity and administration to unions that operate on a democratic basis. Furthermore, the Committee notes that section 137 of the Penal Code of the RSFSR (similar provisions exist in other republics) punishes any interference in the affairs of a trade union.

The Committee takes note of the Government's statement that the trade unions do not come under the direction of the Communist Party, but it observes that by virtue of section 6 of the Constitution of the USSR the Party lays down the framework and the social outlook in which the activities of the trade unions must take place.

The Committee considers that this situation is such as to restrict the right of trade unions to organise their activities and formulate their programmes, as provided by Article 3 of the Convention. The Committee must also point out that under Article 8, paragraph 2, the law of the land must not be such as to impair the guarantees provided for in the instrument.

The Committee trusts that the Government will be willing to review the questions that have been raised in its comments for a number of years. It requests the Government to keep it informed of any developments in this connection.

Other questions

3. As regards the other questions on which the Committee had made comments on previous occasions (in particular the right to hold meetings without previous authorisation), the Committee had noted the statement of the Government representative that the Committee would be informed of any new developments which took place in these fields. The Committee requests the Government to re-examine the legislation in the light of its previous comments.

United Kingdom (ratification: 1949)

1. The Committee notes that in May 1984 the Committee on Freedom of Association of the Governing Body dealt with a complaint against the Government which had been presented by the Trades Union Congress and other organisations concerning an alleged infringement of trade union rights at the Government Communications Headquarters in Cheltenham (GCHQ) (Case No. 1261, 234th Report of the Committee on Freedom of Association, in ILO: Official Bulletin, Vol. LXVII, 1984, Series B, No. 2, pp. 112-120, paragraphs 343-371). The conclusion reached on that occasion was that the unilateral action taken by the Government to deprive the category of civil servants concerned of their right to belong to a trade union was not in conformity with Convention No. 87; the Governing Body approved a recommendation that the Government reconsider the matter in the light of the considerations set out in the report of the Committee on Freedom of Association, and requested the Government to keep it informed of any steps taken in regard to the questions raised in the case. At its meeting in November 1984 the Committee on Freedom of Association, taking note of communications received from the Trades Union Congress and from the Government, and in particular that matters referred to in its previous report were the subject of proceedings in the United Kingdom courts (the House of Lords), expressed the hope that it would be possible for the Government to hold discussions which might result in a resolution of the dispute and the restoration to the civil servants concerned of their rights of freedom of association as provided for in international instruments. At its meeting in February 1985, the Committee on Freedom of Association stated that it had received a communication dated 5 January from the Government which contained no new factual information which would justify a re-examination of the case, but which had raised certain questions as to obligations under ratified Conventions, and, in particular, concerning the relationship between obligations under Conventions Nos. 87 and 151; it accordingly decided that the attention of the Committee of Experts should be drawn to this communication.

2. In addition, the Committee notes that in comments addressed to it by the Trades Union Congress in a letter of 25 January 1985 concerning the Trade Union Act, the TUC refers to the "hostile, destructive intentions of the Government as regards trade unions which were also put into effect through the banning of trade union membership at GCHQ", and expresses the hope that the conclusion of the Committee on Freedom of Association in Case No. 1261 will be brought to the attention of the Committee of Experts.

3. Responding to these comments, the Government, in a communication dated 21 February 1985, emphasises that, contrary to what is stated by the TUC, there is no link between the Trade Union Act and other legislation and the action taken in relation to trade union membership at GCHQ. It reiterates that the decision on that matter was taken solely in the interests of national security: the ban on trade union membership was imposed only after the GCHQ had been made the target for selective disruption in pursuit of a pay claim on behalf of the Civil Service as a whole, whereas the GCHQ as an institution of vital importance to national security needed to provide an absolutely reliable and uninterrupted service. It states further that the ban on union membership at GCHQ was in no sense an attack on trade unionism either generally or specifically in the Civil Service. It was emphatically not the Government's policy to extend the measures it has taken at GCHQ beyond those agencies whose primary functions were concerned with security and intelligence. The Government's actions had been considered by the courts, including the highest court in the land (the House of Lords) which had decided unanimously that the Government had acted lawfully in the interests of national security.

4. Having given careful consideration to the various communications described above, and having noted the conclusions reached by the Governing Body Committee on Freedom of Association, the Committee observes in particular that the rejoinder of the Government to these conclusions appears to be taken up almost entirely with matters concerning the relative weight to be given to the provisions of the various Conventions which the Government claims were at issue.

5. As regards the specific issue raised before the Committee on Freedom of Association and referred to by the Trades Union Congress in its comments on the application of the Convention, the Committee considers that the conclusion reached by the Committee on Freedom of Association, having regard to Convention No. 87 and the facts of the case which it examined, was well-founded. The Committee is bound to observe, however, that a number of important questions have been raised by the Government, especially as regards the relationship to one another of the obligations arising under the various Conventions relating to freedom of association.

6. The Committee is of the view that these questions raise complex legal issues which go beyond the specific matters raised under Convention No. 87 and examined by the Committee on Freedom of Association; these issues involve difficulties in respect of which the International Court of Justice might more appropriately be requested to provide an opinion under the relevant provisions of the ILO Constitution.

7. However, the Committee observes that the Committee on Freedom of Association also pointed out that, if appropriate consultations or negotiations undertaken in good faith with the relevant organisations had taken place, the stated objective of the Government could have been achieved in an atmosphere in which harmonious industrial relations could have been preserved and in which the compatibility of government measures with ratified international labour standards would not have been brought into question. The Committee on Freedom of Association recommended that steps should be

taken by the Government to pursue negotiations with the civil servants' unions involved, and a genuine effort made to reach an agreement which would ensure not only the Government's wish as regards continuity of operations at GCHQ but also its full application of the freedom of association Conventions which it has ratified.

8. The Committee fully endorses this recommendation. It, accordingly, trusts that the Government will reconsider its position and take the necessary steps at an early date to give effect to the recommendation. At the same time, the Committee draws the Government's attention to those limitations which may, in accordance with ILO principles, be placed on the rights of public servants to organise and on the means of action available to public servants (see General Survey, 1983, paragraphs 126 and 208-214).

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Following the adoption of this part of the report of the Committee Mr. Ago, Mr. M'baye and Mr. Ruda stated that, for reasons that were obvious, they reserved their positions as regards a possible request being made to the International Court of Justice for an opinion, and as regards the legal questions which such a request might raise.

#### The Trade Union Act, 1984

9. In the communication of 25 January 1985 already referred to, the Trades Union Congress draws the attention of the Committee to three aspects of the Trade Union Act, 1984, which, in its opinion, contravene the Convention. These are: (1) Part I of the Act, concerning secret ballots for trade union elections. In the view of the TUC the provisions in this Part impose on all trade unions an inflexible and impractical model for direct elections which will impair the unions' capacity and effectiveness in defending members' interests. The TUC points out that the extremely detailed and inflexible requirements (that all members of unions must be enabled to vote by secret ballot, that voting papers must be sent to members' home addresses, that unions must compile and maintain registers of members' names and addresses) could give rise to great administrative difficulties, especially in unions with high membership turnover or geographical mobility; and that other provisions leave the way open for challenges to results which could give rise to costly and protracted litigation. In the TUC's view, these measures are not compatible with Article 3 of the Convention, and go well beyond those necessary for the promotion of democratic principles. (2) The TUC claims that these elements of detail and rigidity are also to be found in Part II of the Act, which deals with secret ballots before industrial action. The relevant provisions (sections 10 and 11) make the removal of certain kinds of immunity enjoyed in relation to industrial action conditional on the holding of a secret ballot. In the view of the TUC, this erodes the right to take industrial action, and in particular will encourage the disengagement of unions and their officers from involvement in unofficial disputes (though the impact may vary from union to union because of differences in rules,

structures and practices). Quick decisions will be impossible, with adverse consequences for the avoidance of disputes and for stable and constructive industrial relations. These provisions also open the way for litigation, and are enforceable by employers and third parties; and this, the TUC believes, could inflame disputes and retard settlements. Part II is, in its opinion, aimed at restricting and weakening unions, and will have the effect of aggravating problems in industrial relations. (3) Part III of the Act, which requires ballots to be held every ten years on the continuation of trade unions' political funds, is, according to the TUC, aimed at promoting disruptive divisions within unions over the principle of maintaining political funds. The TUC claims that it can be used to curtail the right of British unions to express views on controversial issues of public policy and other social and political issues. It also claims that uncertainty arises from a new definition of political objects which could have the effect of restricting the ability of unions to spend money from their general funds to campaign against particular aspects of government policy, especially where such unions do not have political funds. The TUC is of the view that the courts are likely to give a restrictive interpretation to the provisions, and that this will almost certainly be the case where a union seeks to make a donation out of its general fund in support of a policy which may be part of the political programme of a national party. Finally, the TUC alleges that the measures are discriminatory in that contributions by companies to political parties are exempt from the restrictions which are applied by the Act to trade unions.

10. In a communication dated 21 February, the Government points out that there has been concern over trade union electoral arrangements for a long time, and gives examples of findings by a Royal Commission and by surveys on the low level of participation where voting took place at branch meetings. It was for this reason, according to the Government, that the 1984 Act gave union members a choice of electing leaders in secret ballots conducted either at the workplace or by post. The need for the Act arose not from individual examples of abuse or malpractice, but because electoral arrangements in some trade unions do not provide members with the right or opportunity to an equal, direct and secret vote in the election of their leaders. The Government asserts that the Act does not impose a single, specific set of arrangements on all trade unions, as alleged by the TUC, but gives members certain basic rights which are firmly based on existing electoral arrangements in a number of major unions. Furthermore, the legislation only applies to the governing bodies of unions; and a large number of questions relating to electoral procedures other than balloting are left for determination by the unions themselves, while the only object of the requirement that registers of members' names and addresses be maintained is that the electoral rolls can be kept up to date. The Government goes on to emphasise that the legislation does not provide, directly or indirectly, for any intervention in or surveillance of trade union elections by any public authority; and it denies that the measures are either detailed and inflexible or that they will lead to a reduction of the accountability and the responsiveness of the leadership to its members. On the subject of ballots prior to

industrial action, the Government explains that the purpose is to provide union members with effective protection against being called out on strike when a majority of members do not want to strike; it believes that the provisions are entirely consistent with the promotion of democratic principles within trade unions and gives examples of a union failing to conduct a ballot on a strike even where its rules provided for this and of the reversal by a ballot taken after the passage of the Act of a decision to strike which had previously been decided by show of hands. In the view of the Government, the Act does not in any way affect the ability of individual trade union members to take strike action; it limits the statutory protection for the organisation of industrial action (the "immunities" referred to by the TUC), but only to the extent that trade unions must first obtain the consent of the members concerned in a secret and properly conducted ballot. In addition, the Government disputes the TUC's allegations concerning the impact of the measures on the collective bargaining process and on industrial relations generally, and points out that the possibility of legal proceedings arises only if trade unions deny their members the opportunity to vote in a secret ballot on whether or not they wish to strike. On the third matter referred to by the TUC, the Government points out that the new requirement of the Act is that there be balloting at intervals of ten years on the continuation of political funds; the need for a ballot on the creation of such funds has existed since 1913. It goes on to state that companies are subject to other, more stringent, forms of regulation, and that employers' associations are subject to the 1913 and the 1984 Acts; and that the provisions relate to expenditure on funds in the electoral process or to support political parties, not to their use for wider political purposes. It is of the view that the new definitions in the Act are designed to reduce uncertainty and a lack of clarity in the 1913 Act, and it quotes the example of a case which occurred in 1983 which involved expenditure from general funds by a group of trade unions on a new national headquarters building of a political party, presumably in the belief that such expenditure was not "political" as defined by the 1913 Act. The only new restrictions contained in the 1984 Act regarding expenditure on campaigns relating to particular aspects of government policy are those concerning the general funds of a union where the main purpose is to persuade people to vote for or against a political party or a candidate; no such restriction applies where a separate political fund has been established by ballot.

11. The Committee notes the provisions of the Trade Union Act, 1984 and takes note of the allegations made in the communication from the Trade Union Congress, as well as of the comments of the United Kingdom Government thereon. As regards the measures contained in Part I of the Act regarding secret ballots for certain trade union elections, the Committee recalls its view that no violation of the principles of freedom of association is involved where legislation contains certain rules intended to promote democratic principles within trade union organisations or to ensure that the electoral procedure is conducted in a normal manner and with due respect for the rights of members in order to avoid any dispute arising as to the result of the election (General Survey on Freedom of Association,

1983, paragraph 169). Part II of the Act, on ballots before industrial action, would appear to introduce limitations on the rights of trade unions to decide on such action, but it does not appear to the Committee that the procedures prescribed are so cumbersome as to render lawful strikes impossible and thus to conflict with the guarantees provided for in Convention No. 87 (ibid. paragraph 219). The measures contained in Part III of the Act relating to political funds also introduce additional requirements concerning the manner in which decisions are to be reached by trade unions on the allocation of funds for political purposes, and place restrictions on the use of general union funds for the furtherance of certain political objectives through a narrowing of the definition of the latter. None of the provisions, however, removes from trade unions the freedom to support political parties or to undertake measures of political action which they consider necessary for the advancement of their economic and social objectives. The Committee is accordingly of the view that these provisions, while undoubtedly constraining the use of trade union funds in relation to political activity by trade unions and diminishing the ease with which they may exercise the right to contribute funds to political parties and campaigns, are not in breach of the Convention.

12. As regards the various provisions of the Trade Union Act examined above the Committee is of the view that they do not constitute an infringement of the rights guaranteed by Article 3 of the Convention.

#### Uruguay (ratification: 1954)

The Committee takes note of the Government's statements to the Conference Committee in 1983 as well as the written information received in August and October 1984.

1. In its previous comments, the Committee has called attention to several provisions in the national legislation that are not compatible with the Convention:

- the need to belong to the occupation as worker or employer for election to office in an occupational association (sections 4, 5, 8 and 9 of Act No. 15137 respecting occupational associations dated 12 May 1981 and sections 38, 39 and 46(c) of the regulations issued under it, Decree No. 513/981 of 9 October 1981);
- the need, in certain cases, to have been a member of the association in question for two years (sections 5(c) and 9(a) of the Act and 39(c) and 47 of the Decree);
- the need to have held no executive office in an organisation declared unlawful and never to have been disqualified from election to office under the Constitution (sections 39(d) and 46(e) of the Decree);
- the requirement that an interval elapse before re-election to trade union office (section 19 of the Decree);
- the regulation of membership of second-level and third-level occupational associations, and international organisations, and rules governing the election and composition of the executives of



second-level and third-level associations, all matters that should have been regulated under the constitutions of the associations rather than under the Decree (sections 22 to 27 of the Decree);

- the excessive length of the periods allowed the Ministry of Labour and Social Security for the registration of occupational associations (sections 64 and 65 of Decree No. 640/973 of 8 August 1973).

The Committee, noting that the Government confines itself in its report to repeating its previous statements to the effect that the provisions of the national legislation the Committee has been commenting on are not contrary to Convention No. 87, is bound to urge the Government to reconsider its position and asks it to indicate in its next report the measures taken or under consideration to bring its legislation into full conformity with the Convention on these points.

2. The Committee has also examined the conclusions of the Committee on Freedom of Association reached at its November 1984 meeting in Cases Nos. 1207 and 1209 (236th Report) relating to complaints concerning the obligation to submit the agendas of constituent meetings of trade union organisations to the authorities for approval, the delay in holding elections for permanent officers in associations and the disqualification of the officers of dissolved associations. The Committee observes that the Committee on Freedom of Association considered that the delay in holding the elections of the permanent officials of organisations was due to the fact that the Government itself convened the trade union elections by ministerial decision after inspecting the agenda of the constituent assemblies. The Committee would point out that the non-intervention by governments in the organisation and running of trade union meetings constitutes an essential element of trade union rights. It trusts that the Government will therefore change this practice, which constitutes interference in the holding of trade union elections, and asks the Government to state in its next report whether all the elections to permanent office in occupational associations at present administered by temporary officers have actually taken place and whether the measures disqualifying the officers of dissolved organisations have been lifted.

3. Lastly, the Committee has examined the recent provisions on the right to strike (Act No. 15530 of 27 March 1984, the Decree issued under it, No. 245 of 15 June 1984, Fundamental Law No. 3 of 13 April 1984 and Decree No. 254 of 25 June 1984).

The Committee raises several provisions which affect the principles of freedom of association:

- the power of the Minister of Labour and Social Security to submit collective disputes to compulsory and binding arbitration for reasons of general interest (section 10 of Act No. 15530 and section 21 of the Decree), whereas resort to binding arbitration should only be used where both parties request it or should be confined to cases of disputes in essential services in the strict sense of the term, that is to say those the interruption of which would endanger the life, personal safety or health of the whole or part of the population;

- recognition of the right to strike to workers only in the private sector (section 1 of Act No. 15530 and of the Decree) and refusal of the right to strike of all public servants (section 1 of Act No. 3 of 13 April 1984), whereas exclusions from the right to strike should apply only to public servants acting in their capacity as agents of the public authority and to workers in essential services in the strict sense of the term. Other workers in the public sector should be able to strike;
- restriction of the right to strike to exclusively occupational purposes (sections 1, 2 and 16 of the Act and sections 2 and 30 of the Decree) and prohibition of the temporary stoppage of activities in the private and public sectors (sections 1 and 2 of Decree No. 254/984 of 25 June 1984), whereas workers should be able to strike over all matters concerning the defence of their occupational interests both for economic and social reasons and at the workplace. Accordingly, for example, where workers have been dismissed or trade unionists imprisoned, strikes called as an expression of solidarity or a means of protest should be permissible;
- restrictions on the manner of holding a strike: sit-in strike, deliberate reduction of output, etc. (section 19 of the Act and section 33 of the Decree), whereas such restrictions could be justified only if the strike were to lose its peaceful character;
- establishment of a minimum service (section 16 of the Act). The Committee recalls that workers' organisations should participate with the employers or the public authorities in the determination of minimum services;
- requirement of an absolute majority of the workers in the undertaking or undertakings concerned for the calling of a strike, the vote being summoned and supervised by the authorities (sections 8 and 14 of the Act and sections 12, 13 and 28 of the Decree), whereas trade union organisations should be able to call strikes in accordance with the voting criteria laid down in their own by-laws or when a simple majority of voters so decide;
- the declaration that a strike is illegal pronounced by the executive (section 17 of the Act and section 31 of the Decree) and challenging of the strike vote before the administrative authorities (section 18 of the Decree), whereas any presumed illegality of strike action should not be subject to administrative supervision. Any challenge to the result of a strike vote should only be heard by the judicial authorities.

The Committee hopes that the Government will re-examine all these provisions and take the necessary measures to modify the excessive restrictions on the exercise of the right to strike so as to bring its legislation into conformity with the Convention.

#### Yemen (ratification: 1976)

The Committee notes with regret that the Government's report has still not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its previous direct request, which read as follows:

1. Article 2 of the Convention. The Convention expressly provides that workers, without distinction whatsoever, shall have the right to establish trade union organisations. The Labour Code (section 3) excludes from its scope civil servants, employees and workers of the administration, and certain persons working in agriculture.

The Convention provides that workers shall have the right to establish organisations of their own choosing without previous authorisation. The Labour Code (sections 138, 139 and 159) seems to establish a single-trade-union structure by providing for the existence of a single trade union committee in the undertaking, of a single general union for each economic sector, and of a single general federation.

The Committee requests the Government to indicate the measures it intends taking to bring its legislation into conformity with the Convention on these points.

Under section 153 of the Code, the trade union is set up on application by ten manual or non-manual workers, the founders of the union, to the head of the Department of Labour and Social Affairs. Moreover, under the Code a trade union is an occupational association comprising at least 50 workers (section 2). The Committee requests the Government to specify the exact scope of this provision of section 153.

The Government is requested also to indicate the exact scope of the provisions of section 154 of the Code, under which, before ruling on an application to set up a trade union, the administrative authority must verify the sympathies of the persons submitting the application and of their not having been accused of jeopardising the security of the State or sentenced for acts contrary to honour.

2. Article 3. The Convention provides that workers' organisations shall have the right to draw up their constitutions and rules and that the authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof. Under the Code (sections 150 and 153) the constitutions of trade unions are subject to the approval of the authorities. The Committee requests the Government to indicate the measures it intends taking to bring the legislation into conformity with the Convention on this point.

3. Article 4. The Convention provides that workers' organisations shall not be liable to be dissolved or suspended by administrative authority. The Code provides that the Council of Ministers may dissolve a general union or a trade union branch in certain circumstances (section 157). In order to ensure the application of the above-mentioned provision of the Convention, the legislation would have to grant the right of appeal to the judicial authorities against such decisions. It would also be necessary for these decisions to remain without effect until a prescribed period has passed without the introduction of an appeal or until they have been confirmed by the judicial authority. Lastly, it is important for the judges to be in a position to examine the case thoroughly and to study the reasons for the suspension or dissolution of an organisation.

The Committee requests the Government to state whether the possibility exists of appealing to the courts against a decision to dissolve a trade union or a branch union.

4. In general, the Committee requests the Government to provide information on the state of development of the trade union organisations. It also requests the Government to communicate the following texts:

- Ministerial Decree No. 9 of 26 August 1974 respecting the model trade union constitution, including the text of the model;
- Ministerial Decree No. 1518 of 4 September 1974 respecting trade union election procedures;
- Ministerial Decree No. 42 of 17 August 1975 respecting conciliation and arbitration procedures.

[The Government is asked to supply full particulars to the Conference at its 71st Session.]

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In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Australia, Barbados, Bolivia, Cameroon, Central African Republic, Colombia, Comoros, Costa Rica, Cyprus, Finland, Greece, Guinea, Guyana, Ivory Coast, Kuwait, Lesotho, Mali, Mexico, Norway, Poland, Portugal, Saint Lucia, Senegal, Swaziland.

Information supplied by Djibouti and Spain in answer to a direct request has been noted by the Committee.

### Convention No. 88: Employment Service, 1948

#### Dominican Republic (ratification: 1953)

Further to its previous observation, the Committee has noted with interest the establishment of the National Employment Commission, membership of which includes representatives of employers' and workers' organisations, under Decree No. 1019 of 29 April 1983. It has also taken due note of the other indications in the Government's report, and of the "national dictionary of occupations", a copy of which was supplied by the Government. It hopes the Government will supply a full report in the form adopted by the Governing Body, dealing in particular with the following matters in the light of recent developments:

1. The Committee requests the Government to indicate whether the National Employment Commission exercises any advisory function specifically in relation to the organisation and operation of the employment service and in the development of employment service policy, as required by Articles 4 and 5 of the Convention.

2. The Committee notes with interest the activities of the General Directorate of Employment and Human Resources referred to in the report in connection with Articles 6 (functions of the employment service) and 7 (measures to facilitate specialisation within

employment offices and to meet the needs of particular categories of workers) of the Convention. It would be glad if the Government would supply a copy of the legislation or other documents laying down these functions; and the statistical and other information on the employment service activities called for in Point IV of the report form.

3. The Committee hopes the Government will provide information on developments made or proposed - whether through the enactment by the National Congress of a new Labour Code or otherwise - with a view to improving the implementation of certain other provisions of the Convention referred to previously, such as Article 9 (the conditions of service of employment service staff); and Article 11 (effective co-operation with private employment agencies not conducted with a view to profit).

New Zealand (ratification: 1949)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee notes with interest the detailed information supplied by the Government in its report. It also notes the comments of the New Zealand Federation of Labour (NZFL).

The NZFL states in connection with Article 6 of the Convention that the registration procedures in the Department of Labour do not cater for workers desiring part-time employment especially women and do not record the ethnic group of the jobseeker, either; in relation to Article 7, it states that many of the administration procedures and policies in fact make it more difficult for the needs of particular categories of applicants for employment such as Maoris, other Polynesians, part-time jobseekers and women to be met; in relation to Article 8, the NZFL draws attention to certain aspects of the Government's training and employment policy in respect of young people. In its report, the Government provides details of various aspects of the application of these Articles of the Convention, although it does not deal with the specific comments of the NZFL.

The Committee notes that the general bearing of the comments of the NZFL is, apart from the points mentioned above in connection with the present Convention, more directly oriented towards the implementation of the Employment Policy Convention, 1964 (No. 122), which has also been ratified by New Zealand. It therefore requests the Government to refer to its comments on that Convention. At the same time, the Committee recalls that the duties of the employment service under the present Convention include registering applicants for employment and giving appropriate assistance for obtaining vocational guidance or training (Article 6(a)(i)); collecting and analysing the fullest available information on the employment market situation (Article 6(c)); meeting adequately the needs of particular categories of applicants for employment, such as disabled persons, juveniles, and women (Article 7 of the Convention and Recommendation No. 83,

Parts I and II); and initiating and developing special arrangements for juveniles within the framework of the employment and vocational guidance services (Article 8). The Committee has taken careful note of the information given by the Government as to the measures already taken under these heads. It would be grateful if the Government would provide further explanations on the points raised by the NZFL, and provide more detailed statistics in conformity with Point IV of the report form.

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In addition, requests regarding certain points are being addressed directly to the following States: Libyan Arab Jamahiriya, Syrian Arab Republic.

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

A request regarding certain points is being addressed directly to Belgium.

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

Greece (ratification: 1962)

Further to its previous observations, the Committee notes the information communicated by the Government in its last report, as well as that to the Conference Committee in 1983.

The Government states that under the Greek Constitution international conventions, once sanctioned by law and entered into force, become an integral part of domestic law and prevail over any legislative provisions contrary to them. It adds, nevertheless, that a draft act regarding minors, which it has referred to previously, is in preparation and advancing rapidly.

The Committee notes this statement. It also notes with interest the detailed information supplied by the Government on the implementation of Article 1, paragraph 1, of the Convention (application to undertakings engaged in transport) as well as to Article 6, paragraph 1(d) and (e) (inspection system and the keeping of registers by employers).

However, the Committee again observes that certain national legislation, which has not been formally repealed, is not in conformity with the Convention, thus giving rise, for those concerned, to a degree of doubt or uncertainty as regards the position in law. This applies, as noted previously, to the following points:

Article 2, paragraphs 1 and 2. Under the provisions of this Article, the prohibition on night work covers a period of at least 12 consecutive hours including, in the case of young persons under 16 years of age, the interval between 10 p.m. and 6 a.m., while, according to section 6 of Act No. 4029 of 1912, the period covered by

the prohibition of night work is only 11 consecutive hours covering the interval between 9 p.m. and 5 a.m.

Article 4, paragraph 2. Section 8 of the Act authorises a reduction in the period during which night work is prohibited in enterprises, or for the categories of work where demand for labour increases regularly at certain periods of the year (seasonal activities), or in the case of an exceptional pressure of work, while these exceptions are not provided for by the Convention.

The Committee trusts that the draft Act referred to by the Government will be drawn up and promulgated in the very near future and that it will ensure full application of the Convention.

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

#### Brazil (ratification: 1965)

Further to its previous observations, the Committee notes the information provided in the Government's most recent report. In particular it notes the statement that the Labour Law Committee, a body linked to the Ministry of Labour, is examining the text of a draft law which would bring section 150 of the Consolidated Labour Laws into conformity with the provisions of the Convention. The Committee trusts that such legislation will be adopted shortly and will ensure full application of Article 3, paragraphs 2 and 3 (entitlement to proportional holiday and corresponding remuneration upon leaving engagement having completed from one to six months' service) and of Article 4 (annual holidays to be granted by mutual agreement as the requirements of service allow) of the Convention.

[The Government is asked to report in detail for the period ending 30 June 1986.]

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In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Djibouti, Finland, Guinea-Bissau, Norway, Poland, Tunisia.

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

#### Panama (ratification: 1970)

The Committee notes with interest the information provided by the Government in reply to the Committee's previous comments, and in particular the adoption of Resolution No. 613-2570 ALCN of 31 August 1981 and its Annex concerning crew accommodation and catering facilities aboard ship. It also notes the Government's statement regarding plans to include a section concerning maritime labour matters in the maritime safety inspection report forms used for annual inspections world-wide.

With regard to the Government's earlier request for ILO technical assistance concerning the full application of the maritime Conventions, the Committee requests that the Office be kept informed of any developments in this field.

The Committee notes that the above-mentioned resolution gives legislative effect to Article 3(c) and (d) of the Convention, concerning penalties and inspection, and Article 5(a), (b) and (c), concerning inspection upon a ship's registration, re-registration, substantial alteration to crew accommodation and on the occasion of complaint by the crew.

The Committee is addressing a direct request to the Government concerning the application of the technical requirements contained in Part III of the Convention. The Committee hopes that the Government will be able to take steps in the near future to give full effect to all provisions of the Convention.

#### Sweden (ratification: 1950)

Further to its previous observation, the Committee notes the statement by the Government that it agrees with the Committee's conclusions concerning the matter of establishing common mess facilities for officers and ratings (Article 11, paragraph 3, and Article 19 of the Convention), which had previously been the subject of comments by organisations of seafarers and shipowners.

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In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Guinea-Bissau, Iraq, Israel, Liberia, Panama, Poland, Portugal, Spain, United Kingdom.

Information supplied by Angola in answer to a direct request has been noted by the Committee.

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

#### Guatemala (ratification: 1952)

Further to its previous comments, the Committee notes with satisfaction that section 3 of Decision No. 51 of 17 September 1981 has been amended following the adoption of Governmental Decision No. 1083.84 of 14 December 1984 ensuring the application of the Convention in law. The Committee requests the Government to indicate whether Decision No. 1083.84 has come into force.

The Committee would also be grateful if the Government would supply information on the practical application of the Convention, particularly measures to ensure that persons tendering for contracts are aware of the terms of the clauses, in accordance with section 3, paragraph 3, of Decision No. 51 as amended and Article 2, paragraph 4, of the Convention; and send a copy of the model contracts adopted, indicating whether the terms of the clauses included were determined



in accordance with section 3, paragraph 3, as amended, and Article 2, paragraph 3.

Guinea (ratification: 1966)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

Further to its previous observation, the Committee notes with interest the Government's intention to bring its legislation into full conformity with the Convention following the direct contacts which took place in 1981. The Committee hopes that the necessary measures will be adopted at an early date and that they will ensure the insertion of labour clauses in all public contracts covered by Article 1(1)(c) of the Convention.

Mauritania (ratification: 1963)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee notes with interest the information communicated in the Government's report, in particular the adoption of Decree No. 80.182/PG concerning public contracts. It notes that sections 50 and 95 of this Decree provide for the insertion in public contracts of labour clauses. The Government is requested to indicate how the conditions of work to be granted to workers under this Decree are determined (apart from cases in which collective agreements are applicable): how the application of this requirement to subcontractors and assignees is assured; and what measures ensure that the parties concerned are notified of the requirements of such clauses.

The Committee recalls that in its 1979 report the Government communicated the text of a draft decree which would have ensured the application in law of the Convention. The Government is requested to indicate whether this decree has been adopted.

Panama (ratification: 1971)

The Committee notes the information reported by the Government to the Conference Committee in 1984 to the effect that, following consultations with the regional adviser, the Government has explored the various options for the full implementation of this Convention. In this context, the establishment of a tripartite inter-ministerial committee is envisaged to discuss the content of regulations governing the minimum conditions which should be included in all public contracts.

The Committee notes that no report was received this year. It hopes that the next report will provide complete information on developments in this respect, and that the contemplated standards will

take into account its previous comments. The Committee pointed out that references in the model contracts and the general specifications on the observance of the legislation in force stipulated in the model contracts of the Ministry of Public Works, were insufficient to apply Article 2 of the Convention. The Committee recalls that, under the Convention, the labour clauses should guarantee to the workers concerned conditions that are not less favourable than those established for work of the same character, and that the clauses should be established after consultation with employers' and workers' organisations (Article 2, paragraph 3).

The Committee notes that the information supplied by the Government dealt only with contracts for the construction or maintenance of public works. It again refers to its observation of 1982 and its direct request of 1976 and recalls that the Convention applies in the same way to the other categories of contracts covered under Article 1, paragraph 1(c), (ii) and (iii).

The Committee suggests that the Government should examine the possibility of consulting the International Labour Office when drawing up the new regulations envisaged by the Government.

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In addition, requests regarding certain points are being addressed directly to the following States: Grenada, Kenya, Saint Lucia.

### Convention No. 95: Protection of Wages, 1949

#### Dominican Republic (ratification: 1973)

The Committee has noted the information provided by the Government to the Conference Committee in 1984 and in its report regarding matters raised in the Committee's previous comments, more particularly in regard to the recommendations made in 1983 by the Commission of Inquiry which examined the observance of the Convention. [During the Committee's session, the Director-General of the ILO received a communication from the Central Unitaria de Trabajadores (CUT) containing comments concerning action to implement the recommendations made by the Commission of Inquiry. In accordance with established practice, these comments are being transmitted to the Government to enable it to present such observations as it may consider appropriate. The Committee will examine the comments of the CUT and any observations by the Government thereon at its next session.]

1. Legislative matters. (a) Article 2 of the Convention. The Committee had drawn attention to the need to extend the provisions of the Labour Code relating to the protection of wages to agricultural undertakings employing ten or fewer workers (which are at present excluded from the Code by virtue of section 265). It notes the Government's statement that it is awaiting an opportune moment, given the country's economic, political and social conditions, to submit the

necessary amendments to the National Congress. As the question has been the subject of comments since 1978, the Committee hopes that the necessary action will be taken at an early date.

(b) Article 3. The Committee notes the Government's statement that it is proposed to amend sections 200 and 202 of the Labour Code to prohibit the payment of wages in the form of negotiable coupons, vouchers, etc. The Committee hopes that these amendments will be adopted at an early date (see also point 3 below).

(c) The Committee has also pointed out for a number of years the need to adopt provisions to give effect to the requirements of Article 5 (direct payment of wages to workers), Article 6 (prohibition of employers from limiting in any manner the freedom of workers to dispose of their wages), Article 8, paragraph 2 (provision of information to workers as to the conditions and extent of deductions from wages), Article 10 (regulation of the assignment of wages), Article 13, paragraph 2 (prohibition of payment of wages in taverns, stores, etc.), Article 14 (provision of information to workers concerning wage conditions) and Article 15(b) (definition of the persons responsible for compliance with the Convention). It trusts that the necessary measures will be adopted at an early date.

2. Measures to guarantee observance of the statutory minimum wage in agriculture. The Committee recalls that, in paragraph 477 of its report, the Commission of Inquiry observed that Convention No. 95 is aimed at ensuring that workers effectively receive the remuneration to which they are entitled. As concerns minimum wages, the Committee notes with interest the Government's statement that, by Act No. 209 of 11 May 1984, the minimum wage, which was previously fixed at 3.50 pesos for a working day of eight hours for workers in agriculture, was increased to 5 pesos per day.

The Committee recalls that the Commission of Inquiry found that in 1983 cane-cutters' earnings in many instances remained substantially below the minimum wage of 3.50 pesos for a working day of eight hours, and made a number of recommendations (in paragraphs 533 to 537 of its report) to correct that situation. In the light of the increase of the minimum wage to 5 pesos per day in 1984, the adoption of guarantees to ensure observance of that minimum appears all the more important. The Committee accordingly draws attention to the following points:

(a) Recalling that wage rates of cane-cutters and various other workers on sugar plantations are related to output, the Committee requests the Government to indicate what increases have been made in the rates laid down for such work to reflect the increase in the statutory minimum wage.

(b) The Commission of Inquiry recommended the establishment, in consultation with the managements and trade unions concerned, of a more uniform and regular system of working hours for cane-cutters, with a reasonable maximum limit on daily working hours and a proportional increase in the minimum wages guaranteed where the working day exceeds eight hours. It also recommended measures to guarantee minimum earnings to workers employed on sugar plantations at rates of remuneration based on output, in respect of any normal working day or part of a normal working day during which they are

prevented from working on account of the employers' operational needs or other factors not attributable to the workers.

The Committee notes with interest, from the statement made to the Conference Committee in 1984 that the Government was considering the adoption of a new wage system for cane-cutters, involving the payment of the minimum wage, plus additional remuneration for overtime; this system would also require more rigorous inspections. The Committee requests the Government to indicate what measures have been taken on this question, and what consultations have taken place in that connection with the managements and trade unions concerned.

(c) The Commission of Inquiry recommended that measures be adopted, in consultation with the managements and trade unions concerned, for checking the accuracy of the weighing of cane; such measures should include inspections by official agencies outside the plantations, checking of weighing operations by workers' representatives, and simple and expeditious procedures for investigating and settling complaints or disputes.

The Committee notes, from the statement made to the Conference Committee, that the Government was taking measures to ensure that representatives of the workers would always be present at the weighing of the cane. It requests the Government to provide particulars of the measures which have been adopted, and the regulations or instructions which have been issued for this purpose, as regards both the state-owned plantations and private plantations.

3. Payment of wages in negotiable wage vouchers. The Committee notes with interest the statement in the Government's report that the practice of payment of wages by means of negotiable vouchers has been abolished on the state-owned plantations and (as had already been noted by the Commission of Inquiry) at La Romana. It requests the Government to provide a copy of the instructions or other text by which this change in the method of wage payment was introduced on the state-owned plantations, and specimen copies of the documents now issued to cane-cutters on these plantations to provide them with a record of the cane cut and of their wage entitlements.

The Committee would also appreciate information on the measures taken to abolish the payment of wages by means of negotiable vouchers on the plantations of the Casa Vicini.

4. Measures with a view to ensuring the provision of basic foodstuffs to workers on sugar plantations at fair and reasonable prices (Article 7). The Committee notes with interest the information supplied by the Government regarding progress in the implementation of the agreement concluded in January 1983 between the State Sugar Board and the Price Stabilisation Institute for the establishment of shops on state-owned plantations and in the programme for setting aside land on these plantations for the production of food crops for the benefit of their workers. It requests the Government to continue to provide information on these matters.

The Committee also requests the Government to give information on any corresponding measures on the privately-owned plantations.

5. Deferred payment of wages. The Commission of Inquiry recommended the abolition of the system imposed upon cane-cutters employed on the plantations of the State and those of the Casa Vicini, under which part of the remuneration of cane-cutters was subject to

retention and payment at the end of the harvest, since that system was contrary to Article 6 of the Convention. The Committee notes with interest the statement in the Government's report that the measures recommended by the Commission of Inquiry would be taken when the next recruiting contract was concluded. It hopes that the Government will provide particulars of the new arrangements adopted and a copy of the latest recruiting contract concluded.

The Committee also requests the Government to indicate the measures adopted to ensure the observance of the Convention in this respect on the plantations of the Casa Vicini.

6. Enforcement. The Committee notes the Government's statement that inspection activities had been increased following the strengthening of the staff of the labour inspection service. It once more requests the Government to provide particulars of inspection activities on the sugar plantations by the inspection services of the Ministry of Labour and the results of those inspections as regards ensuring observance of the workers' rights in regard to wages.

[The Government is asked to supply full particulars to the Conference at its 71st Session and to report in detail for the period ending 30 June 1985.]

#### Turkey (ratification: 1961)

Article 2 of the Convention. The Committee recalls that workers in agriculture and small commercial and handicraft undertakings are excluded from the coverage of the Labour Code and therefore are not afforded the protection contemplated in the Convention. The Government has again stated that the Convention is applied to these workers by the system of collective bargaining and by the Code of Obligations. The Committee can only refer again to its previous comments, in which it has indicated that a number of the Convention's provisions require that effect be given them by legislation or regulations, which means that they cannot be applied by the system of collective bargaining. It has also examined the provisions of the other legislation referred to by the Government and has indicated that effect is given only to Articles 11 and 12 of the Convention (respectively by the Bankruptcy Act and section 326 of the Code of Obligations). The Committee therefore expresses the hope that the Government will reconsider its position. It suggests that the Government may wish to undertake consultations with the Office at an early opportunity in order to resolve this question.

Article 13, paragraph 2. The Committee notes the statement in the Government's report, reiterating that this provision is applied by section 73 of the Code of Obligations, which provides that unless there is a provision to the contrary, payment shall be made at the place where the creditor is domiciled. The Committee has pointed out previously that this does not include the express prohibition, provided for in this Article of the Convention, of payment of wages in specified places. It hopes that the Government will reconsider its position in this respect as well.

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In addition, requests regarding certain points are being addressed directly to the following States: Bolivia, Burkina Faso, Chad, Grenada, Niger, Portugal, Saint Lucia, Zambia.

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

#### Djibouti (ratification: 1978)

Part II of the Convention. With reference to its earlier comments concerning the application of Articles 6 and 7 of the Convention, the Committee notes with satisfaction that Act No. 21/AN/83 lre L of 3 February 1983, to organise the central administration of the Ministry of Labour and Social Welfare, repeals section 178 of the Labour Code, which authorised the carrying on of placement operations by the trade unions. Other questions concerning the application of the above-mentioned Act forms the subject of a request addressed directly to the Government.

#### Pakistan (ratification: 1952)

Part II of the Convention. Further to its previous comments, the Committee has noted the information provided by the Government to the Conference Committee in 1984. It has also noted the provisions of the Fee-Charging Employment Agencies (Regulation) (Amendment) Ordinance, 1984, concerning rights of appeal under the Fee-Charging Employment Agencies (Regulation) Act, 1976. The Committee understands therefore that the Act has come into force, although, as indicated to the Conference, it is not applicable to the tribal areas. The Committee would be grateful if the Government would indicate the areas of the country to which the Act applies and to indicate, for the areas in which it does apply, the effect of its application in ensuring the progressive abolition throughout the country of fee-charging employment agencies conducted with a view to profit, in accordance with Article 3 of the Convention. It hopes the Government will supply copies of the relevant implementing legislation.

[The Government is asked to report in detail for the period ending 30 June 1985.]

#### Syrian Arab Republic (ratification: 1957)

Part II of the Convention. Further to its previous observation, the Committee has noted the information provided by the Government to the Conference Committee in 1984. The Government indicated that the Council of Ministers had in May 1984 approved draft legislation which would bring the Labour Code of 1959 into conformity with the Convention by (a) repealing sections 18 and 22 of the Code authorising private employment agencies; and (b) amending section 11 of the Code so as to extend the application of the chapter concerning placement to domestic and similar workers. The Government indicated that the

Council of Ministers had submitted the draft legislation to the President of the Republic for promulgation.

The Committee recalls the Government's previous indications that sections 18 and 22 had never been applied in practice. As this matter has been outstanding for several years, it accordingly hopes that the Government is now in a position also to ensure full legislative conformity with the Convention, Part II of which requires progressive abolition of fee-charging employment agencies conducted with a view to profit and regulation of other agencies. The Committee requests the Government to provide full information and a copy of the relevant legislation.

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In addition, requests regarding certain points are being addressed directly to the following States: Bangladesh, Djibouti, France, Pakistan, Sri Lanka.

#### **Convention No. 97: Migration for Employment (Revised), 1949**

Requests regarding certain points are being addressed directly to the following States: Brazil, Italy, Nigeria, Portugal, Spain, United Republic of Tanzania, Zambia.

Information supplied by the Federal Republic of Germany in answer to a direct request has been noted by the Committee.

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

As regards the observation made concerning Poland, one member of the Committee, Mr. Gubinski, referred to the comments he made under Convention No. 87.

#### Argentina (ratification: 1956)

The Committee takes note of the information contained in the report of the Government on the application of Article 4 of the Convention.

It takes note with interest of the positive information concerning the part played by the occupational organisations in social understanding with a view to putting into effect the economic and social general plan of action desired by the Government to bring the nation out of the economic crisis that burdens it with an annual inflation of 500 per cent. The Committee notes in particular that the trade unions participate in the ten tripartite sectoral committees set up to deal with the various problems, including incomes policy. The Committee also takes note of the efforts made by the Government in respect of the system for the adjustment of wages (Decree No. 439/82 and following) with the support of the tripartite technical advisory

committees in an endeavour to maintain the purchasing power of wages and even to increase it. The Committee observes the statement by the Government to the effect that successive decrees have ensured a genuine increase in the pay of workers covered by collective agreements of 8 per cent for 1983 and it has examined the Act to amend the system for the payment of the annual supplementary wage paid on the basis of 50 per cent of the best monthly pay received by the worker during the previous six-month period (Act No. 23041 of 2 January 1984). It also notes that another Act provides for the reintroduction within one year of the original texts of the collective agreements concluded under Act No. 14250 of 13 October 1953 respecting collective agreements (Act No. 23126 of 30 September 1984). The Committee appreciates the efforts made by the Government in the field of social understanding and requests it to continue to furnish information on the evolution of the situation and, in particular, on any measure taken or contemplated to restore in full the development of the voluntary negotiation of collective agreements with a view to the regulation by this means of terms and conditions of employment.

#### Bangladesh (ratification: 1972)

The Committee takes note of the report of the Government and also of the comments submitted by the Bangladesh Free Trade Union Congress concerning the application of the Convention.

The Committee notes with satisfaction that Ordinance No. XXVI of August 1982, which has been the subject of its comments, was recently repealed.

The provisions governing industrial relations, particularly in respect of collective bargaining, are, therefore, those of the Industrial Relations Ordinance, No. XXIII of 1969, as amended by Ordinance No. XIX of 1970 and Act No. XXIX of 1980.

The Bangladesh Free Trade Union Congress refers in its observations to sections 22 and 22A of the 1969 Ordinance, as amended by the 1970 Ordinance, concerning the recognition of trade unions for purposes of collective bargaining. The Committee points out that it has always considered that these provisions are not incompatible with the Convention. This workers' organisation, however, calls the attention of the Committee to the restrictions placed on the scope of collective bargaining for workers covered by the National Pay Commission and the Industrial Workers' Wage and Productivity Commission. In view of these restrictions, according to the organisation, trade unions can no longer be anything but welfare associations.

The Committee must emphasise that, under Article 4 of the Convention, it is the responsibility of the Government to take appropriate measures to encourage and promote the full development and utilisation of machinery for voluntary negotiation.

The Committee points out that, in its previous direct requests, it observed that, under the State-Owned Manufacturing Industries Act, No. X of 1974, the Government may determine wages and other conditions of employment (leave) for any worker employed in this sector. According to the Government, this text is intended to unify the wage



structure in the public sector and to safeguard the interests of workers in the less viable industries.

In the General Survey it submitted to the 69th (1983) Session of the International Labour Conference, particularly paragraph 311, the Committee pointed out that the right to negotiate wages and conditions of employment freely with the employers and their organisations is a fundamental aspect of freedom of association and that if, for compelling reasons of national economic interest, a government considers that wage rates cannot be fixed freely through collective agreements, such a restriction should be imposed as an exceptional measure and only so far as is necessary, without exceeding a reasonable period and should be accompanied by adequate safeguards to protect the living standards of the workers.

The Committee notes that the report refers in this connection to earlier reports, and requests the Government to reconsider the situation in the light of the above comments, with a view to restoring voluntary bargaining in the sector concerned. In addition, it requests the Government to provide more details concerning the negotiation of wages and conditions of employment, on the workers concerned, and to transmit information on the number of collective agreements, their duration, their purpose, the sectors and the numbers of workers concerned, etc.

#### Belgium (ratification: 1953)

The Committee notes the statement in the report of the Government to the effect that the wage restraint measures it has adopted are not contrary to the terms of Convention No. 98.

The Committee points out, however, as it has done in previous comments, that Royal Order No. 11 of 26 February 1982 issued under the Act of 2 February 1982 attributing certain special powers to the King to ensure economic and financial recovery brought wage restraint into force on 1 March 1982 (section 3 of Royal Order No. 11). Subsequently, Royal Order No. 180 of 30 December 1982 prohibited increases in pay other than increments and those due to normal promotion between 1 January 1983 and 31 December 1984, subject to penal sanctions against the employers (sections 6 and 10 of Royal Order No. 180).

These measures have been the subject of complaints before the Committee on Freedom of Association (Case No. 1182) and of repeated comments by the Committee of Experts, which hoped that the Government would not extend them when they expired on 31 December 1984, since the restriction of wage bargaining for three years seemed to it excessive.

The Committee notes with regret that Royal Order No. 278 of April 1984 has reinforced the power of the Government to intervene in respect of wage policy, since from 1 April 1984 for the rest of that year it reduced the indexing of wages on prices by 2 per cent of pay due before 1 April 1984 (section 2(1)(1), of the Royal Order of 30 March 1984).

The Committee notes that, by virtue of the Order in question, when the effect of restraint has been achieved, the measure will be lifted (section 2(1)(2)). In the meanwhile, similar measures,

however, are planned for 1985 and 1986, and the King will determine by order whether the restraint planned for 1986 shall be applied fully or only partly in accordance with economic growth and the re-establishment of public finances (section 2(2) and (3)). The Government explains that the purpose of Royal Order No. 278 is to organise genuine solidarity between those who are active and those who are not by allocating the savings resulting from the brake on wage increases to financing the expenses of the unemployed sector borne by the State and by the social security system. The savings obtained by the reduction in state subsidies to the unemployed sector will be allocated to employment funds, programmes for the organisation of working time and other employment programmes.

The Committee notes these explanations, but recalls that it has already pointed out that the intervention of the Government in collective bargaining, once it continues over several years, impairs the rights of workers and employers to negotiate conditions of employment in full freedom. The Committee emphasises that where there are economic difficulties the Government should prefer persuasion to compulsion and that, at all events, the parties should remain free in their final decisions.

The Committee therefore requests the Government to re-examine its position in the light of the above comments and to keep it informed of all developments in the situation.

#### Brazil (ratification: 1952)

The Committee takes note of the information contained in the Government's reports replying to its comments and to those of the National Confederation of Workers of Credit Enterprises.

The Committee points out that the discrepancies between the national legislation and the Convention relate to the following points:

- interference by the Government in respect of collective agreements and collective wage increases in mixed economy enterprises and private enterprises subsidised by the State or holding concessions from public services, these enterprises being entitled to conclude agreements only "within the terms of the resolutions of the National Council on Wage Policy" (Act No. 6708 of 30 October 1979, section 12);
- the possibility of excluding from the scope of the agreements enterprises demonstrating their economic inability to support the wage increases and the authorisation accorded these enterprises not to grant the (automatic) wage increases (Act No. 6708, section 11(2) and (3));
- the wide powers vested in the authorities to cancel collective agreements or arbitration awards which do not conform to the standards fixed by government wage policy (Consolidated Labour Laws, section 623, as amended by Legislative Decree No. 229 of 28 February 1967 and section 8 of Act No. 5584 of 26 June 1970);
- the exclusion from the right to organise and therefore from the right to bargain collectively of those employed by the State and semi-official institutions (including the workers of the Central

Bank of Brazil, of the Federal Economic Fund and of the National Housing Bank), except those in mixed economy enterprises (section 566 of the Consolidated Labour Laws as amended by Act No. 6128 of 1974).

Furthermore, the National Confederation of Workers of Credit Enterprises in its communication of 20 June 1984 states that the Government, yielding to the demands of the International Monetary Fund, adopted during the year 1983 alone four legislative decrees intended to reduce the amount of wage adjustments to inflation. It mentions in particular Legislative Decree No. 2065 of 26 October 1983.

The Government emphasises that the Ministry of Labour is endeavouring to promote collective bargaining and that the protracted restriction on the right of the parties to negotiate wages collectively is due to the economic difficulties that have become even worse in recent years. It adds that specific proposals have been worked out for the re-establishment on 1 August 1988 of free bargaining (Legislative Decree No. 2065/83, section 24). Moreover, compulsory de-indexing in relation to consumer prices will diminish gradually from 1 August 1985. The draft bills to amend title VI of the Consolidated Labour Laws concerning collective agreements and Act No. 4330/64 on strikes have been submitted to the trade union organisations and the economic sectors concerned with a view to obtaining their opinion and comments. The Government states that section 623 of the Consolidated Labour Laws has not been applied and that so far no clause in a collective agreement has been declared contrary to its wage policy. It also states that the prohibition of "servants of the State and of parastatal institutions" from trade unionism provided for by section 566 of the Consolidated Labour Laws refers only to officials of the direct and autonomous administration and not to employees of public undertakings, since Act No. 6185 of 11 December 1974 prohibits trade unionism only in respect of "civilian public staff members of the direct and autonomous federal administration" (sections 2 and 3 read together). Lastly, it states that there has been an easing of the restrictions imposed by section 12 of Act No. 6708/79 on the extension of collective agreements to mixed economy undertakings and private undertakings subsidised by the State or holding concessions from public services, since, under section 40 of Legislative Decree No. 2065 of 26 October 1983, the measure will come to an end on 31 July 1988. Furthermore, the Federal Senate has before it a bill approved by the Chamber of Deputies to abolish the legal possibility of undertakings to refuse to give effect to wage increases when they prove that "it is economically impossible for them to support such increases".

The Committee observes that Act No. 7238 of 29 October 1984 repeals Legislative Decree No. 2065 of 26 October 1983, which is referred to by the National Confederation of Workers of Credit Enterprises. The text criticised by this National Confederation introduced a system for the partial de-indexing of wages in relation to prices to put a brake on inflation. Although it guaranteed full indexing for all workers earning less than three times the minimum wage, it de-indexed the wages of those earning more: workers earning from three to seven times the minimum wages were compensated only for 80 per cent of inflation, those earning from seven to 15 times the

minimum wage only for 60 per cent and those earning more than 15 times the minimum wage only for 50 per cent. A return to free collective bargaining was provided for in this decree only as of 1 August 1988 (sections 24 and 26 of Legislative Decree No. 2065). Under Act No. 7238, workers earning up to three times the minimum wage will continue to be compensated for 100 per cent of the inflation rate and those earning more than three times the minimum wage will be compensated for 80 per cent, but may obtain compensation for up to 100 per cent through collective bargaining without, however, being able to obtain an increase going beyond the upper limit fixed by the Executive in relation to the real gross domestic per capita income (sections 2(I) and (II), 11 and 12 of Act No. 7238). The Committee thus observes that Act No. 7238 constitutes a positive move towards the partial re-establishment of wage indexing on inflation by means of controlled collective bargaining.

The Committee takes note of this trend in the legislation towards the re-establishment of voluntary collective bargaining but points out that under Article 4 of the Convention, which has been ratified by Brazil, the Government has undertaken to adopt measures to encourage and promote the voluntary negotiation of collective agreements. It notes with regret that wage increases in Brazil have been fixed unilaterally for some years by the public authorities and that Act No. 7238 still maintains a compulsory restriction of wage indexing to not more than 80 per cent of inflation from a very low level of income (three times the minimum wage), even if it authorises the social partners to negotiate wage increases above 80 per cent but not above a higher limit fixed by the Executive. The Committee points out, as it has already done, that in dealing with inflation and the economic crisis the Government should rather endeavour to persuade the parties to collective bargaining to take account voluntarily in their negotiations of the imperative reasons of economic and social policy and the general interest invoked by the Government. If this is to be successful, the reasons should be widely debated at the national level by all the parties in a tripartite advisory body on wage policy. What is essential, however, is that the final decision in respect of collective agreements should always remain with the parties to the agreements.

The Committee therefore requests the Government to indicate in its next report the measures taken or contemplated to ensure that its legislation fully conforms to the Convention in respect of the right to voluntary negotiation for workers' and employers' occupational organisations, including organisations of public servants other than those engaged in the administration of the State, and therefore for the employees of banking and credit establishments, who are covered by the Convention.

#### Chad (ratification: 1961)

The Committee takes note of the report of the Government and of the information supplied in reply to its comments.

The Committee has pointed out on many occasions that the prior approval of collective agreements required by section 121 of the

Labour Code is not in conformity with the principle expressed in Article 4 of the Convention respecting the full development and utilisation of machinery for the voluntary negotiation of collective agreements. The Committee notes the statement by the Government that prior approval by ministerial order and, where there is an equal vote on the conclusion of a collective agreement, the participation in the second vote of the representative of the administration (section 119 of the Labour Code), are justified by the need to bring the negotiations to a successful conclusion and to extend the collective agreement to the whole country. In this regard, the Committee feels bound to point out that in the General Survey it submitted to the 69th (1983) Session of the International Labour Conference, particularly paragraph 311, it expressed the view that the requirement of prior approval before a collective agreement can be applied is incompatible with Article 4 of the Convention and that a system of official approval is acceptable only so far as approval can be refused exclusively on grounds of form. Although the Government states that approval has never been refused in practice, the Committee considers that statutory effect should be given to the principle of Article 4, the approval of the Minister being restricted to questions concerning matters of form.

With regard to the right of the chairman of the joint committee entrusted with the preparation of a collective agreement to have a second vote carried out where there is an equal vote on the conclusion of the agreement, in which he can participate, the Committee points out that the risk under this provision that the administration may impose the conclusion of an agreement conflicts with the principle of free bargaining between the parties.

Since the right to negotiate freely, without any legal restriction, is a fundamental aspect of freedom of association, the Committee trusts that the necessary amendments will be introduced to the legislation in the near future.

#### Costa Rica (ratification: 1960)

1. Articles 1 and 2 of the Convention. In comments that it has been making for some years, the Committee has asked the Government to adopt specific provisions to establish clearly remedies and penalties for acts of anti-union discrimination and acts of interference by employers in workers' organisations in order to give fuller effect to these Articles of the Convention.

The Committee notes the information supplied by the Government in its report to the effect that the draft Labour Code has not been adopted, but that these provisions of the Convention are applied by other means which, for example, give rise to the signing of collective agreements and to punishment of the employers responsible.

The Committee regrets that the draft Labour Code of 1981, drawn up with the assistance of the ILO, has not been adopted, since sections 104(d) and (e), 363, 382 to 398, 441, 483 and 487 of the draft contained provisions on non-discrimination and non-interference conforming to the Convention.

The Committee expresses once more the earnest hope that legislation in full conformity with the Convention will be adopted in the near future, and asks the Government to indicate in its next report any progress made in this field.

2. Articles 4 and 6. The Committee takes note of the General Act respecting the public administration and the Municipal Code, both sent by the Government, and also of the statement by the Government in its report to the effect that the right to collective bargaining is granted in the public sector to state undertakings not coming under the Act concerning the public administration.

The Committee observes with interest that under the Municipal Code public employees in this sector may negotiate collectively (sections 7(c) and 121), but is bound to point out that, though the Convention does not deal with the situation of public servants engaged in the administration of the State (Article 6), other public servants not engaged in the administration of the State should enjoy the right to bargain collectively.

The Committee therefore requests the Government to grant expressly to the employees of public undertakings and other public servants not engaged in the administration of the State the right to bargain collectively, which is guaranteed to all workers by Article 4 of the Convention. It asks the Government to indicate in its next report the measures taken or under consideration to bring the legislation into conformity with the Convention on this point.

#### Denmark (ratification: 1955)

The Committee takes note of the report of the Government. It also notes the comments of the Danish Federation of Trade Unions (LO) and the Salaried Employees' and Civil Servants' Confederation (FTF) on the application of the Convention. The Government has replied to these comments in a communication dated 22 February 1985.

The Committee notes that, according to the above trade union organisations, measures were adopted in October 1982 to suspend the clauses concerning the indexing of wages on the cost of living contained in existing collective agreements. This suspension, which originally was to apply only until January 1985, has been extended by Parliament to January 1987. The Committee notes that the trade union organisations mention that the wage indexing clauses are traditionally the subject of agreements between the social partners. Furthermore, according to the organisations, no measure has been taken to protect the standard of living of the workers concerned.

The Committee further notes that in response to these comments the Government states that the suspension, in October 1982, by the legislative assembly was part of the policy of the new Government towards economic recovery. The Government adds that there were simultaneous restraints placed on profits, dividends, bonuses, etc. The Government contends that it is the right and duty of a government to assure the development of the national economy through financial and incomes policies. The suspension of cost-of-living indexation was seen, according to the Government, as a better alternative than higher taxation on goods and services. The Government further points

out that the suspension was also applicable to pay regulation under individual agreements, unilateral wage-fixing, etc. It adds that there was no interference in the right of workers' and employers' organisations to collective bargaining in order to safeguard the interests of their members or to exercise this right in any other respect.

As regards the prolongation of the suspension of the cost-of-living indexation scheme for 1985-87, the Government explains that it feared that the economic recovery would be jeopardised if the indexation scheme were reintroduced at that time. Thus, there was no statutory intervention in existing agreements or pay conditions, but the laying down of a framework for the coming period of negotiations.

In this connection, the Committee refers to the General Survey it submitted to the 69th (1983) Session of the International Labour Conference, particularly paragraphs 311 to 315, and would point out that the right to negotiate wages and conditions of employment freely with the employers and their organisations, is a fundamental aspect of freedom of association, and that any restriction on the free fixing of wage rates should be imposed as an exceptional measure and only to the necessary extent, without exceeding a reasonable period; such restrictions should be accompanied by adequate safeguards to protect the living standards of the workers.

In the opinion of the Committee, the continuous restriction on the free negotiation of wages by prolonging the suspension of clauses for the indexing of wages could result in a situation in which the principle of the promotion of free collective bargaining is brought into question. It requests the Government to re-examine with the occupational organisations concerned the possibility of negotiating wage settlements in a manner that is free of statutory or other restrictions, and to consider the possibility of persuading the parties to take voluntary account in their negotiations of the imperative reasons of economic policy that may be advanced by the Government. The Committee requests the Government to keep it informed of further development in the situation and to state what measures have been taken to protect the living standards of the workers. (See also under Convention No. 87.)

#### Dominican Republic (ratification: 1953)

Articles 1 and 2 of the Convention. With reference to its previous comments and the recommendations of the Commission of Inquiry on the employment of Haitian workers in the sugar plantations of the country concerning the need to adopt provisions for the protection of workers against anti-union discrimination by employers and acts of interference by employers in workers' organisations (paragraph 473 of the report of the Commission of Inquiry), the Committee takes note of the statement by the Government in its report to the effect that a bill to guarantee the protection against removal of trade unionists and to protect trade union leaders engaged in the negotiation of collective agreements or other trade union activities has been submitted to Congress. The Government adds that this bill has met with strong opposition by the employers but that the State Secretary

of Labour protects this trade union right and the right to bargain collectively and has endeavoured to obtain, and has almost always succeeded in obtaining, the reinstatement of workers dismissed for strikes or else substantial compensation for dismissal.

The Committee trusts that legislation conforming to the Convention will be adopted in the near future and points out that, in the present state of the legislation, although section 307 of the Labour Code contains provisions conforming to Articles 1 and 2 of the Convention, the penalties laid down by the law to guarantee its application, namely a mere fine of from 10 to 500 pesos (sections 678, subsection 15, and 679, subsection 6, of the Code), are entirely inadequate and must be strengthened. Furthermore, the exclusion of agricultural, agro-industrial, stock-raising and forestry undertakings employing fewer than ten permanent workers from the scope of the Labour Code (section 265) enables the employers in these agricultural undertakings to evade the obligations laid down by section 307 of the Code prohibiting employers from acts of anti-union discrimination and acts of interference.

The Committee therefore again requests the Government to keep it informed of the measures taken to bring the legislation into full harmony with the Convention in the near future.

[The Government is asked to supply full particulars to the Conference at its 71st Session.]

#### Ecuador (ratification: 1954)

In its previous comments the Committee has asked the Government to adopt a specific provision to protect workers against discriminatory acts by the employer that might be intended to make the employment of a worker conditional on his not joining a trade union or ceasing to belong to one (Article 1, paragraph 2(a) of the Convention).

In its report, the Government expresses the view that sections 436 and 437 of the Labour Code, which give statutory effect to the right of all workers over 14 years of age to join or leave a trade union and provide that workers' associations shall enjoy the protection of the State, give adequate effect to the Convention on this point.

The Committee takes note of this statement, but wishes to point out that a draft decree had been drawn up to give fuller effect to the Convention in this matter. It again expresses the hope that the Government will reconsider the possibility of adopting a specific text to guarantee explicitly the protection of workers not only during employment, as at present under section 43(f) of the Labour Code, but also at the time of recruitment and that appropriate ordinary or penal sanctions will be adopted to guarantee the application of this provision of the Convention.

It therefore requests the Government to indicate in its next report the measures taken or contemplated to bring its legislation into full conformity with the Convention.

[The Government is asked to supply full particulars at the Conference at its 71st Session.]



Egypt (ratification: 1954)

In comments that it has been making for several years, the Committee has pointed out to the Government the need to amend section 87 of the Labour Code (formerly section 98), which provides that any clause in a collective labour agreement jeopardising the economic interests of the country shall be null and void.

The Committee has considered that this provision is such as to restrict the activities of the unions aimed at the conclusion of voluntary collective agreements. The Committee has nevertheless stated that if, as a part of its national economic policy, a government considers that the social partners must conform to the "national economic interest", it should prefer persuasion to compulsion and it should therefore invite the parties to collective bargaining to have regard voluntarily to the national interest in their negotiations, provided, however, that the final decision rests with the parties to the bargaining.

The Government states in its report that, although the law has provided for voluntary bargaining procedures, it is necessary to mention the "national economic interests", since in Egypt, as in most other countries, the economic system operated by the State is embodied in the Constitution and the law.

The Committee takes note of this statement, but considers it necessary to reassert the importance of voluntary collective bargaining for the settlement of conditions of employment. The Committee therefore requests the Government to indicate in its next report the measures taken or prepared to give effect to the Convention on this point.

Ethiopia (ratification: 1963)

The Committee takes note of the report of the Government, which contains no new information on the points raised in its previous comments.

With regard to Article 1 of the Convention, the Committee observed that the legislation contains no provision guaranteeing protection against acts of discrimination at the time of recruitment, but that under section 3(4) of the Labour Proclamation, undertakings must generally engage workers only through the Employment Office. It was planned that specific provisions should be adopted in this connection (section 252 of the draft Labour Proclamation) and the Committee mentioned at the time that, generally speaking, it would be appropriate if penalties were provided for to ensure adequate protection in cases where acts of discrimination were committed.

The Committee requests the Government to state whether the draft legislation has been adopted and, if so, whether special provisions have been introduced involving penalties to guarantee workers protection against any act of anti-union discrimination, particularly at the time of recruitment.

With regard to Article 4, the Committee pointed out that section 70 of the Labour Proclamation of 1975, which makes the entry into force of collective agreements conditional on their registration with

the Minister could be contrary to the development and promotion of machinery for collective bargaining. The Committee has noted the statement by the Government that the Minister has never refused to register an agreement. The Committee points out that, during the direct contacts that took place in January 1980, the competent national authorities stated that, when the Minister verifies, as he is required to do under section 70, subsection 2, the conformity of the agreement with the laws and regulations in force and with the basic policies of the Government, and finds that these provisions have been violated, he returns the draft to the social partners and registers it only after it has been modified.

The Committee considers that the use of the criterion of government policy in this machinery is equivalent to prior administrative authorisation and contrary to the Convention. Furthermore, the Committee has also mentioned in its previous comments that sections 261(a) and 265 of the draft Labour Proclamation, which give the public authorities very extensive powers of supervision over collective agreements, might seriously restrict the voluntary negotiation of these agreements. It requests the Government to state whether these provisions have been adopted and, if so, to supply it with a copy of the text.

The Committee feels bound to recall that the right to negotiate wages and conditions of employment freely with the employers and their organisations is a fundamental aspect of freedom of association and that a system of approval is inadmissible except so far as approval can be refused only for questions of form and of failure to conform with the minimum standards of the labour legislation.

The Committee, therefore, requests the Government to re-examine the application of Articles 1 and 4 of the Convention in the light of the above comments.

#### Finland (ratification: 1951)

The Committee has taken note of the information supplied in its report as well as of the comments on the application of the Convention transmitted by the Central Organisation of Finnish Trade Unions (SAK).

In its previous comments the Committee had requested the Government to take measures to ensure the full application of Article 1 of the Convention, in particular by the strengthening of the provisions concerning protection against anti-union discrimination. In this connection, the Committee notes with interest that the measures protecting workers and trade union representatives against dismissal, contained in the Employment Contracts Act (1970-320) have been supplemented by a further Act, which came into force on 1 September 1984. The Committee notes that this new legislation provides new grounds for compensation to workers who are wrongfully dismissed and that, as before, an employer can be punished by a fine (section 54 of the Act) for breach of those provisions of the Employment Contracts Act concerning anti-union discrimination.

According to the SAK, although the new legislation and procedures have resulted in improvements in the situation, penalties against

employers who are guilty of anti-union discrimination could be further developed and be made more effective.

The Committee considers that the protection against anti-union discrimination entails specific measures and that civil remedies and penal sanctions can only be effective if they are sufficiently severe to be dissuasive. It requests the Government to supply information in future reports on the practical application of the Convention.

Gabon (ratification: 1961)

The Committee takes note of the information supplied by the Government in its report. It has also examined the agreement of February 1982 entitled "Common Form for collective agreements in Gabon".

1. In its previous comments, the Committee observed, with regard to the application of Article 1 of the Convention, that the present legislation ensures the protection of trade union leaders and of workers against dismissal for union activities (sections 50 and 197 of the Labour Code), but that no express provision protects a worker against acts that might be prejudicial to him (transfer, downgrading, disciplinary measures, deprivations or restrictions in respect of pay or social benefits, etc.) during the employment relationship or at the time of recruitment.

The Committee refers to the General Survey it submitted to the 69th (1983) Session of the International Labour Conference, particularly paragraph 278, and points out that protection against acts of anti-union discrimination should be ensured by an express provision of the law, involving suitable sanctions, particularly penal sanctions.

The Committee requests the Government to take suitable measures to supplement the legislation on this point.

2. With regard to protection against acts of interference by workers' and employers' organisations with each other, the Committee previously observed that no express provision in the law guarantees adequate protection. It notes the statement by the Government in its report that a bill will soon be prepared on this matter. The Committee repeats the statement it makes in paragraph 283 of its General Survey, namely that "governments which have ratified the Convention are under the obligation to take specific action, in particular through legislative means, to ensure respect for the guarantees laid down in the Convention". It, therefore, hopes that such measures will be adopted in the near future.

3. The Committee requests the Government to keep it informed of any measure taken to give full effect to the Convention.

[The Government is asked to supply full particulars to the Conference at its 71st Session.]

Guatemala (ratification: 1952)

The Committee takes note of the information contained in the latest report of the Government. It points out, as it has already

done several times, that section 4 of the decree issued under the Civil Service Act, Decree No. 1786 of 6 September 1968, grants workers in autonomous and semi-autonomous State bodies whose economic activities are similar to those of private enterprises only the right to submit collective petitions of a socio-economic nature to the executive bodies. These provisions are incompatible with Article 4 of Convention No. 98, under which the Government must encourage and promote the full development and utilisation of machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

The Committee notes the statement in the Government's report to the effect that the competent authorities have taken note of these observations in the preparation of a preliminary draft Decree, and can only ask the Government once more to amend section 4 of Decree No. 1786 of 10 September 1968 on workers in autonomous and semi-autonomous State bodies in order to guarantee to them the rights to free collective bargaining that are enjoyed by workers in the private sector. It therefore requests the Government to communicate information on the measures taken in this connection.

[The Government is asked to supply full particulars to the Conference at its 71st Session and to report in detail for the period ending 30 June 1985.]

#### Guinea-Bissau (ratification: 1977)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

With reference to its previous observations concerning the need for statutory provisions to ensure to workers adequate protection against acts of anti-union discrimination, both at the time of recruitment and during employment, and to the need to repeal sections 26 and 27 of Legislative Decree No. 36.173 of 6 March 1947 on collective agreements, which confer on the National Labour and Social Security Institute the right to participate in the drafting of collective agreements by supervising the related negotiations and drafting, the Committee notes with interest that in the course of the direct contacts which took place in May 1982 between the competent government authorities and a representative of the Director-General, a draft legislative decree was prepared with a view to bringing the legislation into conformity with the Convention on these two points.

The Committee also notes that the draft in question contains a provision to protect trade union organisations against acts of interference from employers, or employers' organisations, and that it extends the application of the Convention to public officials not engaged in the administration of the State.

The Committee expresses the hope that the draft decree referred to will be adopted soon so as to bring the legislation into full conformity with the Convention and that the Government

will make every effort to take the necessary action in the very near future.

Japan (ratification: 1953)

The Committee notes the information supplied by the Government in its report and in the statement made by a Government representative to the Conference Committee in 1984, as well as the comments made by the General Council of Trade Unions of Japan (SOHYO) in two communications dated 5 November and 10 December 1984, by the Japanese Confederation of Labour (DOMEI) in a communication dated 14 December 1984 and in a communication from the National Railway Workers' Union (KOKURO) dated 15 February 1985 and transmitted by SOHYO on 19 February 1985.

1. The Committee first notes that the KOKURO's observations on the situation of employees of the Japanese National Railways were transmitted to the Government on 1 March 1985. The Government has not yet transmitted its comments thereon. The Committee hopes that full information on these matters will be available from the Government at its next session so that the Committee may examine the issues raised by KOKURO.

2. As regards the implementation of arbitration awards affecting employees of national corporations and public enterprises, the Committee notes that, in their observations, the SOHYO and DOMEI point out that the Public Corporations and National Enterprises Labour Relations Commission (KOROI) 1984 award issued on 12 May 1984 was again referred for approval of funds to the Diet. They consider that since awards are binding on both parties to the arbitration system, referral by the Government to a second body distorts industrial relations. The Government, for its part, explains that it decided to refer the 1984 award to the Diet session in May in accordance with section 16 of the PCNELR Law, since it was not certain that sufficient funds would be available to implement the award. The Government adds that the Diet, on 3 August 1984, finally approved the arbitration award, which was subsequently fully implemented. In this connection, the Committee notes that almost three months elapsed between the handing down of the award and its implementation and recalls the principle that arbitration awards, once handed down, should be not only fully, but rapidly implemented.

3. The Committee also notes that the SOHYO and DOMEI, in their observations, state that the recommendation of the National Personnel Authority (NPA), to increase wages by 6.44 per cent for national public service personnel in 1984 was not fully implemented, and recall that the recommendations in 1982 and 1983 to increase wages had either not been implemented or were only partially implemented. They claim that the NPA system is thus clearly failing to compensate for the restrictions on these workers' rights. The Government states that the NPA recommendation made in August 1984 included an average wage increase, as from 1 April 1984, of 6.44 per cent and explains that, having carefully examined how the recommendation could be dealt with, and taking account of the overall political, economic and social implications as well as the views of the workers' organisations concerned, a decision was taken to grant an average increase of

3.37 per cent as from 1 April 1984. The Government submitted a Bill to the Diet on 12 December 1984 for this pay rise which was passed on 21 December 1984. The Government repeats that the public servants involved have the legal right to negotiate with the authorities on their working conditions and stresses that it maintains its basic policy of respecting NPA recommendations. The withholding of the NPA recommendation in 1982 and the partial implementation thereof in 1983 and 1984 was the result of the unprecedented difficult financial situation, economic and social conditions, public opinion etc. In support of its arguments the Government supplies detailed information concerning the national financial situation which, it states, led to the decisions on the NPA recommendations being taken. The Government adds that the rate of increase in pay for the current fiscal year is almost equal to the rate of increase in consumer prices and that, if regular annual increments are taken into account, it took careful account of the standard of living of public employees.

The Committee has taken careful note of all the detailed information supplied on these matters. As it has stated in the past, while it fully appreciates that, in times of economic crisis or difficulty, governments may judge it necessary to impose restrictions on the normal process of wage determination, nevertheless, in the present case, where public employees in the non-operational sector (i.e. all national and local public employees other than those employed in public corporations or enterprises) are not only denied the right to strike, but whose capacity to bargain is substantially limited, the Committee considers that it is all the more important that the recommendations of the National Personnel Authority are implemented in full. The Committee would express the hope, as it has in previous years, that, if the restrictions on the basic trade union rights of such workers are to be maintained, the Government will re-examine the procedures and machinery for the determination of wages and conditions of work in the public service in order to ensure that the guarantees laid down in the Convention may be fully applied to those public servants who come within its scope.

4. In SOHYO's second communication, it transmits the comments of the Labour Council of Governmental Special Corporations (SEIROKYO), whose members are employed by finance and public corporations and who come under the Trade Union Law in the same way as private sector workers. This organisation states that when the Government decided to partially implement the 1984 NPA recommendation, it also decided to treat the wage increases of finance and public corporation employees mutatis mutandis in accordance with the measures applied to the national public servants. SEIROKYO indicates that this same decision was taken in 1982 and 1983. According to the Government, these workers' wages are decided through collective bargaining and there is no provision to limit the effect of the collective agreements so concluded. It points out that their organisations have the right to strike to achieve their demands. The Cabinet decisions of 1982, 1983 and 1984, referred to by SEIROKYO, adds the Government, merely requested the parties concerned, when engaged in collective bargaining on wages, to have due regard to the present economic and social conditions, the difficult national financial situation and other factors. The Government states that it has no intention of

interfering in the collective bargaining which takes place in these corporations.

The Committee must, however, draw the Government's attention to the fact that the text of the Cabinet's decision on the 1984 NPA recommendation (dated 31 October 1984 and supplied by the Government) states in Point 4(3) that "pay for employees of the finance corporations, public corporations, etc. shall be dealt with in line with the cases of national public employees in view of the circumstances of the past years". The Committee accordingly requests the Government for more detailed information on the manner in which this decision affects in practice the wage-fixing machinery guaranteed by the Trade Union Law to the public employees in finance corporations.

#### Liberia (ratification: 1962)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

With reference to its previous comments on the right to bargain collectively of employees of the State, the Committee notes that, according to the Government, this right is accorded in practice to all persons employed by the Government not engaged in the administration of the State, in particular to teachers employed in public education and municipal employees.

The Committee also notes that section 1(1) of Chapter I of the proposed new Labour Law has been revised to include within the scope of the Labour Law employees of state enterprises, authorities and institutions. It notes that the examination of the provisions concerning safety and health and minimum wages has delayed the coming into force of the new law. The Committee hopes that this new law will come into force in the near future.

It has also studied the Decree of the People's Redemption Council of 1982 to give effect to Articles 1 and 2 of the Convention. The Committee notes that this Decree was to come into force about June 1982. It asks the Government to state whether the Decree has already been adopted.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

#### Malaysia (ratification: 1961)

The Committee takes note of the report of the Government and of the information supplied by it in a communication to the Conference Committee in 1983 and in another communication containing information in reply to the points raised by the Committee.

The Committee points out that its previous comments related to the restrictions laid down by law in the field of collective bargaining and the denial to employees in public administrations of the right to bargain collectively.

1. Restrictive regulations concerning collective bargaining

The Committee points out that its comments have related for many years to sections 13 and 15 of the Industrial Relations Act, 1967, as amended. These provisions remove from the scope of collective bargaining a number of questions concerning the conditions of employment and dismissal of workers and provide that the collective agreements concluded in certain undertakings specified by law or by the Minister shall not, without the approval of the Minister, stipulate more favourable conditions than those set out in Part XII of the Employment Ordinance 1955. The Committee notes the statement by the Government that these provisions have not hindered the promotion of voluntary collective bargaining and that the existing industrial relations system is in harmony with national development.

The Committee, however, calls the attention of the Government to the fact that these provisions, which restrict and regulate collective bargaining, cannot be compatible with the measures provided for by Article 4 of the Convention.

The Committee takes note of the statement by the Government that the question of liberalising the restrictions imposed by sections 13 and 15 of the 1967 Act, sections adopted at a time when the country was going through great economic difficulties, will be examined at an appropriate time. It again expresses the hope that the Government may be in a position in the near future to bring its legislation into conformity with the Convention on this point.

The Committee has also taken note of the conclusions in a case examined by the Committee on Freedom of Association (Case No. 1022) in which that Committee observed that the refusal to register a union under the Trade Unions Act resulted in direct negotiations taking place between the undertaking and its employees, bypassing representative organisations where these existed. The Committee would, in this connection, draw the attention of the Government to the importance it attaches to the right of negotiation of representative organisations, whether they are registered or not. The Committee hopes that the Government will ensure that the legislation is applied in such a manner as to allow representative trade unions, even if not registered, to engage in normal trade union activities, in particular, collective bargaining, as guaranteed by Article 4 of the Convention.

2. Denial of the right to bargain collectively of employees of public administrations other than public servants engaged in the administration of the state

The Committee has also noted the conclusions reached by the Committee on Freedom of Association (Case No. 965) on the Industrial Relations Act and in particular on section 52 of this Act, which excludes public servants and employees of public administrations from the rights guaranteed by the Act. The Government has explained that this results in a harmonisation of the treatment of employees in the public sector as a whole and is not in any way discriminatory.



Since, however, Article 4 of the Convention, which concerns the encouragement and promotion of collective bargaining, applies to the private sector, to nationalised undertakings and to public agencies, with the sole exception of public servants engaged in the administration of the state (Article 6), the Committee has pointed out that, although the concept of public servant may vary to some degree under the various national legal systems, it would be contrary to the spirit of the Convention to exclude from its scope public servants not acting as agents of the public authority, even though their status may be identical to that of public servants engaged in the administration of the state. The essential distinction should be made between public servants employed in various capacities in ministries and similar bodies and the other persons employed by the Government, by public undertakings and by autonomous public institutions. The Committee has thus considered that the provision in question is too broad and therefore incompatible with the Convention.

The Committee notes the statement by the Government that the terms and conditions of employment of employees in the public sector are dealt with by five National Joint Councils, which make recommendations to the Cabinet on salaries and other terms and conditions of service.

The Committee refers in this connection to the General Survey it submitted to the 69th (1983) Session of the International Labour Conference, particularly paragraphs 311 and 318, and emphasises that the right to negotiate wages and conditions of employment freely with employers and their organisations is a fundamental aspect of freedom of association and that trade unions should be able to exercise this right without being unduly hampered by legal restrictions. In the opinion of the Committee, it would normally be contrary to the principles of the Convention to exclude from collective bargaining certain questions relating to conditions of employment. Furthermore, the Committee points out that in paragraph 255 it specifies that the only possible exclusion from the scope of the Convention under Article 6 is that of public servants who by their functions are directly engaged in the administration of the state, that is civil servants employed in government ministries and other comparable bodies, who act as agents of the public authority. The Committee requests the Government to furnish more detailed information on the operation of the National Joint Councils.

The Committee hopes that the Government will re-examine its position on these points and trusts that it will consider in the near future the necessary legislative amendments to ensure the application of Articles 4 and 6 of the Convention.

[The Government is asked to supply full particulars to the Conference at its 71st Session and to report in detail for the period ending 30 June 1985.]

#### Malta (ratification: 1965)

The Committee takes note of the report of the Government and observes that it contains no information on the application of the Convention. The Committee also takes note of the comments submitted

by the Confederation of Malta Trade Unions (CMTU) and the reply of the Government. It observes that the information furnished by the two parties once more concerns the question raised in previous comments under Convention No. 87, namely the establishment of the Joint Negotiation Council for the public sector provided for by section 25 of the Industrial Relations Act, 1976.

The CMTU has for many years been calling the attention of the Committee of Experts to the necessity of setting up this negotiating body under the 1976 Act. The Committee notes that the Government once more states that the absence of agreement between the two trade unions designated to participate equally in this Council, in representing public employees, makes it impossible to set up such a body, which would be unworkable, in the view of the Government, since all decisions must be taken unanimously. The Committee also notes with interest the statement by the Government that it is ready to help the unions to reach an arrangement by establishing a joint representative body that would facilitate the setting up of the Joint Negotiation Council.

The Committee can only conclude that the result of this situation is that public servants have at present no possibility of negotiating their conditions of employment and pay, as they should be able to by virtue of Article 4 of the Convention. Since the Committee has been informed in the past that the trade union organisations in question together represent all the employees of the State, it observes that the entire category of public servants covered by the Convention is concerned, the exclusion admitted under Article 6 of the Convention applying only to public servants engaged in the administration of the State.

The Committee, therefore, requests the Government to state how, in the absence of the Joint Negotiation Council provided for by section 25 of the 1976 Act, it encourages and promotes the full development and utilisation of machinery for voluntary negotiation between the State and workers of this category, in accordance with Article 4 of the Convention.

#### Mauritius (ratification: 1969)

The Committee takes note of the report of the Government. It observes that the amendment of the Industrial Relations Act is still under consideration. It also takes note of the comments of the Mauritius Labour Congress on the matter.

In its previous comments, the Committee pointed out that the provisions of the Act do not give employers' and workers' organisations sufficient protection against acts of interference by each other, as provided for by Article 2 of the Convention, and it has been requesting the Government since 1977 to include an express provision in the legislation for the purpose.

The Committee notes, from the observations of the Mauritius Labour Congress that a committee set up to examine the replacement of the Industrial Relations Act of 1973 has submitted its report.

The Committee trusts that this step will give rise in the near future to the inclusion in the Act of an express provision, to include

appropriate legal procedures and penalties, to ensure that the guarantees set forth in Article 2 of the Convention are respected. The Committee requests the Government to keep it informed of any development in the situation.

Morocco (ratification: 1957)

The Committee takes note of the report of the Government. It has also examined the reports of the Committee on Freedom of Association concerning Case No. 1116, approved by the Governing Body at its 221st Session (November 1982) and at its 224th Session (November 1983).

In previous comments, the Committee pointed out that the Collective Agreements Board, set up by Dahir No. 1-58-145 of 29 November 1960, had issued recommendations, which were not binding, concerning the relations between workers and employers. In the past the Government has furnished the Committee with explanations showing that effect has been given to Article 1 of the Convention, concerning protection against acts of anti-union discrimination in respect of employment, by the recommendations of this Board.

First, the Committee refers to its General Survey adopted at the 69th (1983) Session of the International Labour Conference, in particular paragraphs 260, 278, 279 and 280, and emphasises that by virtue of Article 1 of the Convention the legislation must specifically guarantee workers adequate protection against acts of discrimination, on recruitment and during employment, enforceable by civil or penal sanctions. The Committee notes the statement by the Government that the courts competent to settle labour disputes are implicitly competent to hear appeals against acts of anti-union discrimination and all acts infringing the provisions of collective agreements, a matter relevant to the application of Article 3 of the Convention, but points out that these bodies ought, by law, to be empowered to enforce specific legal provisions concerning acts of discrimination by employers against workers. Furthermore, the Committee notes that acts of anti-union discrimination, such as dismissals for union membership or activities, have been the subject of complaints before the Committee on Freedom of Association (Cases Nos. 992, 1017 and 1116). It, therefore, appears clear that specific legal provisions should be adopted to give effect to Article 1 of the Convention. The Committee requests the Government to ensure that the legislation is supplemented by specific provisions for the purpose.

Moreover, the Committee requests the Government to provide information on the practical application of Article 4 of the Convention (number and duration of collective agreements, sectors and numbers of workers concerned, etc.) and to indicate the cases in which the recommendations of the Collective Agreements Board have produced results.

The Committee requests the Government to keep it informed of any measure taken in the light of the above considerations to give full effect to the Convention.

Pakistan (ratification: 1952)

The Committee takes note of the information contained in the report of the Government and in a communication to the Conference Committee in 1983. The Committee has also examined the report of the Committee on Freedom of Association concerning Case No. 1175, approved by the Governing Body at its 225th (February 1984) and 229th (February 1985) Sessions.

In previous comments, the Committee observed that sections 38A et seq. of the Industrial Relations Ordinance, as amended by Ordinance No. XIX of 1974, enables the Government to constitute a wage commission for fixing rates of wages and determining all the other terms and conditions of service in respect of the workers in banks or such other workers as the Federal Government may specify, provisions that restrict the exercise of voluntary negotiation established by Article 4 of the Convention.

The Committee notes the statement by the Government that the Wage Commission set up in the sectors of the nationalised banks and the insurance companies, headed by a judge of the High Court, takes the suggestions of the workers' organisations into consideration before giving its award, which, according to the Government, does not lay down conditions less favourable than those that would be reached through collective bargaining. The Government adds that such a procedure avoids confrontation between the parties concerned and brings about a decision acceptable to both.

The Committee draws the attention of the Government to Article 4, under which workers' organisations must be able to negotiate freely their wages and other terms and conditions of employment with the employers or their organisations. Furthermore, the Committee observes that the measures taken in the sector of banking and insurance by virtue of Ordinance No. XIX can be extended to other sectors. The Committee takes note of the restriction placed on the exercise of collective bargaining by workers in the export processing zones and requests the Government to refer in this connection to its comments under Convention No. 87.

Since, in the view of the Committee, the free and voluntary negotiation of conditions of employment is a fundamental aspect of freedom of association, it requests the Government to re-examine the legislative situation in the light of its comments and to leave to the workers themselves or their organisations the possibility of discussing their wages and other conditions of employment.

Panama (ratification: 1966)

In its previous comments, the Committee observed that section 2(2) of the 1972 Labour Code excludes public officials from its scope, and thus from the right to bargain collectively. It also noted that workers of the Institute for Hydraulic Resources and Electrification and those of the National Telecommunications Institute are deprived of this right under section 139 of Act No. 8 of 25 February 1975.

Since Article 6 provides that only public servants engaged in the administration of the State may be excluded from the scope of the Convention, the Committee has invited the Government to grant the right to free collective bargaining to persons employed by the Government who are not engaged in the administration of the State.

The Committee noted in its previous observation that a preliminary draft decree, the text of which had been supplied, was to extend to public employees the provisions of Book III of the Labour Code concerning collective agreements.

Since the latest report of the Government merely states that the draft in question is still under study by the authorities of the Ministry of Labour and Social Welfare, the Committee trusts once again that legislation conforming to the Convention will be adopted in the very near future and requests the Government to communicate the text as soon as possible.

#### Paraguay (ratification: 1966)

In its previous comments, the Committee noted that section 2 of the Labour Code excludes from its scope the staff of public undertakings. It asked the Government to adopt specific provisions guaranteeing to these workers protection against all acts of interference and all acts of anti-union discrimination on the part of their employers, in accordance with Articles 1 and 2 of the Convention. It has also asked the Government to adopt express rules to ensure to public servants not engaged in the administration of the State and other public employees and workers in public undertakings the right to free collective bargaining (Article 4).

In its reply made before the Conference Committee in 1984 and repeated in its latest report, the Government states that Articles 1 and 2 of the Convention are applied by section 109 of the National Constitution (guaranteeing the right of association to manual, intellectual and professional workers) and sections 283(2) and 284 of the Labour Code (concerning non-interference by the public authorities and non-interference by the employers in trade union matters) and that it has taken note of the request relating to Article 4 of the Convention.

The Committee considers that a constitutional text is not sufficient protection against anti-union discrimination and that it is necessary to adopt ordinary penal sanctions without which the constitutional guarantee might only be theoretical.

The Committee also points out that section 2 of the Labour Code provides that the officials, salaried employees and manual workers of public enterprises are governed by special laws and that disputes concerning them are settled through administrative channels. In these circumstances, the Committee can only repeat its request for the adoption of express provisions to guarantee the application of Articles 1, 2 and 4 of the Convention to public officials other than those engaged in the administration of the State, who alone may be excluded from the protection of the Convention under Article 6. The Committee hopes that measures will be taken shortly to bring the legislation into conformity with the Convention.

[The Government is asked to supply full particulars to the Conference at its 71st Session and to report in detail for the period ending 30 June 1985.]

Poland (ratification: 1957)

The Committee takes note of the information supplied by the Government in its reports of May and October 1983, October 1984 and March 1985. It has also examined the report of the Commission especially mandated to examine the complaint on the observance by Poland of Conventions Nos. 87 and 98.

With reference to its previous observation, the Committee recalls that under section 23 of the Trade Union Act trade unions are entitled to conclude collective agreements at the national level. The Government has stated in its reports that this provision does not exclude the possibility of bargaining at other levels, particularly in the light of the autonomy of the undertakings that results from the economic reform, and that consultations are underway with the employers' and workers' organisations with a view to amending the provisions on the conclusion of collective agreements. Furthermore, the Act on the principles for the establishment of pay systems in undertakings, dated 26 January 1984, provides for the possibility of establishing a pay system in undertakings based on agreements worked out by the manager of the undertaking and the competent body of the works union (section 4). The Government also points out in its report of March 1985 that hypotheses concerning a new concept of collective agreements have been prepared and discussed during an initial meeting of the Joint Government-Trade Union Committee for the regulation of collective agreements. A draft law on this question will be introduced in Parliament after wide social consultation.

The Committee takes note of these developments and requests the Government to provide detailed information on any new development in the matter, in particular on any measure to extend the possibilities of collective bargaining on conditions of employment to the different levels of economic activity.

Portugal (ratification: 1964)

The Committee takes note of the information contained in the report of the Government. It also takes note of the comments of the Confederation of Portuguese Trade concerning the revision of Legislative Decree No. 519-C 1/79, whose provisions have not appeared to the Committee to conflict with the Convention.

With reference to its previous comments on the exclusion of public servants from the right to bargain collectively, the Committee observes that their right to bargain and to participate in the fixing of conditions of employment is governed by Legislative Decree No. 95-A/84 of 3 February 1984 along the lines of Convention No. 151. The Committee notes that, according to the report of the Government, national law and administrative practice place all workers who perform services for the State or public communities on the same

footing as the public administration, but points out, that if use is made of the exceptions to the scope of Convention No. 98 provided for by Article 6, a distinction should be made between public servants engaged in the administration of the State (officials of ministries and comparable government bodies) and others, since only these public servants may be excluded from the guarantees set forth by the Convention.

The Committee therefore points out that other public servants should, by virtue of Article 4 of the Convention, enjoy the right to voluntary collective negotiation. It requests the Government to ensure that such workers have this right.

Singapore (ratification: 1965)

The Committee takes note of the report of the Government.

1. In its previous comments, the Committee observed that, by virtue of section 17 of the Industrial Relations Act, certain aspects of conditions of employment, namely promotion, transfer, appointment, dismissal without notice and the assignment of duties, are excluded from collective bargaining. It notes that the Government repeats its explanations concerning the possibility open in practice to the unions of being consulted and of negotiating on these issues, and states that such informal consultations are based on mutual trust and co-operation and work well. The Committee further notes the point of view of the Government that the industrial peace prevailing in industry is favoured by the legislation in force and attracts investments, the creation of employment and the economic prosperity of the country, to the benefit of all the workers. Accordingly, the Government expresses its concern that the amendments proposed by the Committee should bring tangible benefits to the workers and not ruin the present confidence and stability.

The Government states that national practice admits the free negotiation of conditions of employment, going beyond the clauses laid down by law, and it seems to the Committee that this practice might be incorporated in amendments to the legislation that would make it possible to give full effect to Article 4 of the Convention without affecting the established industrial relations.

The Committee requests the Government to keep it informed of any development in this situation.

2. Furthermore, the Committee has noted that the Industrial Arbitration Court has never exercised the powers conferred on it by section 25 of the Industrial Relations Act, to refuse to register the collective agreements of certain newly established undertakings on the grounds that their clauses are more favourable than those laid down in Part IV of the Employment Act. The Government has stated that, as soon as the workers of these undertakings have established trade unions and concluded collective agreements, the restrictions laid down by section 25 will no longer be applicable. The Committee again requests the Government to keep it informed of any change in this field. It also requests the Government to indicate the measures taken or under consideration to encourage and promote in undertakings where there are not yet trade unions the development and utilisation

of collective bargaining to regulate the terms and conditions of employment of the workers.

Spain (ratification: 1977)

With reference to the comments of the Spanish Confederation of Employers' Organisations on the legislation respecting the extension of collective agreements to undertakings that have not participated in the negotiation of the extended agreements, the Committee takes note of the explanations of the Government in its report and thanks it for having sent the extension orders recently pronounced, which have not been the subject of comments by the employers' organisations.

The Committee recalls that under the legislation in force, extension is carried out at the request of one of the parties and that all concerned participate in the formalities. Furthermore, it takes place only when exceptional social and economic circumstances arise or in the absence of legitimate representatives for bargaining.

The Government explains that this mechanism enables the Ministry of Labour to rectify discrimination in employment against workers carrying on identical activities by standardising conditions of employment and wages in a given sector and so to reduce the effects of the unfair competition that would result from inequalities in the cost of labour between undertakings. The Government adds that the employers can appeal to the courts against an administrative decision issuing an extension order but that they have not done so.

The Committee considers that the legislation in question does not in itself appear to infringe the Convention, all the more as the employers have the right of appeal to the courts if they consider themselves prejudiced by an extension order.

Sri Lanka (ratification: 1972)

In its previous comments, the Committee noted the Government's statement made in 1980 that provisions had been included in the proposed Labour Relations Law in the chapter entitled "Freedom of association and unfair labour practices" to meet the requirements of Articles 1 and 2 of the Convention.

The Committee notes from the Government's report that in view of the far-reaching consequences of the proposed law, enactment of the bill in its entirety has been postponed and that in the meantime specific areas for legislation depending on the emerging situation are being considered. The Committee also notes that the chapter on "Freedom of association and unfair labour practices" is being examined, with a view to the preparation of a text containing penalties against any act of trade union discrimination and interference by employers. The Committee once again expresses the hope that the legislation will be brought into line with the Convention at an early date and urges the Government to indicate any progress made in this regard.

[The Government is asked to supply full particulars to the Conference at its 71st Session.]



United Republic of Tanzania (ratification: 1962)

The Committee takes note of the report of the Government. It observes, however, that this report does not contain the information requested concerning the action taken on the suggestions sent by the ILO in 1982 respecting the application of Article 4 of the Convention.

The Committee points out that the subject of its comments was the requirement that collective agreements shall be approved by the Permanent Labour Tribunal prior to registration, whether the agreement is voluntary or negotiated (sections 6, subsection 5, 16(b), 23 and 39 of the Permanent Labour Tribunal Act No. 41 of 1967), in order to take account of economic necessities of national importance (section 22(e)), any decision of the Tribunal, moreover, being final (section 27).

The Committee notes the statement repeated by the Government to the effect that it will communicate information as soon as possible on the action taken by the competent authorities regarding the proposals sent by the ILO in 1982, at the request of the Government, respecting the incompatibility of the above legal provisions with Article 4 of the Convention.

The Committee points out that, in the General Survey it submitted to the 69th (1983) Session of the International Labour Conference, in particular paragraphs 309 to 315, it expresses the view that the right to negotiate wages and conditions of employment freely with the employers and their organisations is a fundamental aspect of freedom of association and that, rather than subject the validity of collective agreements to government approval, steps should be taken to persuade the parties to collective bargaining to have regard voluntarily in their negotiations to major economic and social policy considerations and the general interest invoked by the Government.

The Committee trusts that the Government in the near future will adopt suitable measures along these lines to give full effect to Article 4.

[The Government is asked to supply full particulars to the Conference at its 71st session.]

Turkey (ratification: 1952)

The Committee takes note of the Government's report on the application of the Convention and of the information communicated by the Government to the Conference Committee in 1984. The Committee has also taken note of the report of the Governing Body Committee on Freedom of Association concerning Cases Nos. 997, 999 and 1029 (approved by the Governing Body at its 228th Session, November 1984) and the conclusions reached by that Committee. The Committee has the following comments to make as regards Act No. 2822 (1983) in respect of collective bargaining, strikes and lock-outs:

1. The Committee had previously pointed out that section 12 of Act No. 2822, which requires trade unions to have a membership exceeding 10 per cent in the branch of industry concerned and exceeding 50 per cent in the workplace before a certificate of authorisation to negotiate may be granted, was not fully in conformity

with the principle of voluntary collective bargaining set forth in Article 4 of the Convention. The Committee observes that, according to the Government, this provision is intended to prevent abuse of the rights of workers by company unions, and its application has led to the establishment of stronger trade unions and a lessening of rivalry between unions. In addition, according to the Government, the economic situation of enterprises is no longer weakened, and workers who are not members of trade unions are no longer deprived of the benefits of collective bargaining. The Committee would first point out that, although it may be accepted that most representative unions may have preferential exclusive bargaining rights (such representativity being based on objective and pre-established criteria), where legislation restricts recognition to an organisation which has a membership, or the support of more than 50 per cent of the workers in a given bargaining unit, it follows that a trade union, even with a majority that does not meet the 50 per cent requirement, cannot obtain a negotiating certificate as a recognised bargaining agent. The Committee would point out that, if there is no union covering more than 50 per cent of the workers, collective bargaining rights should be granted to all the unions in a particular unit, at least on behalf of their own members. In addition, the Committee has noted from the report of the Committee on Freedom of Association that practical difficulties exist as regards the determination of the numerical strength of unions for collective bargaining purposes, and that the six-day period (section 16 of Act No. 2822) for the issue of certificates is not fully respected.

The Committee notes that the process of collective bargaining has been restored in the country since early 1984. It hopes that the Government will, in the light of its experience of the application of Act No. 2822, be able to amend this legislation having regard to the above considerations, and that it will ensure, in the meantime, that the practical difficulties concerning the determination of the various bargaining agents are overcome. The Committee requests the Government to supply information on developments in the matter.

2. The Committee requests the Government to supply information concerning the cases in which the Supreme Arbitration Board has been called upon to intervene and settle collective bargaining issues that have been referred to it under sections 52-58 of Act No. 2822.

#### Uganda (ratification: 1963)

The Committee takes note of the report of the Government. It observes, however, that this report contains no new information on the point raised in its previous comments and that the Government states, as in its 1981 and 1983 reports, that arrangements are being made to present the matter raised by the Committee to the competent authority for decision.

The Committee recalls that the Trade Unions Decree, No. 20 of 1976, does not apply to the Bank of Uganda and that, for this reason, persons working in it do not enjoy the rights guaranteed by the Convention.

The Committee emphasises that only public servants, that is to say persons engaged in the administration of the State, may be excluded from the scope of the Convention (Article 6). The Committee therefore draws the attention of the Government to the necessity of according to the workers of the Bank of Uganda the rights laid down by the Convention, particularly the right to bargain collectively. The Committee hopes that the procedures under way will shortly lead to the guaranteeing to the staff of the Bank of Uganda of the trade union rights provided for by the Convention. It requests the Government to furnish information on any developments in this situation.

Uruguay (ratification: 1954)

1. Article 1 of the Convention. The Committee takes note of the recent provisions in the national legislation concerning the protection of workers against acts of anti-union discrimination (Act No. 15-587 of 4 July 1984 and the Decree of 12 September 1984 issued under it). The Committee asks the Government to indicate in its next report the measures taken or under consideration to give fuller effect to the Convention on the following points:

- the need to amend section 5 of the Act and section 15 of the Decree, under which, where a trade union leader dismissed on union grounds has not been reinstated, the employer may avoid responsibility by simply paying twice the compensation for dismissal that would be due to another worker;
- the need to amend section 7 of the Decree to extend to all workers the protection afforded to trade union leaders by this provision.

2. Article 4. In its previous comments, the Committee has pointed out several provisions in the national legislation respecting collective agreements in the private sector that could bring into question the observance of this provision of the Convention:

- section 2 of Act No. 15-328 of 1 October 1982 and section 3 of Decree No. 390 of 3 November 1982 issued under it, which exclude federations and confederations from the right to bargain collectively;
- sections 3 and 4 of the Decree, which provide that the existence of one or more trade unions shall not prevent staff delegates, elected at the request of only 10 per cent of the workers concerned, from entering into a collective agreement with the employer;
- sections 4(a) of the Act and 11(a) of the Decree, under which a collective agreement must be validated by the submission of a draft, duly signed by the parties, to the Ministry of Labour and Social Security for verification of its legality;
- sections 4(b) of the Act and 11(b) of the Decree, which require approval of a collective agreement by an absolute majority of the workers concerned, established by secret ballot or written consent.

The Committee notes the Government's statement relating to the exclusion of federations and confederations from the right to bargain collectively, to the effect that since the adoption on 22 February

1984 of the preliminary draft of the model constitutions for second-level associations, first-level associations that have been registered may group together under the trade union legislation of 1981, and that, as higher-level associations are formed, it will study the possibility of extending the present regulations on collective agreements to the new situations and will make the necessary adjustments. With regard to the right of staff delegates to conclude collective agreements despite the presence of trade union organisations, the Government considers that this does not impair the right of workers' organisations to conclude collective agreements, since Act No. 15-328 respecting collective agreements confers on the agreements concluded by trade unions a higher value than that of other agreements in that the agreements signed by them apply to all workers, including those who are not members of the trade unions, provided that they belong to the bargaining unit. As to the submission of draft agreements to the Ministry of Labour, the Government asserts that the sole purpose of this is to verify that the clauses in the agreements do not provide for a lower level of protection than is fixed by law. With regard to the requirement that a collective agreement shall be approved by an absolute majority of the workers concerned, the Government considers that this provides a guarantee of the workers' support for the agreement, which must apply to all comprised in the bargaining unit.

The Committee takes note of these explanations but is bound to emphasise the fact that unions based on occupations, federations and confederations must have the possibility to conclude collective agreements and that the existence of a collective agreement concluded between the employer and non-unionised workers in an undertaking should not impair the right of trade unions to conclude a collective agreement in the undertaking. Moreover, the requirement that a collective agreement shall be approved by an absolute majority of the workers concerned if it is to come into force is an obstacle to freedom to bargain collectively. Lastly, the parties should be able to appeal to the courts against the decision by the Ministry of Labour on the validity of collective agreements.

Furthermore, although the Committee appreciates the fact that, as the Government states, the 1982 Act has laid down for the first time in Uruguay the legal framework for the conclusion of collective agreements, it observes that under the legislation the executive shall lay down the standards relating to income and, in particular, regulates the pay of workers in the private sector (section 1(e) of Act No. 14-791 of 8 June 1978) by means of decisions by the National Directorate of Costs, Prices and Incomes (section 2 of Decree No. 371/978 of 30 June 1978). The Committee also observes that, although under the decisions governing increases in the wages of workers in the private sector and rural workers, undertakings are authorised to grant increases in excess of the minimum increases, these increases are considered to be wage advances (Decision No. 2/983, Part I, Chapter I, paragraph 4, particularly). The Committee considers that, although the legislation does not expressly prohibit collective bargaining on wages in the private sector, this is considerably restricted by the control of workers' pay imposed by the National Directorate of Costs, Prices and Incomes.

The Committee therefore trusts that the next report will indicate the measures taken or under consideration to ensure the development of machinery for the voluntary negotiation of collective agreements on wages at every level, including occupational unions, federations and confederations, without interference by the public authorities and that it will indicate the measures taken to amend the provisions that are not in conformity with the Convention, particularly those relating to the requirement of approval by an absolute majority of the workers concerned for the coming into force of collective agreements. It also hopes that the Government will furnish information on the practical application of this Article, including copies of collective agreements signed at the highest level representing the workers.

3. Article 6. The Committee stresses the fact that this provision of the Convention allows the exclusion from voluntary bargaining only of public officials engaged in the administration of the State, and so it wishes to remind the Government of the need to amend the legislation to ensure to workers in autonomous commercial and industrial state bodies, whose pay is fixed by the Government (sections 3(b) and (f), 4 and 5 of Act No. 13-720 of 16 December 1968), the rights to collective bargaining possessed by workers in the private sector. The Committee asks the Government to indicate in its next report the measures taken or under consideration in this connection.

#### Yemen (ratification: 1976)

The Committee notes with regret that the Government's report has not yet been received. It must therefore repeat its previous observation which read as follows:

1. Article 1 of the Convention. The Labour Code contains no provision to protect workers against acts of anti-union discrimination. The Committee has considered that such a provision is particularly useful during the stage of consolidation of a trade union movement. It requests the Government to indicate in its next report the measures it considers taking to guarantee such protection to all workers, more particularly by prohibiting the subjection of the employment of the worker to the condition that he shall not join a union or shall relinquish trade union membership and by prohibiting the dismissal or transfer of a worker and the taking of any other prejudicial measure against him merely by reason of his union membership or participation in union activities.

2. Article 2. The Government is requested to state how effect is given to this Article of the Convention.

3. Article 4. The provisions of the Code on collective agreements provide that they shall be approved by the Labour Service failing which it will be declared null and void. Moreover, any clause that may prejudice the economic interest of the country, among other things, is ipso jure, null and void (sections 68, 69 and 71). The Committee considers that these provisions are not in harmony with Article 4 of the Convention, under which measures must be taken to encourage and promote

machinery for the voluntary negotiation of collective agreements. It considers that, instead of making the validity of collective agreements dependent on the approval of the Government, steps should be taken to persuade the parties to collective bargaining voluntarily to take into account in their negotiations the economic and social policy of the Government and the general interest.

The Committee requests the Government to state what measures are under consideration to bring the legislation into conformity with the Convention on this point.

4. More generally, the Committee requests the Government to provide the fullest possible information on the application of the Convention, for example by reporting the number of collective agreements entered into, the number of workers concerned, etc.

[The Government is asked to supply full particulars to the Conference at its 71st Session.]

#### Zaire (ratification: 1969)

The Committee takes note of the information in the report of the Government.

The Committee notes in particular that the National Labour Council, a tripartite body vested by section 73 of the Labour Code with advisory powers in respect of wages, has been able to resume its annual sessions. It also notes the statement by the Government to the effect that the opinion of this Council is called on only for the fixing of inter-occupational minimum wages.

The Committee has also examined the National Inter-Occupational Collective Agreement concluded between the National Organisation of Workers (UNTZA) and the National Organisation of Employers (ANEZA). It observes that under clause 23 of this agreement the wage and price situation is examined every year by a national inter-occupational joint committee, a procedure that seems to be equivalent to an annual revision of wage rates by class and grade.

The Committee notes that the freezing of wage increases at 20 per cent by the 1977 Directive has been lifted, but it observes that the increases granted by Ordinance under section 73 to inter-occupational minimum wages seem to determine the rates of wage increases in collective agreements. The Committee observes that, according to the report, the increase in agreements of 15 per cent on 8 July 1981 decided during a meeting of the ANEZA and the UNTZA, under the authority of the Commissioner of State for Labour, followed the presidential decision to grant an increase of 15 per cent to state employees and that the increase of 45 per cent agreed between the parties to the National Inter-Occupational Collective Agreement, in a protocol dated 23 October 1983, was fixed under Ordinance No. 83-166 of 17 September 1983 to adjust minimum wages and establish a guaranteed minimum agricultural wage.

The Committee trusts that the Presidential Ordinance revising inter-occupational minimum wages, issued after consultation of the National Labour Council, fixes a maximum rate that can be used as a guide for wage increases agreed between the social partners.

The Committee further observes that, although wage rates are fixed by category and by grade in national or regional inter-occupational collective agreements as described above, the increases do not seem to be the result of voluntary negotiation between the parties free from all interference by the administrative authority within the meaning of the Convention.

The Committee understands that in certain circumstances a government may find itself, for compelling reasons of national economic interest, faced by the necessity of imposing a restrictive wages policy, but it is bound to point out, as it does in its General Survey adopted at the 69th (1983) Session of the International Labour Conference, that such measures should be applied as an exception and only so far as is necessary. The Committee stresses that, wage increases having been kept down to a ceiling since 1977, negotiations on wages cannot be carried out freely and that this long interference may go beyond what the Committee considers to be a reasonable period.

The Committee hopes that the Government will take the necessary measures to give full effect to Article 4 of the Convention in the light of its comments.

The Committee has also pointed out in previous comments that the legislation in force contains no provisions respecting acts of interference that might be committed by individual employers in workers' organisation. It refers to Article 2, paragraph 2, of the Convention, under which workers must have adequate protection against acts designed to promote the establishment of a workers' organisation under the domination of an employer or to support workers' organisations by financial or other means, with the object of placing them under his control, and it once more requests the Government to ensure that legal provisions are adopted to this end.

The Committee further requests the Government to keep it informed of developments in the situation concerning the points raised above.

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In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Austria, Bahamas, Bangladesh, Barbados, Belize, Bulgaria, Cameroon, Cape Verde, Colombia, Comoros, Democratic Yemen, Ecuador, Fiji, Grenada, Haiti, Iraq, Ivory Coast, Jamaica, Kenya, Lesotho, Mauritius, Nicaragua, Norway, Papua New Guinea, Peru, Philippines, Romania, Saint Lucia, Swaziland, Syrian Arab Republic, Zaire.

Information supplied by Bolivia, Cyprus and Greece in answer to a direct request has been noted by the Committee.

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

The Committee notes that the information requested under Article 5 and Part V of the report form for this Convention, concerning the practical application of the requirements of the

Convention, is of particular importance in assessing the degree to which the Convention is applied. A number of governments, however, have not included such information in their reports. The Committee hopes that governments will make every effort to include such information in their future reports.

Mauritius (ratification: 1969)

See under Convention No. 26.

Sri Lanka (ratification: 1954)

See under Convention No. 131.

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In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Belize, Brazil, Colombia, Comoros, Grenada, Guatemala, Philippines, Poland, Senegal, Tunisia, Turkey.

**Convention No. 100: Equal Remuneration, 1951**

Austria (ratification: 1953)

The Committee notes the report of the Government and the comments of the Austrian Congress of Chambers of Labour.

1. The Committee notes that the movement for the abolition of the discriminatory provisions brought to light in collective agreements by the study carried out in 1978, following the adoption of the Equality of Treatment Act of 23 February 1979, has continued and in large measures succeeded during the period covered by the report of the Government. It also notes that the preparatory work on the bringing up to date of the 1978 study on collective agreements has shown that certain discriminatory provisions have not yet been abolished but that these are marginal cases.

Furthermore, the Austrian Congress of Chambers of Labour states in its comments that the Equality of Treatment Act and the setting up of an equality of treatment committee give effect to the provisions of the Convention in respect of standard setting, wage rates being fixed on the whole without regard to the sex of the worker, but that actual equality of wages is not achieved in all undertakings.

The Committee asks the Government to provide full information on the marginal cases of discriminatory provisions in respect of wages contained in collective agreements and to indicate the branches of activity and the sectors of industry in which they remain. It also asks the Government to provide full information on the measures taken or under consideration to promote with the social partners the principle of equal remuneration for all workers whose employment



relations are governed by collective agreements or individual contracts.

The Committee asks the Government also to indicate the provisions ensuring the principle of equal remuneration for officials excluded from the scope of the Equality of Treatment Act of 1979.

2. The Committee notes the information communicated by the Government to the effect that in certain branches of activity, including leather and wood, the gap between male and female wages has decreased since 1970. It also notes that, according to the Austrian Congress of Chambers of Labour, wages relating to activities carried out mainly by women are maintained at a lower level and that substantial wage gaps between men and women were therefore recorded in 1981 and 1982.

The Committee recalls the earlier statements by the Government that the 1978 study on collective agreements was to open the way to the introduction of an objective appraisal of jobs. It notes from the Government's report that the study is at present being updated but remains based on formal assessment criteria which are not objective criteria related to qualifications or stress. The establishment of such objective criteria of evaluation and their application in negotiating wage scales are left entirely to the collective bargaining partners.

The Committee asks the Government to indicate the conclusions reached in the bringing up to date of the 1978 inquiry on collective agreements in relation to the objective appraisal of jobs, within the meaning of Article 3 of the Convention, and to communicate any information on the measures taken or under consideration to promote with the social partners the determination of wages on the basis of an objective appraisal of jobs.

3. With reference to its earlier comments, the Committee notes that the adoption of the bill to protect remuneration and invalidate the provisions of a collective agreement or individual contract fixing different remuneration on the basis of sex has been postponed but that the postponement does not impair the principle recognised in the Act of 23 February 1979, since persons who believe they have been wronged may themselves bring an action in the civil courts.

The Committee asks the Government to communicate any information on decisions handed down by courts to which application has been made under section 2 of the Act of 23 February 1979, including the texts of the judgements, and to indicate any development concerning the study of the bill on the protection of wages.

4. The Committee notes the information concerning the work of the committees on equality of treatment at the levels of the federal and federate states.

It asks the Government to continue to provide information in this connection and in particular on any cases submitted to the National Committee on Equality.

#### Canada (ratification: 1972)

1. The Committee notes the detailed information provided by the Government in its report and attached documents. It notes that an

amendment of January 1982 (SI 82-2) to section 4(1) of the Equal Wage Guidelines 1978, issued by the Canadian Human Rights Commission adds two new factors which may be used to justify differences in wages paid to men and women performing work of equal value. According to the amendment, the existence of an internal labour shortage in a particular job classification (paragraph h) or a change in job contents (paragraph i) may justify such differences in pay where the employer is able to show that other employees of the same sex as the higher paid group are receiving lower wages for work of equal value. The Committee requests the Government to provide information on the circumstances in which section 4(1)(h) of the Guidelines has been invoked.

2. The Committee notes with interest the publications and annual reports of the Canadian Human Rights Commission. It notes in particular, the information concerning the publicity and promotional measures being taken to promote application of the principle of equal pay for work of equal value, and the reports of the equal pay cases dealt with by the Commission, in which awards for equal pay have been made on the basis of job evaluation, in respect of women workers in areas employing a significant proportion of women (for example, libraries, nursing services and the general services category of the federal public service.) The Committee requests the Government to continue to supply information indicating the results achieved by the legislative and administrative measures introduced both at the federal and provincial levels, together with available statistics on the remuneration of women relative to that of men. In this connection, the Committee would ask the Government to provide information on the means taken and the progress achieved by (i) the newly created Women's Directorate in Ontario to narrow the earnings gap between men and women identified by the Gunderson study; (ii) the examination of collective agreements by the tripartite Advisory Council on Labour and Manpower in Quebec; and (iii) the affirmative action programme for the public service in Manitoba to narrow the earnings gap.

3. While the federal and Quebec jurisdictions remain the two jurisdictions to have embodied in legislation the concept of equal remuneration for men and women workers for work of equal value, the Committee notes that consideration is being given to including provisions dealing with equal pay for equal work in the New Brunswick Equal Standards Act 1982. The Committee hopes that any amendments made to the Act conform with the principle of the Convention and that the Government will provide further information on developments in the matter.

#### Ireland (ratification: 1974)

The Committee notes the information provided by the Government in its report.

1. The Committee notes with interest that following the proposals of the Employment Equality Agency, aimed at broadening the scope of the Anti-Discrimination (Pay) Act 1974 and the Employment Equality Act 1977, action has been taken to review the legislation in co-operation with the social partners and other interested bodies.

The Committee hopes that the Government will soon be in a position to provide information on the outcome of the review and to supply copies of any amendments subsequently adopted.

2. The Committee notes from the 1981 and 1982 reports of the Employment Equality Agency that the majority of equal pay claims are argued and decided under section 3(c) of the Anti-Discrimination (Pay) Act 1974, which allows employees to demonstrate that they are engaged on like work by proving that their work is equal in value in terms of the demands it makes on skill, physical or mental effort, responsibility and working conditions. Application of the section allows a wide range of job comparisons to be made; in assessing claims, the Agency holds it is essential that care is taken in balancing the various job components to ensure that a fair and just evaluation is given to each factor, e.g. the physical effort required in heavy work may be offset by digital dexterity required in another job. The Agency has however indicated that while the principle of equal pay may now be seen to apply generally across the broad spectrum of employment, and especially in the public sector, the 1974 Act has, in fact, achieved little to narrow the gap between the earnings of male and female workers; the legislation will not have a direct effect in many cases where women earn low wages or where the employment is largely female dominated. The Agency has also drawn attention to the need to eliminate structural barriers such as traditional grading structures and the blockages to promotional outlets for women, and has pointed to the existence of other factors affecting earning rates such as past and continuing differences in educational opportunities between male and female school-leavers and differences in opportunities to acquire recognised skill-training.

In the opinion of the Employment Equality Agency, the equal value concept has not reached its potential; a more imaginative use of the concept is required in order to reverse the steady attrition of equal pay references to Equality Officers and to ensure that individual men and women can recognise in equal pay proceedings a remedy worth seeking. The Committee requests the Government to continue to provide information on the Agency's role in promoting the principle of the Convention, particularly in regard to any action taken in co-operation with employers' and workers' organisations and other relevant bodies such as the labour inspection service, and on its publicity and promotion activities.

3. According to the Government's report the Supreme Court, in determining whether a statutory equal pay claim may be compromised by agreement, held unlawful any compromise of an equal pay claim for less than the entitlement under the Anti-Discrimination (Pay) Act 1974. The Committee requests the Government to continue to supply information on any court decisions which may contribute to an appreciation of the way in which the Convention is being applied.

#### Jamaica (ratification: 1975)

The Committee notes from the Government's report that the Minimum Wage Order and the National Minimum Wage are currently being reviewed by the Minimum Wage Advisory Commission. The Committee hopes that

the Government will soon be in a position to provide details on the outcome of this review. In the meantime, the Committee requests the Government to indicate the measures being taken to ensure application of the principle of the Convention in respect of certain wage orders, e.g. the Printing Trade Order 1973, which, as the Committee has noted for some years, contain different minimum wage rates for men and women workers employed in the same categories.

Luxembourg (ratification: 1967)

Further to its earlier comments, the Committee notes with satisfaction that the Act of 20 May 1983 modifying the system of salaries for civil servants has established equal treatment between men and women in respect of the family allowance granted to civil servants and equivalent staff.

The Committee also takes note with satisfaction of the adoption of the Act of 8 December 1981 concerning equality of treatment between men and women in respect of access to employment, training and occupational promotion and conditions of employment. The Committee notes in particular that under the provisions of section 5 of the Act, equal treatment in respect of conditions of employment must be ensured in regulations, administrative rules and the constitutions of organisations, in collective agreements and individual contracts of employment, in works rules and in the constitutions of crafts and liberal professions and also in practice. It notes in addition that it is prohibited in particular to refer to the sex of the worker in conditions of employment or to use terms in these conditions that, even without specific reference to the sex of the worker, amount to discrimination. The Committee also observes that under section 6 of the Act any clause in collective agreements, regulations or constitutions contrary to the principle of equality of treatment as defined in the Act is null and void.

The Committee notes with interest that the Government will take action, wherever necessary, to ensure that the social partners take account of the provisions of the Convention when collective labour agreements are to be renewed.

The Committee asks the Government to provide information on the practical application of the provisions adopted to ensure observance of equality of remuneration, including the elimination of all discrepancies between men and women relating to fringe benefits, in the collective agreements of sectors other than iron and steel, banking and insurance.

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In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Angola, Australia, Benin, Burkina Faso, Central African Republic, Chad, Comoros, Ecuador, Federal Republic of Germany, Greece, Haiti, Iceland, Iraq, Jamaica, Morocco, Nepal, Niger, Sao Tome and Principe, Swaziland, Zambia.

**Convention No. 102: Social Security (Minimum Standards), 1952**Belgium (ratification: 1959)

Part XII (Equality of Treatment of Non-National Residents), Article 68, paragraph 2, of the Convention. The Committee refers to the representation submitted under article 24 of the Constitution of the ILO, by the General Federation of Labour of Belgium (FGTB) regarding the application of the above-cited provision of the Convention, as well as to the conclusions of the tripartite committee of the Governing Body of the ILO, entrusted with the consideration of this representation.

Further to these conclusions, the Committee examined the draft Bill communicated by the Government which amends section 9, paragraph 1(a), of Royal Order No. 118 of 23 December 1982 respecting the establishment of employment areas; this amendment intends to ensure the application of the Convention to foreign managerial staff and researchers who are excluded from the social security system by the Royal Order in question.

The Committee hopes that this amendment will be adopted very soon - as the Government indicates in its latest report - and that the Government will be able to supply full information on the application of section 9, paragraph 1(a), of the Royal Order cited above, as amended.

[The Government is asked to report in detail for the period ending 30 June 1986.]

Denmark (ratification: 1962)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which reads as follows:

Part IV (Unemployment benefit), Article 24 of the Convention (in conjunction with Article 69(i)). With reference to its earlier comments, the Committee notes with interest that section 61, subsection 3, of Act No. 114 of 24 March 1970 respecting placement and unemployment insurance (which provides that benefits shall be suspended for all members of an unemployment insurance fund or section thereof if 65 per cent or more of the members are considered to be involved in a labour dispute) has ceased to apply, by virtue of the amendment made by Act No. 229 of 6 June 1979, except to cases where the labour dispute is not incompatible with a collective agreement. The Committee understands from the statement of the Government that the suspension of unemployment benefits in this way is at present limited to workers involved in the dispute or whose conditions of employment may be influenced by its outcome. The Committee would be grateful if the Government would confirm in its next report whether its understanding is correct and provide some examples of the practical application of the above-mentioned provision as amended.

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

Federal Republic of Germany (ratification: 1958)

The Committee has examined the detailed report of the Government and notes with interest the increases in benefits and other improvements in the social security scheme. It has at the same time examined the measures taken to maintain the financial equilibrium of this scheme. The Committee understands the reasons justifying these measures, but hopes that the Government will continue to take account of the obligations deriving from the ratification of the Convention in any similar action it may be obliged to take in the future.

Part XIII (Common provisions), Article 69(i) of the Convention.

The Committee also takes note with interest of the information furnished with the report in reply to its earlier comments concerning the application in practice of sections 3 and 4 of the Neutrality Order of 22 March 1973, issued by the Federal Employment Institute under section 116 of the Federal Employment Promotion Act of 1969. The Committee notes in particular that during the industrial dispute in the spring of 1984 in the metal industry, unemployment allowances were paid to workers of this industry indirectly involved in the dispute, in pursuance of the decision of the Social Tribunal of Frankfurt dated 12 June 1984, which suspended the decision of the President of the Federal Employment Institute. The latter decision, which was based on an interpretation of the provisions of the above-mentioned text, had provided for the refusal of benefits to the workers in question. The Committee also notes that by virtue of a decision of the Executive Council of the Federal Employment Institute, dated 27 June 1984, based on section 116, subsection 4, of the 1969 Act, unemployment allowances have been paid to workers coming within the geographic scope of the collective agreements affected by the above-mentioned industrial dispute in the districts of South Württemberg-Hohenzollern and South Baden, when the undertaking that had employed them was obliged to reduce or stop production by reason of similar measures taken in an undertaking indirectly affected by the dispute.

The Committee asks the Government to continue to supply information on this point in forthcoming reports and to indicate any change that may occur in respect of the revision of section 116, subsections 3 and 4, of the Employment Promotion Act of 1969 mentioned in the Committee's observation of 1975.

Niger (ratification: 1966)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

1. Part VII of the Convention (family benefit), Article 43 (length of qualifying period). The Committee notes the financial problems facing the family benefits branch, but trusts that the

Government is continuing to study the necessary measures to apply this provision of the Convention, by reducing to three months the present qualifying period, which consists of six consecutive months of work with an employer or employers (sections 8 and 9 of Decree No. 65-116 of 18 August 1965). It asks the Government to provide in its next report information on the progress made in this connection.

2. Part XIII (common provisions), Article 69(b) (in conjunction with Articles 30 and 38). The Committee also asks the Government to supply with its next report information on the measures under consideration or already taken to grant, in accordance with this provision of the Convention, to the dependants of an insured person maintained at public expense a benefit equal to the difference between the value of his maintenance and the benefit due under the social security scheme.

3. Part XIV (miscellaneous provisions), Article 76.

(a) (in conjunction with Article 44). The Committee would be grateful if the Government would provide the tables of statistics mentioned in the reply at the 67th Session of the Conference, concerning changes in the number of beneficiaries and of dependent children since 1964 and also the total number of the children of all protected persons.

(b) (in conjunction with Article 65). Since the last information provided on this matter related to the period 1966-70, the Committee again asks the Government to provide statistics in its next report concerning the present amount of old-age, employment injury and maternity benefits.

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In addition, requests regarding certain points are being addressed directly to the following States: Belgium, Bolivia, Denmark, Libyan Arab Jamahiriya, Mauritania, Mexico, Netherlands, Peru, Senegal, Sweden, Switzerland, Turkey.

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

#### **Bolivia (ratification: 1973)**

Article 1 of the Convention (scope). (a) The Committee has noted with interest that Presidential Decree No. 19524 of 4 May 1983 has extended the coverage of the General Labour Act to cotton pickers and sugar-cane harvesters.

(b) The Committee previously drew attention to the non-application in practice of Presidential Decree No. 16523 of 6 June 1979, extending the scope of the Social Security Code to workers in domestic service, and Decree No. 15697 of 2 August 1978, which established a social insurance scheme for rural workers. The Committee has noted the Government's statement to the effect that the technical and financial conditions for extending the social insurance scheme to the workers who are excluded from it have not yet been

fulfilled and that the rural social insurance scheme is not yet in operation.

The Committee again expresses the hope that appropriate steps can be taken in the near future to ensure that these categories of workers are protected as required by the Convention, and requests the Government to provide information on any progress made in this respect.

Article 3, paragraph 2 (duration of maternity leave). (a) The Committee earlier pointed out the need to amend section 61 of the General Labour Act in order to provide for a minimum leave period of 12 weeks. The Committee has noted that the Government intends to put a Bill before Congress with a view to extending maternity leave to meet the requirements of this provision of the Convention. It requests the Government to provide information on any progress made in this respect.

(b) The Committee wishes to point out that a similar change should be made with respect to public service employees, who are only entitled to 60 days' maternity leave under the terms of Presidential Decree No. 2291 of 7 December 1950.

Article 3, paragraph 4 (extension of pre-natal leave). (a) The Committee previously expressed the hope that the necessary steps would be taken to include in the General Labour Act and in the Social Security Code a provision allowing for the extension of pre-natal leave where confinement takes place later than the presumed date without any reduction in the minimum post-natal leave period of six weeks prescribed by this provision of the Convention. The Committee has noted that the Government intends to put before Congress a Bill which will include a provision to this effect. It requests the Government to provide information on any progress made in this respect.

(b) The Committee wishes to point out that a similar change will have to be made with respect to public service employees governed by Presidential Decree No. 2291 of 7 December 1950.

Article 4, paragraphs 5 and 8 (benefits for women who have not completed the qualification period stipulated by the Social Security Code or who are not yet covered by the insurance scheme). The Committee earlier pointed out that it was contrary to the Convention for employers to be held liable for benefits, and expressed the hope that the social insurance scheme would gradually be extended to cover all the women workers entitled to protection under this Convention. The Committee has noted with interest the Government's statement to the effect that women workers are eligible for sickness benefit in case of maternity as from the date of their affiliation to the insurance scheme, without having to show proof of previous payment of contributions (section 13 of Legislative Decree No. 13214 of 24 December 1975). The Committee has also noted that the changes it has recommended will be communicated to the Committee to be set up shortly to study the new Social Security Code. The Committee hopes that the necessary steps can be taken in the near future to enable women workers to receive, as required by the Convention, cash benefits provided either under compulsory social insurance or out of public funds or social assistance funds; it requests the Government to provide information on any progress made in this connection.

Article 5 (nursing breaks). The Committee requests the Government to indicate the provisions whereby this Article of the



Convention is applied to public service employees governed by Presidential Decree No. 2291 of 7 December 1950, and excluded from the scope of the General Labour Act.

Ecuador (ratification: 1962)

The Committee notes the information provided by the Government in its report for the period ending October 1984.

Article 1 of the Convention (scope of the Convention). The Committee notes that the number of women protected by the social security rose by 12.22 per cent between 1982-83. The Committee hopes that the social security will continue its expansion so as to protect all the categories of workers covered by this provision of the Convention - and particularly women wage-earners working at home who are not covered by the Labour Code -, and requests the Government to continue providing information in this respect in its future reports.

Article 3, paragraphs 2 to 6 (duration of maternity leave). The Committee noted that drafts to amend the Labour Code (sections 153, 154, 155 and 156) were being studied in the Office of the President of the Republic. The Committee notes that the decision adopted by the Office of the President of the Republic in respect of these drafts is not yet known, but that the Ministry of Labour will consult the Government in the near future with regard to the position concerning the drafts and will report all developments in this respect. The Committee trusts that the above-mentioned drafts prepared during the direct contacts held in 1980, can be adopted in the near future in order to ensure that women protected by the Convention obtain maternity leave of at least 12 weeks (six of which must be taken after confinement), and also possible additional leave in cases when confinement takes place after the presumed date, or in case of illness medically certified arising out of pregnancy or confinement.

Article 4, paragraph 1 (duration of cash and medical benefits). The Committee also trusts that at the same time as the above-mentioned legislative amendments, the duration of cash and medical benefits will be extended to the whole of the maternity leave, namely, the 12 weeks plus additional leave before and after confinement.

Article 5. The Committee notes that, in undertakings or employment centres where infant nurseries are not provided, the working day of mothers who are nursing will be of six hours. The Committee requests the Government to report whether this reduction in the working day for reasons for nursing involves a reduction in wages, which would be contrary to this provision of the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: Libyan Arab Jamahiriya, Netherlands, Poland, Spain, Zambia.

**Convention No. 105: Abolition of Forced Labour, 1957**Brazil (ratification: 1965)

Article 1(a) of the Convention. With reference to its earlier comments, the Committee takes note with interest of the promulgation of Act No. 7210 of 11 July 1984, section 200 of which provides that persons sentenced for political offences shall not be compelled to perform labour. The Committee is addressing a direct request to the Government concerning the scope of this provision and the manner in which it is applied.

Article 1(c) and (d). The Committee notes with interest that Act No. 6620 of 17 December 1978, which lays down penalties involving compulsory labour for reasons including participation in strikes in certain cases, has been repealed by Act No. 7170 of 14 December 1983, which defines crimes against national security and the political and social order. The Committee is addressing a direct request to the Government concerning other provisions on strikes contained in the Penal Code, in Legislative Decree No. 4124 of 24 February 1942, in Act No. 4330 of 1 June 1964, in Legislative Decree No. 1632 of 4 August 1978 and in the Consolidation of Labour Laws.

Central African Republic (ratification: 1964)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

Article 1(a) of the Convention. In comments made for a number of years, the Committee noted that terms of imprisonment involving compulsory work may be imposed under various legislative provisions for any political activity undertaken outside the framework of the national movement "MESAN" (Act No. 63/411 of 17 May 1963), for the distribution of publications which have been banned as likely to be prejudicial to the edification of the African nation (Act No. 60/169 of 12 December 1960) and for the distribution of uncensored newspapers and news of foreign origin (Order No. 3-MI of 25 April 1969 and Decree No. 70/238 of 19 September 1970).

The Committee noted the information supplied by the Government to the Conference in 1982. According to this information, a draft ordinance and a draft decree which have been under consideration since 1980 and which would exempt from compulsory prison work persons sentenced for political reasons, in particular under the above-mentioned provisions of 1960, 1969 and 1970, are still under consideration by the Ministry of Justice; on the other hand, the "MESAN" movement, which was the object of Act No. 63/411, has disappeared following the adoption of the Constitution of 5 February 1981 and the introduction of the multi-party system. The Committee noted with regret that in its 1982 report the Government does not indicate the present status of the draft legislation which was to ensure observance of Article 1(a) of the Convention. It also notes that in its report

on the 1930 Convention on forced labour, the Government refers to Constitutional Acts Nos. 1 and 2 of 1 and 22 September 1981 the texts of which have, however, not been communicated. The Committee understands that the creation of political parties has been authorised by an ordinance issued in 1979 but that Constitutional Act No. 1 of 1 September 1981 provisionally suspends all political activity as well as trade union activities, as indicated by the Government in its report.

The Committee notes with regret that the necessary action to ensure observance of the Convention has not been taken. It requests the Government to provide the texts of Constitutional Acts Nos. 1 and 2 of September 1981 and of any other provisions governing the exercise of freedom of expression and freedom of association and to provide detailed information on the action taken on the draft ordinance and the draft decree concerning persons sentenced for political reasons as well as on any other measures which may have been taken or may be contemplated to ensure observance of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Cuba (ratification: 1958)

Article 1(c) of the Convention. In its earlier observations the Committee referred to section 262 of the Penal Code, under which sentences of imprisonment, involving the obligation to work, may be imposed on a person who, by breach of the duties placed on him by his office, employment, occupation or profession in a state economic unit (particularly of his duties relating to the observance of the standards or standard-setting instructions and other rules and instructions concerning technological discipline), causes harm or substantial prejudice to the production output or to the rendering of services by the unit or to its equipment, machines, machinery, tools or other technical devices. The Committee observed that this section is not confined to breaches of labour discipline that impair or may endanger the operation of essential services or that are committed in jobs essential to safety or in circumstances in which the life or health of persons is threatened, and that the harm or prejudice that gives rise to the penalty involving the obligation to work is a consequence of a breach of duties imposed by virtue of the office, employment, occupation or profession. The Committee has thus found the section in question to be incompatible with the Convention.

The Committee notes from the report of the Government that an examination of all the provisions governing labour discipline is being carried out at present with a view to bringing them up to date and into harmony with the social and economic reality and that this will necessarily involve an analysis of the relevant provisions of the Penal Code and the observations made by the Committee.

The Committee hopes that measures to ensure that no penalty involving the obligation to work may be imposed for breaches of labour discipline will be taken in the very near future and asks the Government to indicate any progress made. Pending such action, it

asks the Government to provide detailed information on the application in practice of section 262 of the Penal Code, including the criteria applied by the courts in the matter and to supply copies of particularly relevant court decisions.

Dominican Republic (ratification: 1958)

Haitian workers employed on the sugar plantations of the Dominican Republic. The Committee has noted the information supplied to the Conference Committee in 1984 and in the Government's report regarding measures recommended in 1983 by the Commission of Inquiry which examined the observance of this Convention. [During the Committee's session, the Director-General of the International Labour Office received a communication from the Central Unitaria de Trabajadores (CUT) containing comments concerning action to implement the recommendations made by the Commission of Inquiry. In accordance with established practice, these comments are being transmitted to the Government to enable it to present such observations as it may consider appropriate. The Committee will examine the comments of the CUT and any observations by the Government thereon at its next session.]

Paragraph 516 of the report of the Commission of Inquiry. The Commission of Inquiry recommended that the Government of the Dominican Republic should take measures to stabilise, as far as possible, the labour force employed on the sugar plantations. The Committee notes with interest that various measures have been taken with a view to improving the living and working conditions on the plantations, including the raising of the statutory minimum wage in May 1984, measures to improve housing and sanitary conditions, the establishment of stores by the Price Stabilisation Institute for the sale of basic commodities at controlled prices, and the setting aside of land on the plantations for the production of food for the benefit of the workers. The Committee notes, however, that there was an increase in the number of workers recruited in Haiti for work on the State-owned plantations during the 1983-84 harvest, from 19,000 to 23,000. It requests the Government to continue to provide information on the measures taken with a view to stabilising the labour force on the plantations and the results obtained, particularly as regards the possibilities of reducing or eliminating recruiting of workers in Haiti.

Paragraph 517. The Commission of Inquiry recommended that, so long as recruiting of workers in Haiti was undertaken, the arrangements for their engagement and the principal conditions of employment should be regulated by an agreement concluded between the two States concerned (and not merely by an annual contract between the Government of Haiti and the employer). The Government had indicated that it intended to start negotiations for this purpose. The Committee would appreciate information on progress made in this matter.

The Committee also requests the Government to provide copies of all agreements or contracts concluded since 1983 (either by the Government or by employers) in respect of recruiting of workers in Haiti (including any supplementary documents fixing the details of their application).

Paragraphs 518, 521 and 522. The Committee notes the Government's statement that a copy of the individual employment contract is given to each worker recruited in Haiti, that information on the contents of the contract will be provided to the workers in Creole, and that information on these matters is also provided in a radio programme in Creole which is broadcast each day by the Catholic Church. The Committee notes, however, that the contract form furnished by the Government remains in the same terms as previously, in French, and does not give sufficient indications of the terms of employment (for example, it contains no particulars of remuneration and hours of work). The Committee requests the Government to indicate the further measures taken or contemplated to provide the necessary information to the workers in Creole (including copies of all general agreements regulating their conditions), as recommended by the Commission of Inquiry.

Paragraph 519. The Commission of Inquiry found that the amount paid by the State Sugar Board to the Government of Haiti on account of recruiting expenses (which for the 1982-83 sugar harvest was fixed at US\$2,225,000 for 19,000 workers) substantially exceeded the actual expenses. It recommended the re-examination of the amounts of such payments, on the basis of a close analysis of actual costs incurred. The Committee notes the Government's statement that these payments are based on a statement of costs by the Government of Haiti. It would appreciate further particulars, including a copy of the statement of costs, and indications of any measures taken with a view to limiting payments to actual costs incurred.

Paragraph 520. The Committee notes the Government's statement that it is absolutely prohibited for officials and employees involved in the recruiting of Haitian workers to demand or receive any benefits, that no complaints of any irregularities in this respect have been received, and that severe penalties would be imposed if any such cases occurred. The Committee once more requests the Government to indicate the legal provisions laying down this prohibition.

Paragraph 523. The Committee notes with interest the Government's statement that specific instructions have been given to the administrators of the sugar plantations to ensure that workers are not transferred to another employer without their consent and without full information on the conditions under which they would be employed. The Committee requests the Government to supply a copy of these instructions.

Paragraph 524. The Committee notes with interest the Government's statement that the State Sugar Board would take the necessary measures to enable Haitian workers recruited for the sugar harvest to retain their travel documents, endorsed with a temporary residence authorisation by the Directorate-General for Migration. The Committee would appreciate information on the measures which have been taken in this respect, including copies of any decisions or instructions issued for this purpose.

Paragraph 526. The Committee notes the Government's statement that effective measures have been taken to prevent clandestine entry of Haitian workers, the increase of 4,000 in the number of workers recruited for the 1983-84 harvest having fully met the needs of the state-owned plantations. The Committee requests the Government to continue to provide information on the extent and conditions of engagement of seasonal workers for the sugar harvest outside the recruiting arrangements with the Government of Haiti.

Paragraph 527. The Committee notes that from the beginning of 1983 to June 1984 a total of 33,193 Haitian nationals were granted permanent residence permits. It would appreciate information on further developments in this respect (including, if possible, indications concerning the number of workers on the sugar plantations who have received such permits).

Paragraph 528. The Committee recalls that, in the light of abuses which the Commission of Inquiry had noted in paragraphs 454-455 and 462 of its report, it recommended that a thorough inquiry should be made, by persons of recognised standing and impartiality, of means of ensuring the protection of Haitian residents, whatever their status, against unlawful, arbitrary or oppressive conduct by members of the military forces and the police. The Committee once more expresses the hope that the recommended inquiry will be undertaken, and that information on its outcome will be supplied.

Paragraph 529. The Committee notes the Government's statement that the administrators of the state-owned plantations have instructions to ensure compliance of their employment contracts by Haitian workers, and that any act which involved infringement of individual liberty would lead to proceedings for punishment. The Committee requests the Government to supply a copy of the instructions on this matter issued to the administrators of the plantations. It also once more requests the Government to indicate the penal provisions which would be applicable if administrators of the plantations or their agents sought to confine workers within the plantation or any part of the plantation.

Paragraphs 544 and 545. The Committee notes the Government's statement that, notwithstanding the country's difficult economic situation, the inspection staff of the Ministry of Labour has been improved and is normally carrying out inspections on the plantations. It once more requests the Government to provide particulars of the nature and results of the inspections, in regard to conditions of Haitian workers on the sugar plantations.

The Committee would also appreciate information on any changes made in the arrangements concerning inspections by Haitian representatives, as recommended by the Commission of Inquiry, and on any measures to provide for the designation by the workers themselves of representatives able to take up problems with the management.

Article 1(c) of the Convention. In previous comments, the Committee had pointed out that, under Act No. 3143 of 11 December 1951 (amended by Act No. 5224 of 1959), sentences of imprisonment, involving compulsory labour, might be imposed on persons who failed to complete a task by the agreed date or within the period allowed for carrying it out, when payment had been made in advance. It expressed the hope that measures would be adopted to ensure that sentences

involving compulsory labour cannot be imposed as a means of labour discipline. The Committee notes the Government's statement that, while it maintained its earlier position regarding the justification for penal sanctions in the cases concerned, account would be taken of the Committee's comments in the revision of national legislation. The Committee requests the Government to provide information on any measures taken in this regard.

Article 1(d) of the Convention. In previous comments, the Committee had referred to sections 370, 373, 374, 678(16) and 679(3) of the Labour Code, by virtue of which sentences of imprisonment, involving compulsory labour, may be imposed for participation in strikes. It notes the Government's statement that in practice these sanctions are never applied, thus clearly showing the intention to abolish them. It would appreciate information on the measures taken to repeal or amend the provisions in question, so as to ensure the conformity of the legislation with the Convention.

[The Government is asked to supply full particulars to the Conference at its 71st Session and to report in detail for the period ending 30 June 1985.]

France (ratification: 1969)

The Committee notes the information supplied by the Government in its report.

Article 1(a) of the Convention. 1. With reference to its earlier comments the Committee notes with satisfaction that article XVII of Act No. 83-605 of 8 July 1983 to amend the National Service Code, repeals Part III of Chapter II of Title II of the National Service Code of 1971, section 50 of which prohibited all propaganda of whatever form designed to encourage another person to take advantage of the conscientious objector's statute with the sole aim of evading his military obligations, under penalty of imprisonment involving the obligation to work.

Article 1(c) and (d). 2. In its earlier comments, the Committee noted that under section 39, subsection 4, and section 59, subsection 1, of the Disciplinary and Penal Code of the Merchant Navy, a sentence of imprisonment (involving compulsory prison labour) may be imposed on a seafarer for absence from his vessel or for refusal to obey an order concerning the service, even where the circumstances do not endanger the safety of the vessel or the life and health of persons on board.

The Committee has noted from the information communicated by the Government to the Conference Committee in 1982 that the working party set up to study the reform of the whole Disciplinary and Penal Code of the Merchant Navy has worked out the broad lines of the reform and that the preparation of a draft text is now being undertaken which is to be the subject of consultation with the social partners concerned.

Recalling that the provisions in question have been the subject of comments for a number of years, the Committee hopes that the necessary measures will be taken to ensure the observance of the Convention on this point.

Guinea (ratification: 1961)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

Article 1(b) of the Convention. 1. In comments that it has been making for the past 16 years, the Committee has noted that, by virtue of Decree No. 416/PRG of 22 October 1964, all persons between 16 and 25 years of age are placed at the service of the Organisation for Work Centres of the Revolution, which is aimed at overcoming the technical and economic underdevelopment of the Republic. In reply to the observations of the Committee concerning the conflict between these provisions and Article 1(b) of the Convention (which provides for the suppression of any form of forced or compulsory labour as a method of mobilising and using labour for purposes of economic development), the Government states, in two reports sent in 1982, that the text instituting the Work Centres of the Revolution has never been applied and that a draft decree repealing Decree No. 416/PRG of 22 October 1964 on the Organisation of the Work Centres of the Revolution has been submitted to the Chief of State for his approval.

The Committee notes this statement. It recalls that, in 1971, a representative of the Government had stated before the Conference Committee that Decree No. 416/PRG was to be repealed shortly and this had been confirmed by a letter from the Secretary of State in charge of labour matters. Similarly, in 1976 a representative of the Government had declared before the Conference Committee that steps to repeal the 1964 Decree had been taken and that the report on Convention No. 105 would confirm that the abrogation had taken place.

The Committee hopes that Decree No. 416/PRG of 22 October 1964 on the Organisation of the Work Centres of the Revolution will be repealed in the near future and that a copy of the repealing text will be communicated by the Government.

2. The Committee regrets that the Government's reports do not reply to the paragraph in its previous observations relating to Ordinance No. 52 of 23 October 1959 laying down compulsory military service for all male citizens. In comments it has been making for several years, the Committee had noted that, under section 2 of Ordinance No. 52 of 23 October 1959, the active military service may be devoted, if necessary, to the economic development of the country and to building up the infrastructure. The Committee has called attention, in this regard, to paragraphs 24 to 26 of its general report of 1971, in which it had referred to the adoption of the Special Youth Schemes Recommendation, 1970 (No. 136) and to the clarifications that the debate on this instrument at the International Labour Conference had provided concerning the relations between certain compulsory programmes, involving the participation of young persons in activities directed towards economic and social development, and the Conventions on forced labour. The Committee again expresses the hope that the Government will



provide full information on the present situation concerning the application of the above-mentioned Ordinance and that it will indicate the measures taken or under consideration, to ensure, in conformity with Article 1(b) of the Convention, that no form of forced or compulsory labour is applied as a method of mobilising and using labour for purposes of economic development.

Communication of legislative texts requested in relation with Article 1(a), (c) and (d) of the Convention. 3. The Committee again notes with regret that the legislative texts which had been the subject of repeated requests are still not available, namely Act No. 45 AN-69 of 24 January 1969 relating to the disclosure of professional secrets and the unlawful communication of State and Party documents; Act No. 64-66 of 21 September 1966 concerning the Code of Penal Procedure; and any other legislation (other than the Penal Code which is already available to the Committee relating to prison labour, the maintenance of public order, the Press and publications, meetings and associations, vagrancy and idleness as well as to the disciplines of seafarers. It again expresses the hope that the Government will supply these texts as in their absence the Committee is unable to ascertain the conformity of the legislation with the provisions of the Convention.

#### Haiti (ratification: 1958)

The Committee notes that the Government's report has not been received. It has, however, noted the information communicated to the Conference Committee in 1984 by a Government representative, in reply to questions raised in the recommendations of the Commission of Inquiry appointed under article 26 of the Constitution of the ILO to examine the observance of certain Conventions (including Conventions Nos. 29 and 105), with respect to Haitian workers recruited to work in the plantations belonging to the State Sugar Board of the Dominican Republic.

The Committee has also noted the letter addressed to the Director-General of the ILO in October 1984 requesting that it should be established that the complaint filed against the Haitian Government was unfounded. In this connection, the Committee refers to the conclusions and recommendations of the Commission of Inquiry, in particular in respect to the following questions:

1. The Committee notes the statement that the two Governments were jointly to implement, for the period 1984-85, measures taking account of the observations of the Commission of Inquiry within the framework of a bilateral agreement (paragraph 517 of the report of the Commission of Inquiry). It also notes that the Government has taken steps to ensure the translation of the recruiting agreements into Creole and their wide distribution (paragraph 521), and that measures have been taken to ensure that the recruited workers keep their travel documents throughout the whole sugar harvest (paragraph 524).

The Committee requests the Government to send detailed information on the measures that have been taken and to supply the texts of all agreements or contracts governing the recruitment of

Haitian workers concluded either with the Government of the Dominican Republic, or with the State Sugar Board (including any additional document fixing the details of their implementation procedures), as well as the published Creole translations of the agreements or contracts in question, individual employment contracts and any other document to inform the workers on their conditions of employment.

2. The Commission of Inquiry recommended that the officials and employees in the service of the State, involved in recruiting Haitian workers or having any responsibilities relating to their employment, should be prohibited from receiving any payments or other material advantages from the workers concerned (paragraph 520).

The Committee notes that the Government again refers to section 147 of the Labour Code, which prohibits all subcontracting of labour.

With reference to paragraph 430 of the report of the Commission of Inquiry, the Committee notes that section 147 of the Labour Code prohibits deductions from wages for the purpose of obtaining or retaining employment and does not apply to the payment by a worker of a sum of money to ensure his being retained by the persons responsible for maintaining order at the recruitment centres or to secure medical clearance.

The Committee requests the Government to supply information on the steps taken to lay down the prohibition recommended by the Commission of Inquiry and to ensure compliance therewith.

3. In paragraph 519 of its report, the Commission of Inquiry recommended that before the 1983-84 sugar harvest the two Governments concerned should re-examine the amounts, already agreed upon, of payments to be made to the Government of Haiti, that the payment provided for under the heading of recruiting expenses should be recalculated on the basis of a close examination of the actual costs incurred, that any sums paid in future years should be subject to clear proof of actual expenditure and that they should be accounted for in the public accounts of the Government of Haiti.

The Committee notes the Government's statement that the Commission of Inquiry was not entitled to recommend a modification of the agreements on this matter or to intervene in issues relative to its national accounting or finance systems. The Committee notes, from the report of the Commission of Inquiry, that the financial aspects of the recruitment of Haitian workers have a direct effect on the possibility of improving their conditions of life and work, and that such improvement is instrumental in the removal of the constraints noted by the Commission of Inquiry which maintain workers at the workplaces.

The Committee therefore again requests the Government to indicate the measures taken to give effect to the recommendations made by the Commission of Inquiry on this matter.

4. The Committee recalls the Government's statement that steps were being considered for the recruitment of a group of qualified officials, to be assigned to the inspection of the conditions of life and work of cane cutters in the Dominican Republic (paragraphs 544 and 545).

The Committee requests the Government to supply information on the measures undertaken in this respect and on the results obtained,

including precise information on any complaint or irregularity brought to the notice of the Dominican authorities by the Haitian Government or by its officials.

[The Government is asked to supply full particulars to the Conference at its 71st Session and to report in detail for the period ending 30 June 1985].

Ireland (ratification: 1958)

Article 1(c) and (d) of the Convention. In previous comments the Committee noted that under sections 221 and 225(1)(b) and (c) of the Merchant Shipping Act, 1894, certain disciplinary offences by seamen are punishable with imprisonment (involving an obligation to work), and that under sections 222, 224 and 238 of the same Act, seamen absent without leave may be forcibly conveyed on board ship. The Committee also pointed out that section 16 of the Conspiracy and Protection of Property Act, 1875, deprives seamen of immunity from criminal liability for conspiracy in respect of acts in contemplation of or furtherance of trade disputes, and that under section 225(1)(e) of the 1894 Act it is an offence, punishable by imprisonment (involving an obligation to work), for seamen to combine to disobey lawful commands or to neglect duty.

The Committee notes the Government's statement in its report that the provisions of the Merchant Shipping Act, 1894 referred to have not been invoked since the Convention was adopted, that almost all employment in the merchant shipping industry is also covered by agreements between employers and trade unions and that there have been no representations from worker or employer organisations in this matter or complaint from any worker affected. The Committee also notes the indication that the Merchant Shipping Act will be amended and the sections deemed contrary to the Convention expunged as soon as possible, but that it is not considered feasible to envisage the immediate introduction of relevant legislation in Parliament, having regard to the heavy parliamentary programme of urgent legislation and general administrative pressures.

Recalling that the provisions in question have been the subject of comment since 1963, the Committee hopes that it will soon be possible to bring the Merchant Shipping Act into conformity with the Convention.

Liberia (ratification: 1962)

In previous comments the Committee observed that prison sentences (involving, under Chapter 34, sections 34-14, paragraph 1 of the Liberian Code of Laws, an obligation to work) might be imposed in circumstances falling within Article 1(a) of the Convention under section 52(1)(b) of the Penal Law (punishing certain forms of criticism of the Government) and section 216 of the Election Law (punishing participation in activities that seek to continue to revive certain political parties).

The Committee notes from the Government's report that the draft Labour Law and the draft Decree to implement Convention No. 105 have been modified with a view to excluding from liability to labour resulting as a consequence of a conviction in a court of law, persons convicted for holding or expressing political views or views ideologically opposed to the established political order.

Recalling that the proposed adoption of a new Labour Law has been mentioned by the Government for the past 12 years, the Committee hopes that legislative provisions to ensure observance of the Convention in regard to the above-mentioned matters will be adopted at an early date.

Libyan Arab Jamahiriya (ratification: 1961)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

Article 1(a), (c) and (d) of the Convention. In direct requests made over a number of years, the Committee noted that penalties of imprisonment (involving, under section 24(1) of the Penal Code, an obligation to perform prison labour) may be imposed under various provisions of the Publications Act of 1972 and the Penal Code. Such penalties may be imposed, inter alia, for questioning in a publication, the objectives and principles of the revolution, for setting up a printing house without having obtained an authorisation - which appears to be left to the discretion of the administrative authorities - and for various breaches of labour discipline by public officials and employees of public institutions. The Committee had asked the Government to indicate the measures taken or contemplated to ensure the observance of the Convention in these regards. It had also asked for information on the practical application of a number of provisions of the Publications Act and the Penal Code and for copies of orders, laws and regulations concerning the protection of the revolution, the trial of those responsible for political corruption, and the establishment, functioning and dissolution of associations and political parties.

The Committee noted from the Government's report, that the observations of the Committee of Experts on the Application of Conventions and Recommendations were sent to the authorities responsible for amending the legislation. The Committee hopes that measures necessary to ensure conformity with the Convention will be undertaken in the near future and that the Government will report on progress made in this respect and supply the requested information and texts.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Malaysia (ratification: 1958)

The Committee notes from the Government's report that no action has been taken on any of the matters raised by the Committee in its

previous observations. The Government has, however, repeated the views expressed in earlier reports according to which the obligations to perform labour imposed on persons sentenced to imprisonment under the legislative provisions mentioned by the Committee do not constitute forced or compulsory labour within the meaning of the Convention, since it is merely incidental to the sentence and is not imposed for the purpose defined in the Convention. The Committee has indicated on a number of occasions, and particularly in its observations of 1975, 1976 and 1977, that it is unable to accept the Government's understanding of the scope of the Convention. It refers in this connection also to the explanations in paragraphs 102 to 109 of its 1979 general survey on the abolition of forced labour.

The Committee accordingly finds it necessary to draw attention once more to the following matters:

1. Article 1(a) of the Convention. Various provisions of the Internal Security Act, 1960, the States of Malaya Restrictive Residence Ordinance (Cap. 39), the Sabah Undesirable Publications Act (Cap. 151), the States of Malaya Printing Presses Ordinance, 1948, as amended, the Sabah Printing Presses Ordinance (Cap. 107) and the Societies Act, 1966, grant administrative authorities discretionary powers to make orders imposing restrictions or prohibitions on the exercise of the rights of expression and political activities. Contraventions of these restrictions or prohibitions are punishable with imprisonment involving (by virtue of section 52 of the Prisons Ordinance) an obligation to perform labour.

As the Committee has previously pointed out, the imposition of penalties involving compulsory labour as a means of preventing the participation of certain persons in the normal political processes, including the advocacy of political and ideological views, contravenes the provisions of Article 1(a) of the Convention.

Since these matters have been the subject of comments for the past 20 years, the Committee trusts that appropriate action will be taken to ensure the observance of the Convention.

2. Article 1(c) and (d). The Government has again indicated that a new Merchant Shipping Bill is being prepared to remove the provisions of the Malayan Merchant Shipping Ordinance, 1952, and the Sabah and Sarawak Merchant Shipping Ordinance, 1960, which impose penalties involving compulsory labour on seamen for various breaches of discipline and grant powers to obtain the forcible return of seamen to their ship in case of abandonment of service. As the Government has stated for the past ten years that the legislation was under review, the Committee hopes that the necessary amendments will be adopted in the near future.

3. Article 1(d). In its previous observations, the Committee referred to the provisions of the Industrial Relations Act, 1967, as amended in 1975, under which the competent minister may impose compulsory arbitration in respect of any trade dispute if he is satisfied that it is expedient to do so (section 26), thereby rendering any strike action illegal (section 44(b) and (d)) and punishable with imprisonment involving an obligation to work (sections 46 and 47).

The Committee has pointed out that these provisions enable the minister to prevent or to put an end at any time to strike action, not

only in essential services but in respect of any trade dispute, thereby exposing the workers concerned to penal sanctions involving an obligation to perform labour. While the Government has repeated earlier statements that only sparing use has been made of these powers, it has provided no specific information on the manner in which the provisions in question have been applied nor any indication concerning the action which it proposes to take to bring the legislation into conformity with the Convention. As this matter has also been the subject of comments for many years, the Committee hopes that the necessary measures to ensure the observance of the Convention will be taken in the near future.

Paraguay (ratification: 1966)

Article 1(a) of the Convention. In its earlier comments the Committee observed that imprisonment involving, by virtue of section 67 of the Penal Code and section 39 of Act No. 210 of 1970, the obligation to perform labour, may be imposed for the infringement of sections 4, 5 and 6 (prohibiting rallies or meetings, subscription to any publication or the display of any emblems disseminating communist doctrine) of Act No. 294 of 1955 on the defence of democracy, and sections 4 and 8 (prohibiting the public advocacy of the destruction of the social classes; the printing, distribution or sale of publications advocating the communist doctrine; membership of communist parties and assistance in corresponding activities) of Act No. 209 of 1970 on the defence of public peace and the freedom of persons.

The Committee notes that the Bill to exempt from the obligation to work, persons sentenced for political offences not involving acts of violence, to which the Government has been referring for several years, has not yet been adopted.

The Committee hopes that the Government will do everything within its power to bring the legislation into conformity with the Convention.

Peru (ratification: 1960)

Article 1(e) of the Convention. In its earlier comments the Committee referred to section 44 of the Penal Code, under which, where offences are committed by "savages", the judge may replace sentences of imprisonment by assignment to a penal agricultural colony for an indefinite period of up to 20 years, irrespective of the maximum duration of the sentence that the offence would entail under the law if it had been committed by a "civilised man".

The Committee notes the statement by the Government in its report that in the draft Penal Code of 3 September 1984 the discrepancies existing between the existing Penal Code and the Convention are eliminated.

The Committee notes that section 112 of the draft referred to reproduces in identical terms the section 44 at present in force, which has been the subject of comments by the Committee for over ten years.

The Committee hopes that the necessary measures will be taken to ensure the observance of the Convention on this point and that the Government will report the progress made.

[The Government is asked to supply full particulars to the Conference at its 71st Session.]

Portugal (ratification: 1959)

The Committee notes the information supplied by the Government in its report.

Article 1(c) of the Convention. The Committee earlier noted that under the provisions of section 3 of Legislative Decree No. 637/74 concerning the calling up of civilians, the list of services or enterprises in which persons may be called up in the event of a strike includes services that are not necessarily essential services whose interruption might endanger the life, personal safety or the health of the whole or part of the population; the Committee asked the Government to indicate the measures taken to restrict the scope of these provisions.

The Committee notes with satisfaction the opinion issued by the Council of the Public Prosecutor of the Republic, ratified by an Order of the Minister of Labour dated 9 September 1982 and published in the Official Gazette, to the effect that the provisions of section 3 of Legislative Decree No. 637/74 cannot be invoked to determine the type of establishment, service, activity or enterprise that may be subject to calling up in the event of a strike, the provisions at present in force in the matter being those of section 8 of Act No. 65/77 respecting the right to strike. The Committee notes that under the terms of the latter provision, the obligation to ensure the maintenance of services during a strike is limited to minimum services considered indispensable to meet imperative social needs, and that breach of that provision does not give rise to penalties involving compulsory labour.

Syrian Arab Republic (ratification: 1958)

Article 1(a), (c) and (d), of the Convention. In its previous comments, the Committee referred to certain provisions of the Economic Penal Code, the Penal Code, the Agricultural Labour Code and the Press Act, under which sentences of imprisonment involving an obligation to work may be imposed for acts coming under Article 1(a), (c), and (d) of the Convention. It noted that a draft legislative decree to amend various sections of the Penal Code with a view to ensuring the abolition of all compulsion to perform prison labour had been approved by the Council of Ministers and submitted to the Office of the President of the Republic.

The Committee notes the Government's statement in its report that the draft legislative decree provides for the replacement of the expressions "forced labour" "imprisonment involving an obligation to work" and "simple imprisonment", where they occur in the Penal Code, in special penal legislation, or in any other legal text, with the

term "imprisonment"; it also notes that the draft provides for the repeal of section 45 of the Penal Code (under which convicted criminals sentenced to forced labour shall be obliged to perform arduous work) and the deletion of the last sentence of section 51, paragraph 3 (under which prisoners who have chosen to work shall be compelled to do so for the remainder of their sentence).

The Committee hopes that the Government will be able to report in the very near future the entry into force of legislative amendments to ensure the observance of the Convention and that it will communicate copies of the provisions adopted.

#### Thailand (ratification: 1969)

The Committee notes that the Government's report contains no information on the questions raised in its previous comments. It hopes that the Government will provide full information in its next report on the following points:

1. Article 1(a) of the Convention. The Committee notes that penalties of imprisonment may be imposed under sections 4, 5, 6 and 8 of the Anti-Communist Activities Act B.E. 2495 (1952) on anyone who engages in communist activities, or who conducts propaganda or makes any preparation with a view to carrying on communist activities, who is a member of any communist organisation, or who attends any communist meeting unless he can prove that he did so in ignorance of its nature and object. Similarly, under sections 9, 12 and 13 to 17 of the same Act, inserted by the Anti-Communist Activities Act (No. 2) B.E. 2512 (1969), penalties of imprisonment may be imposed on whoever assists any communist organisation or member of such organisation in a variety of ways, who propagates communist ideology or principles leading to the approval of such ideology, or who contravenes restrictions imposed by the Government on movements, activities and liberties of persons in any area classified as a communist infiltration area.

The Committee notes that these provisions are not limited in scope to the punishment of violence or incitement to violence, but may be used as a means of political coercion or as a punishment for holding or expressing, even peacefully, certain political views or views ideologically opposed to the established political, social or economic system, and are accordingly incompatible with Article 1(a) of the Convention in so far as the penalties provided involve compulsory labour.

Referring to the explanations provided in paragraphs 102 to 109 and 133 to 140 of its 1979 General Survey on the abolition of forced labour, the Committee hopes that the necessary measures will be adopted in this regard to ensure the observance of the Convention.

2. Article 1(c). The Committee has noted that sections 5, 6 and 7 of the Act for the Prevention of Desertion or Undue Absence from Merchant Ships, B.E. 2466 (1923), provide for the forcible conveyance of seamen on board ship to perform their duties. It expresses the hope that action to repeal these provisions will soon be taken.

3. Article 1(c) and (d). The Committee had noted the Government's indication that Decree No. 3 of October 1976, adopted



under sections 25 and 36 of the Labour Relations Act of 1975 and banning all strikes under the menace of penalties including imprisonment, was repealed by the Ministry of Interior Announcement for lifting the ban on strikes and lockouts dated 27 January 1981, and that no case had been reported in which a prison sentence involving compulsory labour had been imposed under section 141 of the Act. The Committee hopes that a copy of the repealing announcement will be forwarded, and that the Government will also supply information on measures taken to ensure the observance of Article 1(c) and (d) of the Convention with regard to a number of other provisions of the Labour Relations Act, which are considered in detail in a direct request to the Government.

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In addition, requests regarding certain points are being addressed directly to the following States: Australia, Bangladesh, Benin, Brazil, Central African Republic, Cuba, Fiji, France, Grenada, Guinea, Guinea-Bissau, Iceland, Iraq, Italy, Jordan, Kuwait, Liberia, Malaysia, Papua New Guinea, Portugal, Saint Lucia, Seychelles, Somalia, Spain, Sudan, Suriname, Thailand, Trinidad and Tobago.

Information supplied by Saudi Arabia in answer to a direct request has been noted by the Committee.

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

#### Cyprus (ratification: 1968)

With reference to its previous comments, the Committee has taken note of the draft Order amending section 4 of the Employees (Hours of Employment) Order of 1961 so as to provide specifically for an uninterrupted weekly rest period of 24 hours, as required by Article 6 of the Convention. It hopes that an addition can be made to the draft Order so as to ensure that a compensatory rest period of equal duration is granted where work has to be performed on the day of weekly rest, as required by Article 8, paragraph 3, and that the Order will be issued very shortly.

#### Suriname (ratification: 1976)

With reference to its earlier comments the Committee notes with satisfaction that section 10, subsection 2, of the Decree of 12 September 1983 to amend the Labour Act, No. 163 of 1963, provides that a worker employed on a Sunday shall be entitled to an uninterrupted rest period of at least 24 hours during the same week, in accordance with Article 8, paragraph 3, of the Convention.

Syrian Arab Republic (ratification: 1958)

Article 8, paragraph 3, of the Convention. The Committee notes from the information furnished by the Government in reply to its earlier comments that the draft Legislative Decree to amend certain sections of the Labour Code has been approved by the Council of Ministers and communicated to the competent authority for promulgation. The Committee trusts that this draft, to which the Government has been referring for many years, will be adopted shortly and that it will ensure to persons employed in commerce and offices, who work on the weekly day of rest, compensatory rest in conformity with this provision of the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: Bolivia, Haiti, Jordan, Saudi Arabia.

**Convention No. 107: Indigenous and Tribal Populations, 1957**Argentina (ratification: 1960)

Further to its previous comments the Committee notes with interest from the Government's report that various initiatives have been undertaken which would make the defence and promotion of the interests of indigenous populations a high priority of the Government. For instance, draft legislation is before the legislature which would create various bodies, including a National Commission on Indigenous Affairs, and a National Directorate of Indigenous Affairs which would include an Indigenous Council composed of representatives of the indigenous populations of the country. It notes that this draft legislation is the result of meetings and consultations among various government bodies and others interested in indigenous affairs, and that it is expected that the new legislation will, when adopted, respond to a number of the concerns previously expressed by the Committee of Experts on this question.

The Committee welcomes the initiatives described in the Government's report, and hopes that the new legislation will shortly be adopted. It requests the Government to communicate copies when it is adopted, and to provide more detailed information on the new measures which will be taken in application of it, in particular any measures to safeguard the land rights of these populations, and to provide them with additional protection in regard to labour. It hopes that the Government will also provide information on the present size and location of the indigenous populations of the country being gathered in the context of the census of these groups now being carried out.

Bangladesh (ratification: 1972)

The Committee notes the statement in the Government's report that it is too early to provide detailed information on the development activities undertaken in the Chittagong Hill Tracts, as the Committee requested in its previous comments. It notes, however, that no information has been provided on a number of other questions on the present situation of the tribal populations in the country, which were raised in those comments. The Committee is therefore again addressing a detailed direct request to the Government in this regard. As it has pointed out in the past, the very brief information provided by the Government in its reports does not enable the Committee to assess the degree to which the Convention is being applied, nor the activities which the Government has undertaken in the tribal regions.

The Committee also notes the statement in the report that the Government will request the assistance of the ILO if it is considered necessary at any stage of the revision of the Chittagong Hill Tracts Regulations of 1900. The Committee again recalls that the Office has been able to provide assistance to several governments in reformulating legislation concerning indigenous and tribal populations to bring it into closer conformity with the Convention, and hopes the Government will avail itself of such opportunity.

Finally, the Committee refers to the persistent reports of violent conflicts in the Chittagong Hill Tracts following the settlement of non-tribals in these areas and the consequent displacement of the resident tribal groups. According to information submitted to the Working Group on Indigenous Populations of the United Nations Sub-Commission on the Prevention of Discrimination and Protection of Minorities at its August 1984 Session, the settlement of non-tribals is continuing and these areas are now under martial law. The Committee expresses its concern over this situation, and hopes that the Government will provide information on the present situation.

[The Government is asked to supply full particulars to the Conference at its 71st Session, and to report in detail for the period ending 30 June 1985.]

Brazil (ratification: 1965)

The Committee notes the very detailed reports communicated by the Government, as well as the information communicated to the Conference Committee in 1984, following its previous comments. It notes also the comments received from the International Confederation of Free Trade Unions on the application of the Convention, in a letter dated 18 February 1985, which was communicated to the Government on 27 February 1985 for any comments it might wish to make in this connection. The Government has submitted its observations on these comments in a letter received on 20 March 1985.

The ICFTU letter communicates information received from the non-governmental organisation Survival International concerning what it describes as a threat to the existence of the Yanomami Indians in the country as a result of encroachment of mining concerns into their

tribal territories, and stating that the Brazilian authorities have not taken effective steps to establish and protect a Yanomami reserve. It also refers to the adoption of Decree No. 88.985 of 10 November 1984 (which was also communicated by the Government with its report) authorising the Government to grant concessions to private companies to undertake mineral exploration and prospecting on Indian lands.

The Committee notes the Government's comments on the communication, in which it states that the ICFTU letter is without any basis. It requests the Government to provide any additional information at its disposal on the situation referred to above for the Committee to take into account along with the earlier reports when it examines the situation in detail at its next session.

As concerns the establishment of the Yanomami Park, the Government has stated in its report that lands have been identified for inclusion in the Park, and in its comments on the ICFTU letter it has stated that proposals were submitted to an Interministerial Working Group in September 1984 for designating some 9.4 million hectares for the Park. The Committee requests the Government to provide further information on the progress achieved in the reservation of these areas for the exclusive possession of the Yanomami people, and the constitution of a Park.

The Committee notes that Decree No. 88.985 would allow the Government to grant authorisation for private companies to explore for and exploit minerals in Indian lands, under a number of conditions indicated in the Decree for the protection of the interests of the Indian inhabitants of such lands. The Committee notes that these conditions depend on FUNAI's supervision and authorisation of exploration and exploitation; in this connection it refers also to recent changes in the leadership of FUNAI and to limitations on its powers (concerning which some questions were raised in the previous comments). The Committee notes that contacts with non-Indians have been shown by experience to be prejudicial to the health and culture of isolated Indian tribes, and that mineral exploitation is prejudicial to the fragile ecosystems of the areas within which the Indians live. It observes that, while the exploitation of minerals in such areas cannot be considered to be a violation of the Convention's principle in itself, it may become so depending on the manner in which and the extent to which such exploitation is conducted. The Committee notes the Government's statement in its letter of 20 March 1985 that no authorisations for the exploration for and exploitation of minerals in the Yanomami territory have yet been granted and that the regulations provided for under section 9 of Decree No. 88.985/84 have not yet been adopted. The Committee requests the Government to indicate whether any such authorisations have been granted for the regions inhabited by other Indian groups; and to communicate a copy of the regulations under Decree No. 88.985/84, when they are adopted.

As concerns illegal invasions of Indian lands by prospectors and settlers, the Committee recalls that it has raised the issue previously in response to a number of expressions of concern in this regard over some years by various interested groups. It notes that the Government has indicated in its report that, where there are

non-Indians in areas proposed for demarcation, their removal is the responsibility of other bodies than FUNAI. The Government has also stated, in its comments on the ICFTU letter, that as concerns the allegations of invasion of Yanomami territories by miners and gold prospectors, FUNAI intervened rapidly, with the assistance of Federal forces, and the invaders were expelled and the leaders arrested. It has also indicated that the President of FUNAI has issued Order No. 1817/E of 8 January 1985 which forbids non-Indian persons or groups, especially prospectors for gold, to enter or establish themselves within the new limits proposed for the Yanomami Park zone. The Committee notes this statement with interest, and hopes that the Government will continue to indicate in its future reports any further developments in this situation.

Pakistan (ratification: 1960)

Further to its observation made in 1983, the Committee notes with interest that in April-May 1984 an ILO official visited Pakistan in order to discuss with the responsible government officials the application of the present Convention. The extensive information which he was given, and the additional information communicated by the Government with its report, have enabled the Committee to form a better understanding of the situation in this respect. The Committee notes that many of the points raised in its previous comments have now been clarified, and it is raising some matters in a request addressed directly to the Government.

Peru (ratification: 1960)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee notes that important developments are taking place with relation to the management of indigenous affairs, and new approaches in land reform. In view of the probable impact of these developments on the country's indigenous populations, the Committee has raised a number of detailed questions in a request addressed directly to the Government.

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In addition, requests regarding certain points are being addressed directly to the following States: Bangladesh, El Salvador, Pakistan, Peru.

**Convention No. 108: Seafarers' Identity Documents, 1958**

A request regarding certain points is being addressed directly to Liberia.

**Convention No. 110: Plantations, 1958**Guatemala (ratification: 1961)

1. With reference to its previous observations, the Committee takes note with satisfaction of the adoption of Decree No. 103-84 of 27 February 1984 to issue the regulations for the application of the Convention, which contains provisions concerning the engagement and recruitment of workers, their transport and their living conditions and conditions of employment, including wages, housing and general welfare.

2. The Committee also takes note with interest of the information in the last report of the Government concerning the training courses organised for labour inspectors.

3. With reference to the allegations of abuses in recruitment, advances on wages, housing and the welfare of plantation workers mentioned in a report of the Anti-Slavery Society for the Protection of Human Rights, the Government states:

- that the competent authorities ensure better supervision of the activities of the recruiting agents for agricultural workers;
- that a reduction can be observed every year in the number of recruiting agents authorised, etc.;
- that the greatest possible number of inspection visits is organised, regard being had to the available resources.

The Committee once more asks the Government to provide copies of inspection reports concerning plantations.

4. The Committee also refers to the observation made under Convention No. 87.

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In addition, requests regarding certain points are being addressed directly to the following States: Ecuador, Guatemala, Panama.

Information supplied by Mexico in answer to a direct request has been noted by the Committee.

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

A member of the Committee, Mr. S. Ivanov, expressed his disagreement with the Committee's observation on the application of Convention No. 111 in socialist countries. In his view, in today's world, characterised by the existence of very different political and legal systems, it is important to take real account of the concrete socio-economic conditions of countries, the social factor.

These conditions in the end are the basis for the establishment of a certain type of right - capitalist or socialist - with its institutions and legal standards. It is important to take account of the actual socio-economic conditions in examining civil relations, penal concerns, etc., and above all in labour relations where the social factor has the greatest bearing.

This factor is decisive in the operation of the principle of equality of rights. In conformity with the Constitution of the USSR in force, Soviet citizens are equal before the law irrespective of their racial and national origin, the type and nature of their occupation and other circumstances.

The equality of rights of Soviet citizens is guaranteed in all spheres of economic, political and social life, including the area of labour relations. Workers are granted guarantees under the legislation in respect of engagement and dismissal. For example, under the RSFSR Labour Code, refusal to engage a worker without legitimate cause is prohibited. Any direct or indirect limitation of rights, any establishment of direct or indirect advantages in engagement on the basis of sex, race, nationality or religious convictions are prohibited. The regulation of dismissal of workers at the initiative of management is also based on the above-mentioned constitutional principle of equality of citizens before the law.

Another member of the Committee, Mr. A. Gubinski, associated himself with the observation of Mr. Ivanov. He referred in this connection to his observation on Convention No. 87.

The Committee refers to the comments made by it in relation to Convention No. 87.

#### Algeria (ratification: 1969)

1. With reference to its earlier comments, the Committee notes with satisfaction that Decree No. 83-481 of 13 August 1983, laying down the special common provisions applying to officials of the national police service, permits the recruitment of officials of both sexes and so eliminates the discrimination hitherto made in section 7, subsection 4, of Decree No. 68-216 of 20 May 1968 on the same subject.

The Committee asks the Government to continue to communicate information on the measures taken to give effect to the principle of equal access to the public service.

2. The Committee notes with interest the statement by the Government that every woman, whether married or not, is entitled to apply for a job in the same conditions as a man and that there is no need to adopt special provisions to that effect.

3. In earlier comments, the Committee referred to section 33 of Act No. 78-12 of 5 August 1978 respecting the general conditions of employment of workers, under which a worker, in particular when he is in a managerial post or exercises responsibility otherwise, seeks constant inspiration, in the performance of his duties, not only in the principles for action laid down in the national charter, which forms the ideological and political basis for the institutions of the Party and the State, but also in the indications and instructions issued by the political leaders of the country. It also noted that sections 8 and 25 of Act No. 82-06 of 27 February 1982 respecting individual employment relations do not mention grounds of discrimination expressly covered by Article 1, paragraph 1(a), of the Convention, such as religion and political opinion.

The Committee notes the statement by the Government in its report that in practice there is no discrimination in employment based on

religion or political opinion, that all Algerian citizens have the same opportunities of obtaining any job and the only criteria are those of training, skills and the capacity to occupy a given employment. The Committee notes the concern of the Government to make it clear that there cannot be any question of discrimination or distinction of any kind in a country that intends to establish social justice and to bring about the development of all its inhabitants.

The Committee hopes that measures will be taken to ensure, in accordance with the provisions of the Convention and national practice, that religion and political opinion cannot give rise to discrimination in employment or occupation and that the Government will furnish information on any provision adopted or under consideration for the purpose.

#### Argentina (ratification: 1968)

The Committee notes the information supplied by the Government in its report.

In earlier comments the Committee referred to the provisions of sections 8(g) and 33(g) of Act No. 22140 of 1980 respecting the basic terms and conditions of employment in the public service, under which entry to the national public administration can be refused and public servants can be dismissed for belonging or having belonged to groups advocating the denial of the principles of the Constitution or for adhering themselves to a doctrine of this kind.

The Committee notes with interest the intention of the Government to re-establish the rule of law, to ensure the observance of the provisions of the Constitution and to rid the national legislation of provisions infringing these principles. With regard to Act No. 22140, the Committee notes that a study is being carried out at present by the Directorate-General of the Civil Service concerning entrance to the national public administration, with a view to proposing measures to make possible a genuine adaptation of the provisions in force to the principles of the Convention.

The Committee hopes that appropriate measures will be adopted in the near future in accordance with the 1958 instruments, under which all provisions or practices that for mere reasons of political opinion violate the principle of equality of opportunity and treatment in employment or occupation should be abolished, and asks the Government to report the progress made to this end.

#### Australia (ratification: 1973)

The Committee notes with satisfaction from the detailed report of the Government and attached documentation, the wide range of measures being taken at the federal and state levels to give effect to the provisions of the Convention. The Committee notes, in particular, the entry into force on 1 August 1984 of the Federal Sex Discrimination Act 1984 designed to eliminate direct and indirect discrimination on the grounds of sex, marital status and pregnancy in regard to all aspects of the employment relationship, education, the



provision of goods, services and facilities and accommodation; the Act also proscribes sexual harassment in employment and occupation. In addition, the Committee notes a number of proposals announced by the Government in its policy discussion paper on affirmative action for women (released 5 June 1984) including the creation of a 12-month voluntary pilot programme establishing affirmative action for women in employment which involves the participation of 28 leading companies and three tertiary education institutions. A Working Party of Ministers, employers, trade unions, higher education institutions and women's organisations has also been established to frame options for legislation on the basis of the pilot programme. The Committee hopes that the Government will supply information illustrating the progress achieved as a result of these measures.

The Committee notes that the national and state tripartite Employment Discrimination Committees, set up at the time of ratification of the Convention to investigate and conciliate complaints and to develop community education programmes to promote equal employment opportunity, have extended continuously the scope of their activities. In addition to the seven grounds specified in the Convention, the Committees accept complaints alleging discrimination on the grounds of age, criminal record, marital status, medical record, nationality, personal attribute, physical disability, sexual preference and trade union activities in the areas of job advertisements, recruitment, employment benefits and vocational training. Complaints on any other grounds may also be investigated by the Committees.

The Committee requests the Government to continue to supply information on the activities of the Employment Discrimination Committees particularly in respect of the Equal Employment Opportunity Campaign launched in 1983-84 to further inform groups experiencing discrimination about the Committees' role and to promote equal employment opportunity personnel practices to employers, employees and trade unions.

#### Barbados (ratification: 1974)

In earlier comments the Committee noted that the Government had declared a policy of non-discrimination against women and that it had the intention of implementing certain measures aimed at achieving this objective. These included, inter alia, the preparation of an Employment and Related Provisions Bill to prohibit discrimination on grounds of sex, as well as discrimination based on race, colour, creed, political opinion or social origin, and to provide to persons who consider themselves subjected to any discriminatory practice in employment a right of appeal to a tribunal. The Committee notes from the Government's latest report that there has been no further progress on the Bill and that it is highly unlikely that the Bill will be further considered in its present form. The Committee hopes that the Government will supply detailed information on the further measures taken in application of its policy of non-discrimination, including any legislative provisions to prohibit discrimination in employment and occupation and to provide means of redress.

Belgium (ratification: 1977)

1. The Committee notes with satisfaction that further progress has been achieved in the implementation of equality of opportunity and treatment of men and women in employment and occupation, in particular with the adoption of the following statutory instruments:

- Act of 15 May 1984 concerning measures to ensure consistency in pension schemes, which in particular establishes equality of treatment of spouses in respect of survivors' pensions, both for workers in the public sector and for wage earners and independent workers;
- Royal Order of 2 March 1984 establishing the advisory committee on disputes regarding equal treatment of men and women in the public service, whose function is to give counsel to the competent legal bodies, when requested, in disputes concerning the application to the public services of the provisions on equal treatment of the Economic Reform Act of 4 August 1978 which provides under Title V (sections 116 and following) for equality of treatment for men and women in respect of working conditions and access to employment, to vocational training and to promotion;
- Royal Order of 29 June 1983 concerning equal treatment between men and women regarding access to vocational training provided in teaching establishments, enacted pursuant to sections 124 and 125 of the Economic Reform Act of 4 August 1978;
- Royal Orders of 12 April 1983 and of 13 July 1984, amending, *inter alia*, section 118 of the Royal Order of 20 December 1963, concerning employment and unemployment, which provide for the extension of the reference period taken into account for the entitlement to unemployment benefits by the number of days for which remunerated employment is interrupted or working activity is reduced at least by half due to the raising of a child, which period shall not be less than six months, while the extension of the reference period shall not exceed three years, dating from each birth;
- Royal Order of 20 July 1982, amending section 143 bis of the Royal Order of 20 December 1963 concerning employment and unemployment, extending the entitlement to unemployment benefits of part-time workers who have interrupted their activity to raise their own child up to the age of three.

The Committee also notes with interest that, under the Collective Labour Agreement concluded on 6 December 1982 by the National Labour Council, the recruitment and selection of workers cannot be based in a discriminatory way on age, sex, civil status, medical history, nationality, political or philosophical beliefs, membership of a trade union organisation or any other organisation, and that it is recalled that the provisions of the Act of 4 August 1978 concerning equal treatment for men and women apply.

2. The Committee notes with interest the information provided by the Government concerning the activities of the Women's Labour Committee. It notes in particular that this committee issued on 9 May 1983 an opinion (No. 36) concerning the concept of "indirect discrimination", which should make it possible to determine the measures to be taken with a view to abolishing all discrimination of

an indirect nature; the Committee in question also issued opinions on the incidence of protective legislation on the access of women to employment (No. 31 of 21 July 1982) and on the access of women to the training for and the occupation of engineer officer (No. 34 of 12 July 1982), and it reiterated its request for the repeal of a number of protective provisions which could serve as a pretext for reserving certain jobs for male candidates. The Committee notes that the Women's Labour Committee, in the framework of the implementation of the new action programme on "the promotion of equal opportunities for women" of the European Community (1982-85), is co-operating in the preparation of a report concerning the application of European Directives in this respect, which will make a survey of the current situation in both public and private sectors and through a study of discriminatory practices will make it possible to decide upon the measures to be taken. The Committee notes that the Women's Labour Committee is examining new positive measures to be taken to encourage the employment of women, and that it has just widely distributed a pamphlet on "new perspectives for women", that it is sponsoring a project analysing the situation of women in the public service, which will enable the identification, through the career profile obtained, of possible cases of indirect discrimination in that field, and that it is examining the Belgian tax system and its effect on the employment of women with a view to identifying any elements to be considered discriminatory.

The Committee requests the Government to continue providing information on the legislative and practical measures taken in the field of the Convention, some of which are the subject of a direct request addressed to the Government.

#### Chile (ratification: 1971)

The Committee notes the information supplied by the Government in reply to its previous observation.

1. Article 8 of the Constitution. In its earlier observations, the Committee referred to article 8 of the Constitution of Chile adopted in 1980, under which any act of any person or group intended to propagate certain doctrines, including those advocating a conception of society, the State or law "of totalitarian character or based on class war", is illegal and contrary to the institutional order of the Republic. Similarly, organisations and political movements or parties that, by their aims or by the activities of their followers, tend towards such objectives are deemed unconstitutional. According to the same article, persons who have committed the above-mentioned offences shall be barred for ten years from access to any public post or position, shall automatically lose any such employment or office they may hold, and may not during the same period be rectors or principals of educational establishments, teachers or trade union leaders, nor may they exercise any function in the mass media relating to the publication or dissemination of opinions or information.

The Committee has learned that the Constitutional Court issued a judgment on 31 January 1985 declaring unconstitutional, by virtue of

article 8 of the Constitution, a number of political movements and parties.

The Committee asks the Government to supply a complete copy of the above-mentioned judgment and to indicate any measure or decision taken in pursuance of this judgment that may affect the situation in respect of employment or occupation, or access to employment or occupation, of leaders or members of the above-mentioned political movements and parties.

The Committee asks the Government to indicate any measure taken or under consideration to amend article 8 of the Constitution, with a view to ensuring the observance of the policy of non-discrimination provided for by the Convention.

2. Legislation on employment in the public service. In its previous observation the Committee referred to Legislative Decree No. 2345 of 17 October 1978, under which the Government may terminate the employment of any person working in the administration of the State, in state undertakings or in municipal bodies, irrespective of any other requirement or legal provision in force, and to Legislative Decree No. 3410 of 26 May 1980 depriving persons assigned to their posts by the President of any guarantee or security of employment.

The Committee notes that the bill of the organic constitutional act to define the basic organisation of the public administration and propose the repeal of the above-mentioned Legislative Decrees is following its course before the legislative authority. The Committee hopes that this bill will be adopted in the near future.

3. Legislation on higher education. In its previous observation the Committee referred to Legislative Decrees Nos. 112 and 139 of 1973, 473 and 762 of 1974, and 1321 and 1412 of 1976, which conferred on delegated heads of universities broad discretionary powers to appoint and dismiss academic and administrative staff.

The Committee takes note of a series of decrees with force of law (Nos. 148 to 164) promulgated in 1982, which lay down the powers of the authorities and collegiate organs of state bodies and establish the standards governing the teaching and administrative staff. According to the Government, these texts impliedly repeal the Legislative Decrees that have been the subject of comment by the Committee since they regulate the matter exhaustively and have been issued later.

The Committee observes that the transitional provisions of the above-mentioned Decrees of 1982 provide that the rector shall retain the powers that he already has until the promulgation of the various regulations respecting the organisation of universities and institutes. The discretionary powers of the rectors provided for by Legislative Decrees Nos. 112 and 139 of 1973, 473 and 762 of 1974 and 1321 and 1412 of 1976 appear, therefore, to remain in force so long as the new university regulations have not been promulgated.

The Committee asks the Government to provide a copy of the regulations issued in the various universities and institutions of higher education. It hopes that, with a view to avoiding any uncertainty concerning the powers of the rectors which might subsist in spite of the tacit repeal referred to by the Government, Legislative Decrees Nos. 112, 139, 473, 762, 1321 and 1412 will be expressly repealed.

[The Government is asked to supply full particulars to the Conference at its 71st Session and to report in detail for the period ending 30 June 1985.]

Colombia (ratification: 1968)

The Committee notes the detailed information supplied by the Government in its report and in its statement to the Conference Committee in 1983.

In its previous observation the Committee referred to the comments of the General Confederation of Labour alleging that discrimination on the basis of political opinion existed in the public service. The General Confederation of Labour claimed that most public servants were unable to count on an administrative career and that posts in the administration were allocated on the basis of quotas reserved by the political leaders. The Committee asked the Government to supply information on these matters.

The Committee notes the statement by the Government that there is no discrimination in Colombia on the basis of political opinion but rather constitutionally imposed parity between the Liberal and Conservative Parties in posts in the administration coming under article 120 of the Constitution which provides that parity between the Conservative and Liberal Parties in the ministries, provincial governments and other offices in the administration not forming part of the administrative career was to be maintained until 7 August 1978 and that after that date the appointment of the public servants in question was to be made in such a way that an adequate share was given to the majority party other than that of the President of the Republic. The same article specifies that this provision shall not prevent other parties or members of the armed forces from being called on at the same time to assume office in the public administration.

With regard to the procedure for recruitment and promotion in the public service, both local and national, the Government states that after the suspension some ten years ago, under the state of emergency, of the administrative career provided for by Decree No. 2400 of 1968 and Decree No. 1950 of 1973 entry to the public service has been effected through free and direct appointment by the competent authority, that the state of emergency was lifted in June 1982 and that the administrative career was then restored. The Government further states that since the time when the career was established, public servants engaged in this career have always belonged to it and will continue to do so in all respects; public servants who joined the service during the period of suspension of the administrative career were appointed and may be dismissed without restriction; since 1982 public servants joining the administration must do so by competition, but non-career appointments continue to be subject to free appointment and dismissal.

The Committee notes with interest the statement by the Government that a bill on the administrative career was to be submitted to congress in July 1984 with a view to restoring the administrative career that had been established by Decree No. 2400 in 1968 and guaranteeing stability of employment to efficient and honest public

servants but not preventing the removal of those who are a source of prejudice and a burden to the Government.

The Committee requests the Government to provide detailed information on the posts in the public administration, at the national level and in territorial bodies, to which the principle of parity between the Liberal and Conservative Parties laid down in article 120 of the Constitution applies, as well as on the scope and practical application of the same article as regards the participation without discrimination in functions of the public administration of persons who are either affiliated with other parties or without any such affiliation. The Committee asks the Government to indicate whether the limitative criteria of efficiency and honesty, referred to in its report, are already mentioned in the bill respecting the administrative career, or whether the Government intends to include them, specifying also the methods to be used for verifying an official's compliance with these criteria.

The Committee trusts that the necessary legal provisions will be adopted to abolish in law and in practice all discrimination based on political affiliations. The Committee asks the Government to report any progress made in this connection.

#### Czechoslovakia (ratification: 1964)

The Committee notes the information communicated by the Government to the Conference Committee in 1984 and in its report.

#### The incidence of political and moral qualifications in employment

In its previous observations, the Committee had noted the interpretation of section 46(1)(e) of the Labour Code in the Digest of Court Decisions (No. 9-10, 1978, Supreme Court of the Czechoslovak Socialist Republic), according to which workers may be dismissed on the basis of non-fulfilment of requirements which does not result in unsatisfactory results at work and that this may concern, according to the nature of the work performed or the function exercised, not only their particular professional knowledge but also their civic engagement, moral and political qualities etc.; an organisation which has used this ground of dismissal must prove that it concerns requirements which constitute an essential condition for the proper performance of the job and that the non-fulfilment of these requirements is not the fault of the organisation. The Committee had further noted the comment by the Supreme Court that the non-fulfilment of essential conditions for the proper performance of a job will, in the majority of cases, relate to requirements of a permanent character and that occasional non-fulfilment would not usually be so serious (save in exceptional cases) as to lead to dismissal. The Committee had requested the Government to supply information on national practice in respect of employment requirements regarding the civic engagement and political qualities of workers, including the nature of jobs to which such requirements applied.

In its report, the Government refers to the above-mentioned interpretation of the Supreme Court, and emphasises that, according to that interpretation, political requirements cannot be imposed in a general manner but only in specific cases. It recalls that, on the basis of the interpretation of the Supreme Court and after consultation with the Central Council of Trade Unions, the Federal Ministry of Labour and Social Affairs had issued new model work regulations in 1981. The Government states that action had been taken, in co-operation with the Czechoslovak Chamber of Commerce and Industry and by means of direct inquiries conducted by the Czechoslovak trade unions in numerous enterprises, to verify that all enterprises had adopted new work regulations in accordance with the model regulations. It also states that the Federal Ministry of Labour and Social Affairs had issued an Ordinance dated 12 September 1984 (which was to be made available to the ILO) concerning the remuneration of technical and professional workers with a nation-wide validity, which replaced all regulations issued industry by industry. The Government indicates that an analysis of disputes concerning dismissal under section 46(1)(e) carried out by the Czech and Slovak Ministries of Justice had not revealed any cases involving the non-fulfilment of political requirements.

In respect of access to employment, the Government's report states that enterprises must not, without serious reasons, refuse to establish an employment contract with workers who have been recommended to them by National Committees and who have the required capacity to fill the vacancies (Law No. 70/1958). The Government mentions its intention to issue an instruction to ensure that National Committees within the sphere of their competence continue to guarantee consistent implementation of all stipulations of the Labour Code concerning equality of opportunities and treatment in employment and occupation; the instruction will treat expressly the problems of requirements for the performance of work, including those not connected with the results of the work, and it will mention the necessity to observe the same principles in connection with access to employment as were enunciated by the Supreme Court in its interpretation of cases of dismissal under the Labour Code.

The Committee would appreciate receiving a copy of the Ordinance issued in September 1984 to establish standards of nation-wide application in respect of the remuneration of technical and professional workers.

The Committee notes that the Government's report does not contain information on the nature of jobs for which there exist requirements regarding civic engagement and moral and political qualities. Since such information remains important for an appreciation of the practical effect of the Ordinance of 1984 and of the proposed instruction referred to by the Government in its report, the Committee hopes that the necessary particulars will be supplied in the Government's next report.

Resolution on cadre and  
personnel work

In its previous observation, the Committee had requested information concerning the effect of the Resolution of the Presidium of the Central Committee of the Czechoslovak Communist Party of 6 November 1970 relating to the professional qualifications and manner of appointment of supervisory employees in all spheres of life of the society. The Committee had noted the statement made by the Government to the Conference Committee in 1983 that the leading role of the Communist Party was a constitutional principle from which resulted responsibility for the general economic and social development of the country, including responsibility for the selection and deployment of personnel in top management.

The Committee notes the statement communicated by the Government to the Conference Committee in 1984, that the Government considered questions concerning the personnel policies of political parties not to fall within the ambit of the Convention. The Government observed that all political parties strive for manning posts which are deemed important for the implementation of political programmes with persons who are willing to actively promote the programmes in question; and that the range and number of the respective posts or functions and policies implemented by political parties to achieve this objective depend on the whole range of circumstances, such as the contents of political programmes, the political and social system of the country or the different cultural, religious and other traditions or practices.

The Committee would observe that its previous comments did not involve questions concerning the personnel policies of political parties regarding their own employees. In this connection, the Committee recalls the explanations provided in its General Survey of 1963 on discrimination in employment and occupation (paragraph 42), in which it stated that political opinions may be taken into account in connection with the requirements of certain senior administrative posts involving special responsibility in the implementation of government policy, but observed that, if carried beyond certain limits, this practice comes into conflict with the provisions of the 1958 instruments which call for the pursuance of a policy designed to eliminate discrimination on the basis of, inter alia, political opinion, particularly in employment under the direct control of a national authority.

In the present case, the Committee has noted that the principles laid down in the Resolution of 6 November 1970 are not limited to posts or employment in the Party or policy-making functions in Government but apply to supervisory personnel in all spheres of life of society. The Committee wishes to refer to paragraph 43 of the 1963 Survey in which it stressed the need for an objective reappraisal of cases in which one of the criteria cited by the Convention is taken into consideration in determining the inherent requirements of a job, in order to establish whether or not they are really justified. It accordingly expresses the hope that the Government will furnish particulars of the nature of jobs in the economy at large in which the selection and deployment of personnel takes place on the basis of the



Resolution of 6 November 1970, and of the criteria and procedures applied in this connection.

Denmark (ratification: 1960)

The Committee notes with satisfaction from the information provided by the Government in its report that Act No. 161 of 12 April 1978 on Equal Treatment for Men and Women as Regards Access to Employment etc. was amended by an Act of 12 March 1984 so as to extend the employers' duty to treat male and female employees equally beyond the situation where they are employed in the same place of work.

The Committee further notes with interest that amendments made to the Maternity Leave Act 1980 by Act No. 63 of 21 February 1984 now entitle female salaried employees to four weeks leave of absence before the estimated date of confinement and 24 weeks leave after birth, of which a maximum of ten weeks may be taken by the father instead of the mother after the 14th week following the birth. The right to absence from work for adoptive parents has been extended correspondingly. Fathers are also entitled to two weeks' leave of absence from work immediately after confinement or after the child is received in the home, independently of the mother's entitlement. Daily cash benefits paid in connection with maternity or sickness were extended for maternity and adoption leave correspondingly.

Finland (ratification: 1970)

1. The Committee notes with interest the information provided in the Government's reports and attached documents in response to the Committee's previous comments, and in particular:

- (i) the coming into operation on 1 January 1984 of section 34(b) of the Act concerning Contracts of Employment, 1970, ensuring that employees may resume their former or comparable jobs after having taken maternity or other leave to care for children. Section 34(b) applies to female and male parents and foster parents in accordance with the principle of Convention No. 156 concerning equality of treatment for men and women workers with family responsibilities;
- (ii) that following the Decision of the Ministry of Finance of 9 February 1981 urging all government offices and institutions to take into consideration in their own personnel policies, the Government's 1980-85 programme to promote equality between the sexes (adopted by the Council of State on 29 April 1980), more than 40 offices and institutions employing a total of about 80 per cent of government officers and employees have adopted personnel policy programmes. According to the statement in the Decision of the Ministry of Finance, issues of equality apply especially to such matters as the employment of personnel, promotion in employment, participation in education, division of labour, organisation of work and hours of work and wages.

The Committee requests the Government to provide any information describing the effect of these measures to ensure equality for women in various areas of government employment.

Federal Republic of Germany (ratification: 1961)

Promotion of equality of opportunity and treatment in employment and vocational training for women and for disadvantaged groups of the population

1. The Committee notes with interest the detailed information supplied by the Government on measures taken in the field of vocational training. It notes in particular the development of a comprehensive programme for the vocational training and occupational integration of foreign adolescents and other disadvantaged groups of the population, the increase of female trainees from 36.5 per cent of the total number of trainees in 1977 to 39 per cent in 1982, and the launching of a special programme in 1983 to promote the training of young women, since two-thirds of unsuccessful applicants for training positions in 1983 were young women. The Committee hopes that the Government will continue to supply information on developments in these respects.

2. The Committee has taken note of two recent decisions of the European Court of Justice concerning the equal treatment of men and women. It also notes that proceedings are at present pending before the European Court of Justice concerning compliance by the Federal Republic of Germany with the Directive of 1976 on equal treatment of men and women as regards access to employment, vocational training and promotion, and working conditions, that the Government considers that it has fully complied with that Directive, and that it will await the outcome of the present proceedings to consider whether any further legislative action may be required. The Committee requests the Government to provide information on further developments in these matters.

3. The Committee has taken note of the report by the Federal Government to Parliament dated 31 March 1983 concerning experience with that part of the Labour Law EC Adaptation Act which relates to equality of treatment for men and women at work. According to that report, the German Confederation of Trade Unions considers that the legal provisions have not had any positive effects in practice; a number of specific difficulties have been brought to the Government's attention by various associations, courts of justice and authorities. The Committee hopes that the Government will provide information on further developments in regard to these matters, which it is commenting upon in greater detail in a direct request.

Equality of opportunity and treatment in public employment

In its previous observations the Committee referred to measures to be taken to ensure equality of opportunity and treatment in public

employment, as required by the Convention, in connection with the obligation of faithfulness to the free democratic basic order imposed on public servants and candidates for public employment. The Committee notes that a representation alleging non-observance of the Convention on this point was made by the World Federation of Trade Unions under article 24 of the ILO Constitution in June 1984, and that this representation is still being examined by the Governing Body of the ILO. In accordance with established practice, the Committee defers further comment on the question pending conclusion of the above-mentioned procedure.

Guinea (ratification: 1960)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

In its earlier comments, the Committee noted the statement made by the Government in its report for the period from 1 July 1971 to 30 June 1972, that access to employment in the public service and in economic undertakings is obtained through special services set up by the Government upon an initial decision of the Party, which implies, as the Government stated in its report, indirect control by the Party over all the Government's actions. The Government had also previously stated that discrimination based on sex, race, colour, religion, region or nationality is contrary to the principles of the Party. The Committee requested the Government to indicate the measures taken or under consideration to ensure that all discrimination based on political opinion is eliminated.

The Committee noted the information supplied by the Government in its report with reference to section 44 of the 1958 Constitution and to Decree No. 84/PRG of 31 March 1965. The Committee noted that under the terms of section 44 of the Constitution, the citizens of the Republic of Guinea have the same right to work, rest periods, social security and education. Decree No. 84/PRG of 31 March 1965 defines the administrative terms and conditions of recruitment and appointment of permanent non-official personnel to state companies and undertakings, governed by the Labour Code. The Committee observed that these provisions do not appear to ensure the elimination of political discrimination in respect of access to employment in the public service indicated subsequently by the Government. The Committee hopes that the necessary measures to ensure the elimination of all discrimination based on political opinion in employment and occupation will be taken, or, if they already exist, that the Government will supply information about them.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Islamic Republic of Iran (ratification: 1964)

1. The Committee notes that no report has been received from the Government.

The Committee notes, however, the statement made by a Government representative to the Conference Committee in 1984 that all provisions of Conventions, Recommendations and other decisions of the ILO or other international bodies that are not, in the opinion of the Islamic Republic of Iran, in conformity with Islamic principles are null and void.

The Committee expresses its deep concern over such a statement which questions the principle of observing international obligations and their very validity.

The Committee recalls that in freely ratifying the Convention, Iran undertook, in accordance with article 19 of the Constitution of the ILO, to take such action as may be necessary to make effective the provisions of the Convention. As the Committee has constantly pointed out, the requirements of a Convention remain constant and uniform for all countries having ratified it, irrespective of the political, social or economic system and subject only to exceptions expressly authorised by the Convention.

The Committee trusts that the Government will reconsider its position in order to satisfy the obligations incumbent on it by virtue of its ratification of the Convention in accordance with the Constitution of the ILO.

2. The Committee notes that the information communicated by a Government representative to the Conference Committee in 1984 contained no new elements in respect of the following issues, which have been dealt with previously:

In its previous comments, the Committee noted that, by virtue of articles 12 and 13 of the Constitution of the Islamic Republic of Iran, the religion of the State is Islam, the dogma being that of the Jafari Ithna Ashari sect, and that the Iranian Zoroastrians, Jews and Christians are the only recognised religious minorities who are free, within the limits of the law, to practice their religion and to act in respect of their personal status and religious persuasion, according to their dogma.

The Committee also examined a note by the Secretary-General of the United Nations submitted to the Commission on Human Rights of the United Nations at its 38th Session (E/CN.4/1517). The Secretary-General refers, in particular, to documents from which it appears that, since the revolution, many educational institutions have introduced registration forms which specify that those seeking admission must belong to one of the recognised religions of the country; that large numbers of Baha'i students at all educational levels (including some in their final year of professional training) have been expelled from their places of learning solely on the grounds of their religion; that Baha'i nurses, after completing their training, have been denied their diplomas; that since the beginning of the Revolution, countless Baha'i civil servants have been arbitrarily dismissed and denied back pay and pensions; that pressure has been put on non-Baha'i employers to dismiss their employees belonging to this group, and that the majority have concurred.

The Committee also referred to the Directive of the Ministry of Labour and Social Affairs, adopted pursuant to the decisions of the Islamic Parliament of 27 September 1981, establishing that those who belong to "the misguided Baha'i group" are excluded for life from government services; this Directive applies to all employees of government agencies and of factories, banks, companies and institutions operated by, or affiliated to, the Government, irrespective of the protection given them by the labour legislation. Moreover, "purge" committees have been established in the various administrations and undertakings concerned in order to apply these provisions.

The Committee also took note of an official report of the Oil Ministry published on 6 April 1983 in the newspaper Etele'at, Issue No. 16980. According to this report, out of 783 officials of this Ministry dismissed for life, 630 officials were dismissed for their membership of the "misguided Baha'i group ... which is a heretical group outside Islam", membership of free-masonry or membership of organisations whose constitutions imply atheism and which have been banned, while the 153 other officials were dismissed for such reasons as collaboration with the disbanded SAVAK, for activities detrimental to security, such as spying, immorality, corruption or participation in efforts towards the restoration of the previous regime.

The Committee expresses its concern at the adoption of measures which make it possible to dismiss and definitively exclude various categories of persons both from the public service and from public, semi-public and joint enterprises in the state sector (at present the principal employer) on the grounds of their religion or membership of a religious sect or their political opinion.

The Committee recalls that under Article 3(d) of the Convention the Government is obliged to pursue a policy of non-discrimination in respect of employment under the direct control of a national authority. Furthermore, by virtue of Article 3(c), the Government must repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with this policy of non-discrimination. Therefore, measures must be taken to bring both law and practice into conformity with the Convention on the questions mentioned above.

The Committee further hopes that the Government will supply detailed information on the measures taken to ensure equality of opportunity and treatment in employment and occupation so as to eliminate all discrimination based, in particular, on sex, national extraction, social origin and political opinion in all sectors of activity. It also hopes that the Government will supply certain texts and information on practices followed concerning access to training, which are the subject of a direct request addressed to the Government.

[The Government is asked to supply full particulars to the Conference at its 71st Session and to report in detail for the period ending 30 June 1985.]

Norway (ratification: 1959)

The Committee notes the information supplied by the Government to the Conference in 1984 and in its report, and the comments made by the Norwegian Federation of Trade Unions.

In its previous observations, the Committee had referred to the conclusions of the Governing Body (March 1983) after its examination of a representation submitted by the Norwegian Federation of Trade Unions. The Governing Body had considered that section 55A of the Worker Protection and Working Environment Act 1977 (as amended by Act No. 22 of 1982) was drafted in such a way that employers could question job applicants about their political, religious or cultural views where such views were not relevant to the inherent requirements of a given job; it had asked the Government to take measures to ensure that section 55A be worded, interpreted and applied in conformity with Article 1, paragraph 2, of the Convention.

Following the Governing Body's consideration of the matter, the Government submitted a document to Parliament (Proposition No. 49, 1983-4) clarifying the purpose of section 55A and explaining that the 1982 formulation had been introduced to express more clearly that the objectives of the undertaking are an important factor when consideration is being given to what questions may be asked about opinions and beliefs in connection with certain posts. In the Government's view, this would mean that in the field of responsibility of each particular post, there must be duties which relate to the realisation of the special objectives of the undertaking. It is also stated in Proposition No. 49 that the administrative authorities and the law courts must attach importance to the ILO Convention when considering the application of section 55A in specific cases. On the basis of the clarifications made in Proposition No. 49, the Government decided not to propose any amendment to section 55A.

The Committee also notes that the Eidsivating High Court, in a judgment of 29 September 1984, reversed the decision of the Oslo District Court (to which the Governing Body had referred in its report on the above-mentioned representation) in a case concerning the application of the section 55A (as originally worded). According to the High Court, the personnel policy guide-lines of a Christian college for the training of social workers (Diasos), which required that all job applicants being considered for appointment in the Department of Social Work be asked about their position with regard to the Christian faith, were contrary to section 55A. The High Court stated that section 55A must be interpreted in accordance with Convention No. 111, and that for questions about ideology to be lawful, it must first have been defined as a necessary qualification for the particular post. The Court considered that it would not be in keeping with the protection which the main provision of section 55A is intended to give job applicants, if they could be asked about their ideology on the basis of a more or less vague or relative notion of the importance of the ideology in relation to the appointment; the post must be of direct importance to the realisation of the institution's objectives for the exception clause to be applied.

The Committee notes from the Government's report that an appeal against the judgment of the High Court is being taken to the Supreme

Court. The Committee requests the Government to supply the text of the Supreme Court's decision in due course as well as information on any further developments which may show how the observance of the Convention is ensured in the application of section 55A of the Working Environment Act.

Sierra Leone (ratification: 1966)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

1. The Committee noted from the Government's report that no national policy has been declared to promote equality of treatment in respect of access to employment and occupation and as regards terms and conditions of employment and that, consequently, it has not been possible to appraise the effect of such a policy. It noted, however, the Government's statement that, in general practice, there is no form of discrimination within the meaning of Article 1 of the Convention in Sierra Leone.

The Committee would refer to paragraphs 25 and 51 of its General Survey of 1971 on discrimination, where it pointed out that the implementation of the Convention does not merely require the absence of laws and administrative measures expressly introducing inequalities but also rests upon the adoption of positive measures in pursuance of a national policy designed to promote equality of opportunity. The Committee hopes that the Government will supply information on the various points to be covered by such a policy which are considered in a more detailed request addressed directly to the Government.

2. The Committee noted that the Constitution of Sierra Leone (Act No. 12 of 1978) which makes provisions for a one-party system of Government, provides in article 5 that every person in the country is entitled to the fundamental rights and freedoms of the individual, whatever his race, tribe, place of origin, colour, creed or sex. Article 17 of the Constitution proscribes the making of laws which are discriminatory of themselves or in their effect; and forbids the discriminatory treatment of any person by anyone acting under law or in the performance of the functions of any public office or authority. Article 17 refers to discrimination on the grounds of race, tribe, place of origin, colour or creed. Having observed that the above provisions do not prohibit discrimination on the basis of political opinion, as did the corresponding sections in the previous Constitution, and that articles 138(3) and 139(3) of the Constitution reserve certain high public offices to members of the recognised party, the Committee would ask the Government to supply information on any further provisions adopted which would establish a link between political opinion or affiliation and qualifications for employment, and on any measures taken or envisaged in this connection to ensure the observance of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Tunisia (ratification: 1959)

The Committee notes with satisfaction the establishment of the Ministry of the Family and the Advancement of Women, whose functions, laid down by Decree No. 84-107 of 9 February 1984, are directed towards the drawing up and putting into effect of the policy of the Government respecting the family and the advancement of women.

The Committee asks the Government to continue to supply information on the activities carried out by this Ministry to promote equality of opportunity and treatment in respect of employment and occupation.

Turkey (ratification: 1967)

1. In earlier comments, the Committee noted that section 2 of Martial Law, as amended by Act No. 2301 of 19 September 1980, makes it mandatory for the competent authorities to execute immediately every request of the Martial Law Commanders to transfer or dismiss employees of the central Government and to suspend or dismiss officials in local administrations whose services are considered harmful from the point of view of general security, law and order or public safety, or whose work is not considered necessary.

The Committee notes from the report of the Government that Martial Law has been lifted in 13 provinces by decision of the Grand National Assembly dated 19 March 1984. The Committee understands that Martial Law remains in force in the other 50 provinces. It notes the information supplied by the Government concerning the application of the above-mentioned provisions of Martial Law.

The Committee notes the statement by the Government that the fact that it is the Martial Law Commanders who are responsible for decisions to transfer or dismiss civil servants must be regarded as proof that the procedures in question do not constitute political discrimination. The Committee observes, however, that the legislation does not require the Martial Law Commanders to take account of the effect that the activities the civil servant is reproached with may have on the performance of the duties inherent in his office when they take decisions concerning transfer or dismissal. The Committee further notes that the Martial Law Commanders can also take measures of transfer or dismissal when "the work is not considered necessary", a criterion irrelevant to the protection of the security of the State whose application should depend directly on the decision and responsibility of the authorities employing the civil servants.

The Committee refers to paragraph 38 of the General Survey of 1971 on discrimination, in which it stated that measures designed to protect the security of the State within the meaning of Article 4 of the Convention must be clearly defined and so worded as not to form a basis for discrimination based solely on political opinion, which would be inconsistent with the 1958 instruments.

The Committee trusts that the Government will take measures in the very near future to repeal or amend the provisions in question so as to ensure that civil servants can be transferred or dismissed only



on the basis of clearly defined criteria and that the decisions will follow procedures guaranteeing adequate protection against any failure to observe these criteria.

Pending the adoption of such measures, the Committee asks the Government to supply detailed information on the application of section 2 of Act No. 1402 in the provinces in which Martial Law remains in force.

2. In its earlier comments, the Committee noted that Act No. 2766 of 29 December 1982 provides for the possibility of reviewing the cases of persons dismissed and reinstating those found suitable for the public service.

The Committee notes from the report of the Government that 880 civil servants out of the 4,530 dismissed under Martial Law have so far been reinstated in their work.

The Committee asks the Government to continue to provide detailed information on the results of the current review of cases of dismissal.

3. The Committee notes the statement by the Government that new legal provisions are under study with a view to controlling dismissals and lay-offs in the regions where Martial Law has been lifted.

The Committee asks the Government to provide a copy of these new legal provisions as soon as they are adopted.

4. With reference to its earlier comments concerning discriminatory measures against former prisoners in respect of access to employment and occupation, the Committee notes the statement of the Government that the employment situation does not facilitate the re-employment of all ex-convicts, although section 25/B of Act No. 1475, as amended by Act No. 2869, provides that undertakings where 50 or more workers are employed should reserve for ex-convicts a minimum of 2 per cent of the labour force employed.

The Committee asks the Government to indicate the measures taken or under consideration, in accordance with Article 3(a), to seek the co-operation of employers' and workers' organisations in promoting the acceptance and observance of the policy of non-discrimination, of which Act No. 1475 constitutes an element.

5. With reference to its earlier comments concerning section 3(d) of Act No. 1402, as amended by section 1 of Act No. 2836 of 3 June 1983, enabling the Martial Law Commanders to expel from the region under their control persons suspected of being a threat to public order or security or those previously convicted on similar grounds, the Committee notes the statement by the Government that such temporary measures are intended to prevent the possible wrongdoing of persons with malicious intentions.

The Committee again refers to paragraph 38 of its General Survey of 1971 on discrimination, in which it stated that measures designed to protect the security of the State within the meaning of Article 4 must be clearly defined and so worded as not to form a basis for discrimination based solely on political opinion, which would be inconsistent with the Convention.

The Committee asks the Government to indicate the measures taken or under consideration to ensure that decisions of expulsion taken under the above-mentioned provisions of Martial Law do not lead to discrimination based on political opinions. It asks the Government

to furnish detailed information on the application in practice of these provisions as long as they remain in force.

USSR (ratification: 1961)

1. In previous observations, the Committee had referred to communications from the International Confederation of Free Trade Unions, listing a number of Soviet citizens who were said to have been dismissed from their employment as university teachers, physicists, engineers, biologists or from similar positions after they or members of their families had applied to emigrate. From then on, these persons were stated to have been denied access to employment corresponding to their qualifications. Several of them were alleged to have been refused registration with the tax authorities when they sought to earn their livelihood as teachers of mathematics and of the Hebrew language. The Committee had asked the Government to provide information explaining the circumstances of the persons concerned and the reasons for measures affecting their situation in employment and occupation.

The Committee notes the Government's statement in its report, that the Committee's comments were based on unsubstantiated allegations. It has also taken note of the statement by a Government representative to the Conference Committee in 1984 that there was no real link between emigration or the wish to emigrate, and dismissal, and that no discrimination was involved.

The Committee observes that detailed and precise allegations had been submitted by the ICFTU. In the absence of information from the Government explaining the circumstances of the persons concerned and the reasons for measures affecting their situation in employment and occupation, the Committee regrets it has not been able to satisfy itself of the observance of the Convention in these cases.

2. The Committee is addressing a direct request to the Government concerning measures to ensure equality of opportunity and treatment in relation to various legislative texts concerning higher studies and employment in academic, teaching, managerial and specialist positions.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Algeria, Argentina, Australia, Austria, Bangladesh, Barbados, Belgium, Bolivia, Bulgaria, Chad, Chile, Colombia, Costa Rica, Cyprus, Czechoslovakia, Finland, France, Gabon, Federal Republic of Germany, Guatemala, Guinea-Bissau, Hungary, Iceland, India, Islamic Republic of Iran, Iraq, Jamaica, Kuwait, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Mexico, Nepal, Niger, Norway, Panama, Paraguay, Peru, Philippines, Portugal, Romania, Rwanda, Senegal, Sierra Leone, Somalia, Spain, Sudan, Swaziland, Switzerland, Tunisia, Turkey, Ukrainian SSR, USSR, Yemen, Zambia.

**Convention No. 112: Minimum Age (Fishermen), 1959**Liberia (ratification: 1960)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee had pointed out in its previous observations that section 326 of the Maritime Law, to which the Government had referred in earlier reports, which lays down a minimum age, applies only to vessels engaged in foreign trade and that section 74 of the Labour Law, which prohibits the employment of children under 16 years of age during the hours when they are required to attend school, do not ensure that children under 15 years of age shall not be employed or work on board fishing vessels, in accordance with Article 2, paragraph 1, of the Convention. Furthermore, the Government has stated in an earlier report that the Maritime Law is inapplicable to fishermen.

The Government refers in its reports to the proposed new Labour Law and to a draft Decree incorporating provisions to implement the Convention. A Government representative stated at the Conference Committee in 1983 that it was hoped that these texts would be adopted soon. The Committee trusts that the Government will soon be able to supply the text of any suitable provision adopted.

Suriname (ratification: 1976)

With reference to its earlier comments, the Committee takes note with satisfaction of Decree No. E-41 of 12 September 1983, which raises the minimum age for admission to employment on board fishing vessels from 14 to 15 years and thus brings the legislation into conformity with the Convention.

**Convention No. 113: Medical Examination (Fishermen), 1959**Liberia (ratification: 1960)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee has pointed out in its previous observations that section 336(3)(d) of the Maritime Law, to which the Government had referred in earlier reports, which provides that a seaman shall not be entitled to sickness or injury benefit if, at the time of his employment, he refused to be medically examined, does not ensure the medical examination of persons to be employed on board fishing vessels, in accordance with Articles 2 to 5 of the Convention. Moreover, under section 290(2)(a), even the above provisions do not apply to vessels under 75 tons net.

Furthermore, the Government has stated in an earlier report that the Maritime Law is inapplicable to fishermen.

The Government refers in its reports to the proposed new Labour Law and to a draft decree incorporating provisions to implement the Convention. A Government representative stated at the Conference Committee in 1983 that it was hoped that these texts would be adopted soon. The Committee trusts that the Government will soon be able to supply the text of any suitable provisions adopted.

\* \* \*

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

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

#### Cyprus (ratification: 1966)

Further to its earlier observation, the Committee notes from the Government's report that the competent authority in respect of the Convention is the Ministry of Agriculture and Natural Resources. It also notes that the formulation of legal provisions which will give effect to the Convention is at present under way, and that the Government hopes to be able to indicate real progress in its next report. The Committee requests the Government to give details on the measures taken and to supply the texts of the provisions adopted.

#### Liberia (ratification: 1960)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee notes that the Government refers again in its report to the proposed new Labour Law and draft Decree incorporating provisions to implement the Convention. A Government representative stated at the Conference Committee in 1983 that it was to be hoped that these texts would be adopted soon. The Committee trusts that the Government will soon be able to supply the text of any suitable measures adopted.

\* \* \*

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

Information supplied by Netherlands in answer to a direct request has been noted by the Committee.

**Convention No. 115: Radiation Protection, 1960**

India (ratification: 1975)

With regard to its previous comments, the Committee notes with satisfaction the adoption of the Atomic Energy (Factories) Rules, 1984.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Greece, Guinea, Iraq.

**Convention No. 117: Social Policy (Basic Aims and Standards), 1962**

Requests regarding certain points are being addressed directly to the following States: Brazil, Jordan, Kuwait, Portugal, Syrian Arab Republic.

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

Guinea (ratification: 1967)

In its previous comments the Committee took note of the Government's statement of intention, in particular during the direct contacts held in October and November 1981, of using the present revision of the Social Security Code to settle the questions raised in the Committee's earlier comments. The Committee notes with regret that for the second year in succession the Government's report has not been received. It must therefore repeat its previous observation which dealt with the following points:

Article 4, paragraph 1, of the Convention. The Government stated in its report for 1970-71 that the term "international conventions" used in section 113 of the Social Security Code was interpreted as referring to Convention No. 118 and that measures would be taken to deal with cases of residence or transfer of residence abroad. The Committee would again request the Government to state in its next report whether, on that assumption, it has taken steps to ensure that foreign workers who are citizens of a State Member for which the Convention is in force, and their survivors, receive benefits in the form of a pension in the same way as nationals without any condition of residence.

Article 5. In its first report the Government stated that old-age and survivors' benefits, death grants and employment injury pensions were paid in cases of residence abroad, but in its report for the period 1970-71 it stated that such payments were subject to the conclusion of agreements with friendly countries. The Committee noted that only one draft agreement of this kind had been planned with Senegal, Mali and Mauritania

within the framework of the Organisation of Senegal River States, but that this project was in abeyance. The Committee would stress that, according to the Convention, the payment of the benefits in question must be automatically guaranteed in case of residence abroad, irrespective of the country of residence and even when no agreement has been concluded, both to citizens of Guinea and to citizens of any other State Member which has accepted the obligations of the Convention in respect of the branch in question, agreements with States of residence being justified only as a means of determining, where necessary, the methods of payment. As the legislation in Guinea does not appear to contain any restriction as to the territories in which such benefits may be paid (except for the restriction applying only to the non-nationals mentioned under Article 4 above), the Committee would request the Government to take the necessary steps to apply the Convention in practice in this respect.

Article 6. Since section 38 of the Social Security Code provides that family allowances shall be payable only in respect of children residing in Guinea, the Committee would once again request the Government to state what measures it proposes to take, by bilateral or multilateral agreement with the States concerned or otherwise, to guarantee the payment of family allowances to all workers covered by Guinean legislation in so far as they are nationals of Guinea or of another State Member which has accepted the obligations of the Convention concerning family allowances, in respect of the children of those workers who are resident in any of those States.

[A list indicating the branches accepted by the States parties to the Convention is annexed to the text sent to the Government].

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Barbados, Brazil, Central African Republic, Iraq, Jordan, Kenya, Libyan Arab Jamahiriya, Mauritania.

Information supplied by Ireland in answer to a direct request has been noted by the Committee.

### Convention No. 119: Guarding of Machinery, 1963

#### Algeria (ratification: 1969)

With reference to its previous observation, the Committee notes from the report of the Government that the adoption and promulgation of the texts under the Act respecting the General Conditions of Employment of Workers, which are to cover the activities dealt with by the Convention, will take place when other legislative work concerning labour matters has been completed. The Committee can only urge the Government once more to do everything within its power to ensure that these texts will be adopted very shortly and hopes that they will

cover all the activities dealt with by the Convention, in accordance with Article 17 and that they will give effect to the various other provisions of this instrument, including Articles 2 and 6 (by defining the dangerous parts of machinery for which guards are necessary with a view to their sale, hire, transfer in any other manner, exhibition and use), Article 4 (by specifying the persons on whom the obligation rests to ensure compliance with the provisions of Article 2), Articles 10 and 11 (information and protective measures for the workers) and Article 15 (measures of enforcement and supervision).

[The Government is asked to report in detail for the period ending 30 June 1986.]

#### Central African Republic (ratification: 1964)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

With reference to its previous observations, the Committee has taken note of the information communicated by the Government to the Conference Committee in June 1983, to the effect that the draft decree designed to give effect to the Convention was in the process of adoption. The Committee notes however that the latest report of the Government does not contain any information as to the adoption of this decree. In these circumstances, the Committee can only raise the question again, and trusts that this decree (with the annex provided for in section 1, subsection 3, thereof) will be adopted in the near future and that it will give effect to the following Articles of the Convention: Article 2 (specification of dangerous machines or parts); Article 10, paragraph 1 (imparting of information to workers); Article 11 (prohibition of workers from using any machinery without the guards provided being in position and from making them inoperative).

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

#### Congo (ratification: 1964)

Article 2 of the Convention. With reference to its earlier observations, the Committee notes the statement by the Government in its report received in April 1984 to the effect that the Government confirms its intention to specify in an order the dangerous machinery and parts covered by section 135 of the Labour Code, which prohibits the offer for sale, the sale, the hire and the use of dangerous machinery or parts without appropriate guards, and that the question will be examined by the Technical Advisory Committee responsible for questions of occupational safety and health when it resumes its activities.

The Committee once more expresses the hope that this order will be adopted in the very near future and that it will give full effect to Article 2 of the Convention. The Committee recalls in this

respect that this Article also prohibits the transfer in any other manner and the exhibition of such machinery without the appropriate guards.

[The Government is asked to report in detail for the period ending 30 June 1986.]

Dominican Republic (ratification: 1965)

With reference to its previous comments, the Committee notes that the draft decree to amend Regulation No. 96 of the Occupational Safety and Health Regulations, to which the Government has referred for a number of years, has not yet been adopted. The Committee once again expresses the hope that this decree will be adopted shortly in order to give better effect to Part II of the Convention.

Ecuador (ratification: 1969)

With reference to its earlier observations, the Committee notes with interest that draft general regulations on industrial safety and health were prepared in 1983 and that they contain provisions corresponding to those of the Convention. The Committee hopes that the new regulations will be adopted shortly and that they will give effect to Articles 2 to 4 of the Convention (prohibition of the sale, hire, transfer in any other manner and exhibition of dangerous machinery without appropriate guards).

Ghana (ratification: 1965)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

Following its previous comments, the Committee notes with regret, from the last report of the Government and from the information supplied to the Conference Committee in 1982, that no measures have yet been taken in order to extend the legislation giving effect to the Convention to areas of economic activity such as agriculture, forestry, and road and rail transport and shipping, in accordance with the provisions of Articles 1 and 17 of the Convention, despite the assurances given by the Government on many occasions. The Committee notes however that, according to the report, a two-year programme of codification of existing labour legislation in Ghana was due to start in January 1983 and that the Committee's observations will form part of it. The Committee once again trusts that the Government will be able to mention in its next report the adoption of provisions in laws or regulations to ensure the application of the Convention in each of the above-mentioned sectors.

With regard to the application of the Convention in mines, the Committee points out that the Mining Regulations, 1970, the Mining (Amendment) Regulations, 1971 and the Explosives



Regulations, 1970, mentioned in the report have not been received and again requests the Government to furnish these texts with its next report.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Guinea (ratification: 1966)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

Articles 11 and 17 of the Convention. (a) In reply to the earlier observations of the Committee, the Government refers in its report to the general provisions of the Labour Code concerning health and safety (sections 166 to 169), which are applicable to all workers covered by the Code.

The Committee notes, however, that these provisions, though they cover a wide range of economic activities, do not explicitly lay down - as do Article 11 of the Convention and section 41 of National Order No. 3154/MT of 1982 the latter applying only to the building industry - the prohibition of every worker from using any machinery without the guards provided being in position and from making these guards inoperative. The Committee therefore hopes that the Government will be able to insert a suitable provision in the national regulations (for example, in the Labour Code or the administrative regulations whose adoption is provided for by section 173 of the Code or, again, in a ministerial order) and that it will not fail to indicate in its next report any progress made to this end.

(b) With regard to the application of the Convention in the maritime sector, the Committee notes the statement by the Government to the effect that the text concerning safety and health on board merchant vessels, whose adoption is provided for by section 185 of the Labour Code, have already been drafted. The Committee hopes that the drafts will be adopted very shortly and that they will contain provisions giving effect to the Convention.

(c) The Committee also asks the Government to state whether measures have been taken to apply the Convention in the agriculture sector, in the light of the provision of paragraph 3(b) of Article 1 of the Convention concerning mobile agricultural machinery.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Jordan (ratification: 1964)

For a number of years already the Committee has been calling the Government's attention to the fact that there exist no express provisions in the national legislation prohibiting the sale, hire, transfer in any other manner and exhibition of machinery of which the

dangerous parts are without appropriate guards in compliance with Part II of the Convention.

In its previous reports the Government has indicated that the draft of the new Labour Code is being prepared and that it would give effect to the provisions of the Convention.

The Committee notes from the Government's reports received in May 1984 and in February 1985, as well as from the information supplied by the Government to the Conference Committee in June 1984, that the new Labour Code has not yet been adopted, but that the comments of the Committee of Experts were examined by the Government Committee charged with studying the draft Labour Code. It also notes that the Government Committee concluded that the above-mentioned requirements of the Convention have been dealt with in the Jordanian Civil Code and that there is no provision which prohibits claims for indemnification for harm caused by this machinery, based upon the general rules of civil law.

The Committee points out that the Convention expressly prohibits the sale, hire, transfer in any other manner and exhibition of machinery of which the dangerous parts are without appropriate guards. Provisions which merely provide for indemnification for harm caused by the lack of such provisions do not meet the Convention's requirements. The Committee therefore once again urges the Government to take the necessary measures to ensure full application of these essential provisions of the Convention in the very near future.

[The Government is asked to report in detail for the period ending 30 June 1985.]

#### Madagascar (ratification: 1964)

Articles 2 to 4 of the Convention. The Committee takes note of the statement by the Government to the effect that it repeats its undertaking to take account of the recommendation made in the previous comments of the Committee. The Committee points out once more that, although Order No. N889 of 20 May 1960 prohibits employers from installing dangerous machinery, it does not prohibit the sale, hire, transfer in any other manner or exhibition of dangerous machinery, the responsibility resting with the persons who carry out such acts.

The Committee therefore again expresses its confidence that the Government will not fail to take the necessary measures (by the adoption of a new order, which it mentioned in its last report, or by making amendments to the existing legislation, as the Committee suggested in its previous observation) to give express effect to Articles 2 to 4 of the Convention.

[The Government is asked to report in detail for the period ending 30 June 1986.]

#### Niger (ratification: 1964)

The Committee notes that the Government's report has not been received. It therefore once again expresses its hope that the draft

decree, communicated by the Government with its previous report, fixing safety and health rules to be observed in the use of machinery will be adopted in the near future and that it will take account of the comments made in the request which is being addressed directly to the Government.

Sierra Leone (ratification: 1964)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

Following its previous observations, the Committee notes with interest that, according to the Government's report, the draft of the revised Factories Act, which awaits adoption during the next session of Parliament, will give effect to Part II of the Convention (prohibition of the sale, hire, transfer in any other manner and exhibition of unguarded machinery) and to Article 17 (application of the Act to all branches of economic activity including road and rail vehicles, agricultural machinery, mines and shipping) and incorporates all the relevant comments and suggestions.

The Committee hopes that this Act will be adopted very soon and that the Government will provide a copy of it with its next report.

Spain (ratification: 1971)

The Committee notes, from the Government's report, that the draft Royal Decree concerning preventive action with relation to safety and health at work, which the Committee examined in its previous observation, has been replaced by a draft General Regulation regarding the safety of machines, which is presently at an advanced stage of formulation. The Committee hopes that this Regulation will be adopted in the near future and that it will ensure the application of Articles 2, 4 and 15 of the Convention, which have formed the subject of its comments over a number of years.

Tunisia (ratification: 1970)

Further to its previous observations, the Committee notes that the draft Order establishing the list of machinery and parts that may not be used, offered for sale, sold or hired without guards has not yet been adopted, as the advice of the departments consulted has not reached the Ministry of Social Affairs.

The Committee again trusts that the Order in question will be adopted in the very near future so as to ensure the application of Article 2, paragraphs 2, 3 and 4, and Article 6, paragraph 1 of the Convention and that it will also prohibit - as provided for in Article 2, paragraph 2 of this Convention - the transfer or exhibition of machinery of which the dangerous parts are without appropriate guards.

The Committee requests the Government to state in its next report any progress accomplished in this connection.

[The Government is asked to report in detail for the period ending 30 June 1985.]

#### Turkey (ratification: 1967)

The Committee notes the information supplied by the Government in reply to its previous observation.

1. The Committee notes with interest that "General Rules against Occupational Accidents in Machinery" and "General Rules concerning Guarding and Safe Use of Woodworking Machinery" prepared by the Turkish Standards Institute have been finalised and that copies of them will be sent as soon as they are published.

2. While noting that, in conformity with Article 15 of the Convention, the Regulations on the Guarding of Machinery of 1983 can be enforced by the labour inspectors by inflicting appropriate penalties specified in the Labour Act, No. 1475 of 29 July 1983, the Committee once again points out that these regulations should be supplemented by measures imposing an express obligation on the persons selling, letting out for hire, transferring in any other manner or exhibiting machinery, to ensure that this machinery complies with the prescribed safety standards, as required by Article 4 of the Convention.

3. As to Article 17, which has also been a subject of earlier comments, the Committee notes the Government's statement that, owing to economic difficulties, there is no possibility of taking any measures to apply the Convention to machinery used in agriculture and in sea and air transport, which are not covered by the Labour Act. The Committee hopes, nevertheless, that the Government will be able in the near future to extend the application of the provisions contained in Part III of the Convention to these important branches of economic activity, in accordance with its Article 17, and will keep the Committee informed of any progress made to that end. While noting that this may require time, in particular in agriculture, the Committee considers that it would be desirable to provide safeguards in at least air transport and the more mechanised aspects of transport by sea in the very near future. In the meantime, the Committee requests the Government to indicate whether any specific regulations or technical instructions have been adopted in respect of the safe use of machinery in the above-mentioned branches of economic activity and, if so, to provide copies of them.

4. Certain other questions are dealt with in a request addressed directly to the Government.

#### Zaire (ratification: 1967)

With reference to its earlier comments, the Committee notes from the report of the Government that the work of revising the Labour Code has been completed and that the draft revised Code will shortly be submitted to the National Labour Council before being adopted by the

competent national authorities. It further notes with interest that, in accordance with its comments of 1983, suitable amendments have been introduced to the draft texts on the guarding of machinery in order to bring the legislation of Zaire into conformity with the provisions of the Convention and that the new texts, as amended, will be communicated to the ILO as soon as they are promulgated.

The Committee hopes that the above-mentioned texts will be adopted shortly and that they will give full effect to the Convention including Articles 2 and 4 (prohibition of the sale, hire, transfer in any other manner and exhibition of machinery of which the dangerous parts are without appropriate guards), Article 17 (extension of protection to the agricultural sector), and the other provisions mentioned in the previous direct request.

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In addition, requests regarding certain points are being addressed directly to the following States: Kuwait, Malaysia, Morocco, Nicaragua, Niger, Panama, Paraguay, Turkey.

Information supplied by the Syrian Arab Republic in answer to a direct request has been noted by the Committee.

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

#### Algeria (ratification: 1969)

With reference to its earlier comments, the Committee observes from the report of the Government that the texts that were to give effect, inter alia, to the provisions of the present Convention, have not yet been adopted by reason of other priorities in the adoption of the texts to be issued under the Act respecting the General Conditions of Employment of Workers. The Committee hopes that the texts in question will be adopted very shortly, that they will give full effect to the whole of the Convention and that the Government will furnish copies as soon as they are adopted.

[The Government is asked to report in detail for the period ending 30 June 1986.]

#### Guinea (ratification: 1966)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

Article 6, paragraph 2, of the Convention. With reference to its previous observation, the Committee notes the explanations provided by the Government to the effect that the penalties laid down by section 288(b) of the Labour Code for infringements of the provisions of section 167 also apply to infringements of section 168 of the Code. The Committee asks the Government to state whether regulations on safety and health at the workplace

have been issued under section 173 of the Labour Code and, if so, whether these regulations lay down penalties for infringements of their provisions.

Article 14. The Committee notes from the report of the Government that section 181 of the new draft Labour Code makes no distinction between men and women in respect of the supply of seats. It hopes that the draft will be adopted shortly and will bring the national legislation into conformity with the Convention on this point.

Article 18. The Committee points out that the national legislation does not contain any provision to ensure that noise and vibrations likely to have harmful effect on the workers are reduced as much as possible. It hopes that effect will be given to this provision of the Convention with the adoption of the new Code.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

#### Paraguay (ratification: 1967)

The Committee notes that due note was taken of its comments made in its previous observation. It once again expresses the hope that appropriate measures - such as the adoption of the regulations on occupational safety and health mentioned by the Government in its earlier reports - will be taken soon in order to guarantee the application of Article 10 (temperature of the premises) and Article 18 (reduction of noise and vibrations) of the Convention and, in accordance with Article 4(b), to give such effect as may be possible and desirable under national conditions to the Hygiene (Commerce and Offices) Recommendation, 1964 (No. 120).

The Committee also repeats its request to the Government to supply with its next report examples of rules of undertakings operated by the State, municipalities and other autonomous or self-governing bodies, by which effect is given to the Convention in these undertakings.

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In addition, requests regarding certain points are being addressed directly to the following States: Bolivia, Djibouti, Ecuador, Jordan, Madagascar, Senegal, Spain, Sweden, Switzerland.

Information supplied by Mexico and Venezuela in answer to a direct request has been noted by the Committee.

### **Convention No. 121: Employment Injury Benefits, 1964**

#### Guinea (ratification: 1967)

The Committee notes with regret that for the second consecutive year the Government's report has not been received. It must

therefore repeat its previous observation which dealt with the following matters:

The Committee notes the statement by the Government that only the adoption of the new Social Security Code could resolve the questions raised in its earlier comments. It therefore expresses the hope that the revision of the Social Security Code, which the Government has been mentioning in its reports for some years, will be brought to a conclusion and that the problems raised by the application of the Convention will be finally resolved. The Committee considers and this was the view of the Government during the direct contacts of October and November 1981 - that a technical assistance project with the participation of the ILO might provide the foundation for action in this field. It hopes that the necessary measures will be taken to settle all the following outstanding questions.

1. Article 4 of the Convention. The Government stated earlier that the new Social Social Security Code that was being prepared would cover all workers employed in the Republic of Guinea without exception, including "persons occupying permanent posts in state administration or in its subsidiary services or in national public establishments", who are at present not covered by the social insurance scheme and are, therefore, not entitled to compensation for employment injuries. The Committee hopes that the new Code will be adopted shortly and, pending its adoption, it again asks the Government to state whether workers of this group are covered by any special scheme of compensation.

2. Article 8. The Government has stated that the new Social Security Code will include in full the list of occupational diseases appearing in the schedule to the Convention. The Committee hopes that the new Code will in particular take account of the following points:

- (a) items Nos. 2, 3, 4, 5, 6, 7, 9, 12, 13 and 14 of Schedule I to the Convention should be included in the list in the national legislation (these items concern diseases caused by beryllium (glucinum), phosphorus, chrome, manganese, arsenic, mercury, carbon disulphide and the toxic compounds of each of these substances, and also diseases caused by toxic nitroand amino-derivatives of benzene or its homologues, diseases caused by ionising radiations and primary epitheliomatous cancer of the skin caused by tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residues of these substances);
- (b) the list in the national legislation should mention not only silicosis (as it does at item 8 of section 136 of the Social Security Code now in force) but it should be supplemented so as to cover other pneumoconioses caused by sclerogenic mineral dust (anthraco-silicosis, asbestosis) and silico-tuberculosis, provided that silicosis is an essential factor in causing the resultant incapacity or death (see item No. 1 of Schedule I to the Convention);
- (c) the list in the national legislation (item 5 of the above-mentioned section), which refers only to poisoning by carbon tetrachloride, should be drafted in general terms, as

is done in the Convention (at item 10 of Schedule I), so as to cover all diseases caused by the halogen derivatives of hydrocarbons of the aliphatic series);

- (d) the list in the national legislation (item 6 of the above-mentioned section), which relates to anthrax infection, should be supplemented so as to indicate the work giving rise to the presumption of the occupational origin of the disease, as appearing in the right-hand column opposite item 15 of Schedule I to the Convention, taking account, however, of the obligations deriving from Convention No. 18.

3. Article 15, paragraph 1. The new Social Security Code should also give full effect to this provision of the Convention, under which the periodical payments may be converted into a lump sum only in exceptional circumstances and when the competent authority has reason to believe that such a lump sum will be utilised in a manner which is particularly advantageous for the injured person.

4. Articles 19 and 20 (in conjunction with Articles 13, 14 and 18). The Committee requests the Government to furnish in its future reports all the information called for by the report form, including statistics, so as to show that the rates of benefit payable in cases of temporary incapacity, permanent incapacity and the death of the breadwinner attain the levels provided for in Schedule II to the Convention (taking into account the family allowances payable before and, where appropriate, during the contingency). The Government is requested to state whether Article 19 or Article 20 of the Convention is taken as the basis for determining whether the requisite rates have been attained.

5. Article 21. The Committee takes note of the statement by the Government to the effect that the rates of cash benefits have not been reviewed. It requests the Government to indicate the measures under consideration to ensure the adjustment of rates of benefits, in accordance with section 127 of the present Social Security Code and this provision of the Convention.

6. Article 22, paragraph 2. The Government is requested to state whether measures are taken, where benefits are suspended, to ensure that part of these benefits may be paid to the dependants of the person concerned in the cases and within the limits prescribed by the national law.

7. Article 23. The Government is requested to state whether any right of appeal exists in the case of refusal of the benefit in disputes other than those relating to the assessment of the state of incapacity governed by section 84 of the Social Security Code.

8. Article 25. The Government is requested to state what responsibility is accepted by the Government for guaranteeing the payment of benefits in practice.

9. Furthermore, the Committee, referring to point V of the report form, requests the Government to give information on the way in which the Convention is applied in practice (for example



by supplying extracts from the annual reports of the National Social Security Fund).

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In addition, requests regarding certain points are being addressed directly to the following States: Ecuador, Libyan Arab Jamahiriya.

### **Convention No. 122: Employment Policy, 1964**

#### Australia (ratification: 1969)

The Committee has noted the Government's detailed report and replies to the previous observation. The Government states that the economic policy approach was changed in March 1983, to aim for a simultaneous reduction in inflation and unemployment. This dual objective was to be achieved by the implementation of a broadly based prices and incomes policy, formulated to allow the pursuit of expansionary fiscal policy without inflationary consequences. Wage growth, the principal domestic constraint in employment growth since the 1970s, was moderated in 1983-84 and, combined with an increase in productivity, this relieved upward pressures on labour costs.

Thus, the Government indicates that unemployment fell from 10.3 per cent in July 1983 to 9.3 per cent in June 1984, and the employment indices for both men and women have been rising, while the rate of inflation declined markedly over the half year to the June quarter 1984 to an annual rate of 4.8 per cent.

The Committee notes with interest the Government's account of its overall and sectoral development policies as well as the labour market studies and policies and job-creation schemes for different categories of workers.

It notes in particular that an Adult Wage Subsidy Scheme was introduced in March 1983, aiming to facilitate the reintegration of the increasing numbers of long-term unemployed adults in the work force; and that a special employment-generation and training initiative has been introduced for the principal steel regions, in recognition of the adverse impact on regional labour markets arising from the restructuring of the steel industry. The Committee regards as a very positive element in the Government's policy the importance given to consultation between the Government, trade unions and employers, especially in the field of prices and incomes, in the spirit of Article 3 of the Convention.

However, the Committee remains concerned by the relatively high level of unemployment, since it appears from the data communicated by the Government that for 1983-84, as a whole, the average unemployment rate was 9.6 per cent; and an increase in the long-term unemployment as well as in the median duration of unemployment has also been noted during this period.

The Committee hopes the Government will supply information on the development and results of the other measures and policies dealt with

in the report which are designed to achieve the aims of the Convention. It hopes also that tripartite consultations and collaboration will continue in this area so that the Government is able to record further progress in its next report.

Belgium (ratification: 1969)

The Committee notes the information and the substantial documentation supplied by the Government in reply to its previous observation. It notes with interest the numerous measures adopted, essentially within the context of the Law on Special Powers of 2 February 1982 enabling the Government by Royal Decree to take measures for economic and financial recovery, the reduction of public expenditure, the rehabilitation of public finances and the creation of employment. The Government refers to the difficult situation of all industrial countries in respect of employment, a situation which is unlikely to be "normalised" in the near future. Under these conditions a number of actions have been planned and implemented covering, inter alia, the sharing and reorganisation of hours of work, the relaxation of certain impediments to the creation of jobs, as well as the maintenance of the competitiveness of the national economy. A Government Paper entitled "Active Employment Policy" ("politique active de l'emploi"), dated 15 March 1984, refers for example to: (a) reduction in hours of work with compensatory recruitment, reform of the provisions regarding apprenticeship, a progressive lengthening of compulsory schooling, the encouragement of part-time work for those who wish it and of early retirement, loans granted to unemployed persons who establish themselves on their own account, and aid for small and medium-sized undertakings; (b) the allotment of part of the yield of "wage restraint" to employment so as to ensure a maximum number of additional jobs. Thus, for example, the Government proposes to encourage the introduction of an extra shift, enabling the working week to be limited to four days while plant is utilised for five or six days, or to institute schemes for example for parental or training leave in mid-career, with the employment of replacements; (c) the lowering of obstacles to employment, as part of the policy of "reconversion" and selective support for investment (in particular by bringing the Industrial Renewal Fund (Fonds de rénovation industrielle) back into operation); fiscal advantages will, for example, be granted to enterprises wishing to experiment with the organisation of labour; and (d) finally, a determining role to be played by collaboration between employers and workers and their respective organisations, in the implementation of the Government's measures and policies regarding employment.

The Committee notes that, thanks to an upturn in the national economy, rising unemployment has been limited to the natural increase of the active population and has thus stabilised in 1984, although at a high level of around 15 per cent, according to the standardised statistics published by the OECD (the figures corresponding to 1982 and 1983 were 13.1 and 14.5 per cent). Considering that the total number of persons employed has not increased in recent years, but has, on the contrary, diminished (by an annual average of around 1 per cent

in 1982-83), the Committee believes that the unemployment situation still gives cause for concern.

Whilst congratulating the Government for both the wide range of measures taken in an attempt to ease this situation, and for the efforts made by the Government to ensure the collaboration of employers and workers concerned in the elaboration and implementation of such measures, the Committee would have wished the Government's report to contain a more systematic evaluation of the action undertaken, in terms of the creation of employment and the reabsorption of unemployment. It hopes that the Government will continue its efforts with a view to a wider promotion of the objectives of the Convention.

#### Bolivia (ratification: 1977)

The Committee notes that for the third year in succession the Government's report has not been received. It recalls that the first report, examined in 1981, was confined to a description of the functions performed by the Ministry of Labour and Social Development. The Committee trusts that the Government will not fail to send a report in time for examination at its next session in the form adopted by the ILO Governing Body, and that the report will contain full information on the points raised in a direct request.

#### Brazil (ratification: 1969)

1. The Committee takes note of the Government's report, including the replies to certain questions raised in the previous direct request, and the comments made by occupational, industrial and commercial organisations on the application of the Convention.

2. The Committee notes the Government's indication that the most important concern of the country's political economy is overcoming the external balance of payments deficit. In this context it points to its policies of import substitution in energy, currency devaluation, public sector cost reduction, restriction of money supply, and limitation of wage adjustments. These have led to contraction of employment throughout the country and necessitated the consideration by the Ministry of Labour of measures to combat unemployment and underemployment, notably through the National Employment System (SINE) and the National Employment Policy Council (CNPE). The Government further indicates, among other things, a satisfactory development of agriculture and fishing in 1983; also in the first half of 1984 there appears to have been an export-led expansion of employment in the formal urban sector; the employment service of SINE has assisted by reducing frictional unemployment; and the Ministry of Labour has supported the constitution of co-operatives of mobile rural workers for regions where temporary agricultural labour is needed. As regards the supply of labour market information, technical assistance has been received from the ILO and UNDP, and the Ministry of Labour is endeavouring to have this

information used in the preparation of global and sectoral economic policies.

3. The National Confederation of Liberal Professions (CNPL) states that the Government's reactions to economic recession over a number of years have led to business failures, reductions of real wages, and loss of jobs, affecting the middle classes, the liberal professions and especially the young, women, older and disabled workers. The CNPL indicates that the National Congress has been considering adopting measures to deal with these particular problems so that the principles of the Convention are once more put into effect. It urges the need for up-to-date and complete statistical information on the employment situation.

4. The National Confederation of Industry (CNI) considers that the necessary attention has not been given by the Government to encouraging investment in order to create employment in conditions of rapid demographic growth in recent years. The realities of increasing unemployment do not, in the CNI's view, justify the Government's apparent optimism in this regard; the Government should supply all the information requested by the ILO in this connection.

5. The National Confederation of Workers in Credit Enterprises (CONTEC) expresses the opinion that no policy for full employment exists but that the Government's recessionary policy has worsened unemployment and underemployment; it cites particularly the freezing of civil construction works in this respect. The employment crisis springs from the Government's economic and financial policy, which leads to the replacement of productive investment by highly speculative capital market operations, in CONTEC's opinion to the detriment of the worker, who is deprived of employment.

6. The National Confederation of Commerce (CNC) considers that vocational training services are maintained in full operation, enabling many people to obtain a qualified occupation. Although commerce has felt the effects of the serious economic crisis, it is not affected by unemployment. The CNC states that the Government's measures to deal with rural as well as urban employment problems are most opportune.

7. While the Committee has noted above some specific prospects of favourable developments referred to by the Government, it continues to be greatly concerned with the high levels of unemployment and underemployment in the country. Certain statistical information supplied by the Government shows a continuation of high levels of unemployment in 1982-83, although several appendices to the report, apparently offering statistical and other practical information, have not been received. The Committee hopes that the Government will supply a more complete report, answering questions in the form approved by the Governing Body and dealing with the matters raised by the occupational, industrial and commercial organisations referred to above. It hopes SINE will redouble its efforts in respect of labour market information, and that the report will show the employment effects of measures being taken. The Government may wish to make continued use of the competent advisory services of the ILO in connection with the development of its employment policies and programmes. The Committee would finally wish to see included in the next report more detailed information concerning formal and informal

consultations taking place with workers and employers and other persons affected by employment policies, in conformity with Article 3 of the Convention.

Canada (ratification: 1966)

1. The Committee has noted the detailed information supplied by the Government in reply to the previous observation. It recalls the indication in the previous report that no major overhaul of the current approach to employment policy had been envisaged, and the subsequent comments of the Canadian Labour Congress (CLC) as well as the Committee's own observations; the Government representative indicated in the Conference Committee in 1984 that since then the Government had re-examined the situation and had reached different conclusions. In this light, the Government enacted a series of measures directed towards reducing unemployment, which fell from a high of 12.2 per cent in June 1983 to 11.2 per cent in June 1984. The reduction in employment in 1982 of 3.3 per cent has been reversed, and employment increased by 0.8 per cent in 1983 and 2.2 per cent over the 12 months to June 1984. The Committee notes these developments with interest.

2. The Government's report provides details of fiscal, monetary and other overall economic policies, the emphasis for recovery being placed in the 1983-84 budgets on stimulating the private sector, under the Special Recovery Programme. This Programme has encouraged exports in particular; it has been accompanied, after consultations with labour and management, by the establishment of the Canadian Labour Market and Productivity Centre to examine the issues of productivity improvement, labour market requirements and employment growth. The federal Government's price and cost restraint programme was emulated in varying degrees at different levels of government, wage and price decisions in the private sector were also responsive, unit labour costs have been declining, and inflation fell below the overall OECD rate. The report describes the measures taken following the recommendations of three task forces on manpower planning; it mentions, inter alia, a work-sharing scheme designed to avert temporary lay-offs, enabling workers to share voluntarily the work available and receive wages from their employers for days worked and unemployment insurance benefits for days not worked, although the Committee notes that, according to the OECD economic survey of Canada, 1983-84, the numbers covered by work-sharing agreements fell sharply in 1983. The Government's report also describes measures and policies in favour of the provinces and regions and the various ways in which the Government consults employers' and workers' representatives and encourages their mutual co-operation. In this respect, the Government points out that while greater wage flexibility may be desirable for improved labour market operations, attempts to bring it about - either through government policy or programmes or by direct actions of employers - may become a source of friction in the conduct of industrial relations. As regards the Public Sector Restraint Act, 1983, of British Columbia, the Government has, in response to the criticisms made by the CLC, expressed the view that

the policy of reducing taxation and over-regulation of the private sector was designed, after considerable, largely informal, consultation with labour and management in the province, to increase economic expansion and private sector employment in the longer run.

3. The Committee notes with interest the attention given by the Government to these matters and the information supplied concerning a certain upturn in the economy and the employment situation, following the Government's re-examination referred to above, and in the light also of the increased external demand and Canada's improved trading performance in the North American region. Nevertheless, by Canada's recent historical standards, and compared also with the OECD average (8.5 per cent in 1984, about three points less) the level of unemployment remains high. The Committee would be grateful to the Government for all available information and data on the development of the employment situation in the private and public sectors in British Columbia. It hopes the Government will continue to describe the measures taking place in the employment sphere throughout the country and their effects, including, for example, the job-creation schemes, vocational training, and manpower programmes referred to above.

#### Chile (ratification: 1968)

1. Further to its previous observations and direct requests, the Committee has noted the information given by the Government to the Conference Committee in 1983 and in its latest report on the Convention, as well as the information supplied in connection with the representation made by the National Trade Union Co-ordinating Council (CNS) of Chile under article 24 of the ILO Constitution and the further comments of the CNS (dated 7 May 1984) and of seven Chilean trade union organisations (dated 10 December 1984). It has also taken note of the report of the Committee set up by the Governing Body to examine the above representation (approved by the Governing Body at its 228th Session (November 1984)).

2. In its 1983 comments, the Committee had expressed the hope that the Government would take measures to deal with a number of general problems concerning the pursuance and review of a policy adapted to national conditions to promote full, productive and freely chosen employment in the terms of the Convention, and provide information on a number of more specific questions referred to in a direct request. In 1984, the Governing Body in its conclusions on the case referred to above, requested the Government to supply information in its reports on the Convention concerning urgent steps to be taken to adopt and pursue a policy in terms of the Convention, in consultation with the representatives of employers and workers, to review measures of economic and social policy in the light of the Convention's precepts, and to make corresponding changes in the basis of the Minimum Employment Programme (PEM) and the Employment Programme for the Heads of Household (POJH).

3. The Committee notes that the Government has supplied information in response to the points raised and has described certain developments in the employment situation. The Government states, in

particular, that it has not left the solution of the employment situation to the labour market, but that it has taken action in conformity with the Convention in relation to customs duty (raising the level of tariffs), exchange rates (allowing the currency to float), the budget (creating a fiscal deficit), credit (facilitating low-interest loans), and investment. It refers to the measures taken under Legislative Decree No. 1446 in favour of vocational training, through which 21,548 workers were trained in 1983, plus 1,260 workers in coalmining. Through employment subsidies, 109,000 (3 per cent of the workforce) were engaged in 1984, and there were further increases in public works including labour-intensive projects by local authorities. The Government indicates as a result of liberalisation of the economy an average annual growth rate of 7.96 per cent between 1976 and 1981: in its view, the growth of Gross National Product must be closely linked with a growth of employment. It places these developments in the context of the establishment under Decree No. 4 of 19 January 1984 of an interministerial National Employment Commission to study, co-ordinate and propose measures inter alia to create or promote employment; the secretariat of the Commission is to consult employers and workers as to their concerns and suggestions in relation to employment. Further, under Decree No. 447 of 2 May 1984, an Economic and Social Council was created to advise the President of the Republic; its members are to be appointed for one year (which can be renewed) and they may include employers' and workers' representatives. Finally, Act No. 18391 of 8 January 1985 (referred to also under Convention No. 2) provides for committees of workers' and employers' representatives with a certain role in relation to the municipal placement offices.

4. The Government states, on the basis of statistics supplied, that the unemployment level in the country has been declining in 1983 and 1984. However, the Committee finds that the unemployment rate can be roughly estimated at about 15 per cent for 1983-84 and that the urban unemployment rate (about 18-19 per cent in 1983-84) remains several points higher than other countries in the region (average for Latin America: 10.8 per cent), according to figures published by the ILO and the United Nations. The Committee notes that the National Trade Union Co-ordinating Council expressed the view that the situation has deteriorated further, particularly in the loss of purchasing power of the remuneration of those in employment or engaged in the PEM or the POJH, and this when the world price of copper had risen. As far as the seven trade union organisations referred to above are concerned, they draw attention to various aspects of work under the PEM and the POJH: these programmes, initiated in 1975 and 1982 respectively as an answer to the unemployment problem, involve work for an unemployment subsidy less than half the national minimum wage and without participation in the social security scheme or the benefit of paid leave.

5. The Committee notes with interest the attention given by the Government to various matters raised in its previous comments and to certain of the recommendations of the Governing Body, for example by the adoption of legislation to set up machinery such as the National Employment Commission and the Economic and Social Council in order to pursue the aims of the Convention. However, the Committee remains

seriously concerned about the level of unemployment, which remains very high; and about the conditions under which the PEM and POJH operate, regarding which the Government has supplied no further information as previously requested. The Committee recalls its view, with which the Governing Body has concurred, that workers engaged in the PEM or the POJH cannot be considered as engaged in productive and freely chosen employment in the terms of the Convention. The Committee is requesting details of the institution of the machinery in question, and the PEM and the POJH, as well as other matters, in a direct request. It has also referred in comments under Conventions Nos. 2, 9 and 34 to certain other problems related to employment, concerning the establishment of free public employment agencies and the abolition of fee-charging private employment agencies.

Denmark (ratification: 1970)

The Committee has noted the information supplied by the Government following its last observation. It has noted that, while the unemployment level rose to 10.5 per cent in 1983 (figures based on national definitions and published by the OECD), a slight reduction to 10.25 per cent or less was apparent in 1984. This reduction is attributable to a marked increase in private sector employment (contrary to the trends over the past few years) and is attenuated by a relatively strong growth of the labour force, mainly due to high activity rates, especially of women. It has been accompanied by a sharp decline in inflation in 1983, a GDP growth rate of 4.5 per cent in 1984, and a slight decrease in real wages in manufacturing; although there has been a significant balance of payments deficit in this period, the public budget deficit has diminished (in part as unemployment benefit costs have decreased and revenues risen), and the OECD expects continued growth in particular through manufacturing exports in 1985, as well as investment.

The Government describes the results in 1982 and 1983 of the "job offer" scheme (assuring a job in an ordinary place of work, plus retraining, for the long-term unemployed); the job creation scheme in local authorities and private undertakings, for 18 to 25 year olds; and other training activities. It attributes 2.5 per cent of the total employment in 1982 to employment-promoting measures. It indicates also an improvement in 1983 in the proportion of those (particularly young) entering employment after participating in these special programmes. The Committee notes, too, from the 1983 report of the Ministry of Labour "Labour market and labour market policy" the consideration being given to the reduction of working time in the context of labour market and employment policies.

The Committee has been interested to see the efforts made by the Government in the face of an unemployment level which nevertheless remains high. It hopes the Government will continue to analyse the results of the measures taken and that it will describe further the incidence on employment in the next reporting period of developments, for example, in the area of prices and incomes policy, trade policy, and measures to maintain the rate of growth of the economy, and also provide information on measures - the need for which was underlined in



the above-mentioned report of the Ministry of Labour - to improve the capacities for assessing the labour market situation with a view to formulation and implementation of appropriate policies.

Finland (ratification: 1968)

Further to its previous observations, the Committee has noted with particular interest the full information provided in the Government's report, and in the appended document concerning employment policy objectives for the near future. The Government has described the legislative measures recently adopted on employment policy matters, and the work in progress for the reform of the Employment Act in order for a new Employment Act to be presented to Parliament in the autumn of 1984. The Committee has also taken note of the wide range of measures for employment promotion that are now planned for the near future, such as: special measures in regional policy, aiming to reduce unemployment in those provinces where the growth in labour supply has been rapid; improvements in manpower and employment services; and experimental measures including subsidies for small enterprises, and experiments to promote self-sufficiency, and a rural jobs experiment; and special measures on behalf of the long-term unemployed, the young and the handicapped.

The Committee notes that there has been a small increase in the unemployment rate, from 5.9 per cent in early 1982 to 6.1 per cent in 1983, in spite of the rapid growth in number of employed persons. The Government states that the reasons for this are that the labour force has grown, the proportion of women in the labour force has increased, and retirement due to incapacity for work has decreased. Hidden unemployment however, has decreased, and the coverage of income security for unemployment has improved. The Government states that an objective of an employment policy programme drawn up in 1984 is to achieve an unemployment rate lower than 2.5 per cent by the middle of the decade; to this end, at least 65,000 new jobs have to be created, or as an alternative the labour force has to be reduced.

In response to the observations previously made by employers' and workers' organisations on the question of tripartite consultation, the Government states that the representation of municipalities in the Delegation for Employment Affairs has been ensured, so that the central municipal organisations responsible for employment policy in the municipalities participate in the work of the Delegation; it is also intended to make changes in the composition of the manpower boards functioning in connection with the employment services, by widening the representation of the municipalities.

In their comments the Finnish Employers' Confederation (STK) and the Employers' Confederation of Service Industries (LTK) have expressed the view that the tripartite principle does not function at the highest level of the labour administration in accordance with the spirit of the Convention, while the Confederation of Salaried Employees (TVK) expresses the view that the tripartite collaboration within the labour administration has been satisfactory in spite of temporary exceptions. The Central Organisation of Finnish Trade Unions (SAK) states that an experimental youth guarantee was expanded

to cover the whole country too hurriedly without negotiating with the employers' and employees' organisations and that the experiment has not brought about significant changes in the youth employment situation. The employers' organisations referred to above consider that they do not get enough information about the employment policy measures in advance, and that these are not regularly discussed in the co-operative bodies. They advocate greater attention for the development of employment services and purposeful directing of the available resources, and better co-operation between the different parties in accordance with Article 3 of the Convention.

The STK has also drawn attention to employment training, and considers it important to increase employment training especially in expanding industries. It suggests that the period of employment training should be lengthened, in particular for youth. In general, it suggests that employment measures might be better directed and be made more effective.

Finally, the SAK, noting that unemployment rates have not declined substantially during the reporting period, states further that employment measures supported by public means should be aimed more clearly at groups who have real problems finding employment. The SAK also criticises the way that resources of labour administration are directed, and says that there are too many forms of employment subsidy so that these are often difficult to apply.

The Committee has taken due note of the views and suggestions expressed by the employers' and workers' organisations, and of the information communicated by the Government in response to their previous comments. It notes that while Finland has one of the lowest unemployment rates amongst the OECD countries, employment policy is under active revision, with the adoption of new legislation, the provisions for the reform of the Employment Act, the measures for improved consultation and employment services, and the numerous special measures and programmes now planned for the future. In particular, a governmental committee is considering a suggestion for improving employment by shortening working time. The Committee hopes that the necessary attention will be paid to the observations made by employers' and workers' organisations, within the scope of the new employment policy and measures that are now under consideration, and that the Government will continue to supply full information on the matter.

#### France (ratification: 1971)

The Committee notes the information supplied by the Government in reply to its previous comments. The Government describes the development of the employment situation in the period covered by the report and refers to a series of measures for employment protection, creation of new jobs, training and placement assistance; it also gives the results of some measures taken. Among these the Committee notes in particular:

- (a) Industrial restructuring and "reconversion": the Interministerial Committee and the Regional Committees on Industrial Restructuring (CIRI and the CORRI) were created in

1982 to examine the causes of the difficulties of some industrial undertakings and, without substituting the public power for private initiative, they were to encourage industrial, social and financial solutions likely to ensure employment maintenance, among other things. CIRI and the CORRI have thus contributed to the maintenance of some 73,000 jobs over two years. More recently, measures in favour of "conversion zones" have shown the Government's willingness to concentrate and intensify action in the regions and sectors most struck by industrial change.

- (b) Contracts of solidarity, which link the recruitment of young workers to voluntary early retirements and the reduction of working time. As regards the former, the undertaking is committed to maintaining the global number of employees for at least one year beyond the date of the early retirements. Reduction of working time contracts have enabled the creation or maintenance of some 3,000 jobs in 1983; the Government's aim in 1984 was to increase the scope of these measures and promote other means of reducing working time (sabbatical leave, half-time working for parents).
- (c) Local initiative employment and aid to new businesses, marking a new direction in employment policy strategy. The aim is to facilitate the development of new local and economically viable activities and services which should create lasting jobs. Means used include premiums, financial assistance and relief from some social charges. The Government indicates that programme credits for local initiatives led to the creation of 25,000 jobs from 1981 to 1984, and that a total of 40,000 people in 1982 and 43,000 in 1983 have been covered by aid to new businesses.

In its report the Government also discusses important measures for vocational guidance, training and retraining for various categories of the population with specially difficult employment problems, namely the young, women, the handicapped and the long-term unemployed. In particular, the Government states that the operation of getting the long-term unemployed back to work in society has proved extremely positive, as half of these workseekers interviewed individually received some positive action by the ANPE (National Employment Agency), whether by putting them in contact with employers, by channelling towards training, or by supplementary services (practical occupational assessment, coaching on techniques of jobseeking, in-depth counselling).

The Committee notes the Government's employment policy efforts and notes with interest that policy has been subjected to wide-ranging dialogue with the social partners, as the legislation on various subjects shows when it embodies agreements reached between employers' and workers' representatives. The Committee nevertheless notes that, although unemployment was relatively stable in 1982-83, it rose quite sharply in 1983-84, when the numbers of workseekers increased by more than 14 per cent; unemployment in mid-1984 was about 9 per cent (according to figures standardised by the OECD). The Government attributes this to a simultaneous increase in manpower and fall in employment in the context of a lag between the French economy and neighbouring economies; this led to a tighter struggle against inflation, an imbalance in social security systems, and a deficit in

public finances. Apart from the factors mentioned by the Government and their expected evolution, the general situation remains problematic as to the aims of the Convention, whilst the nature of unemployment shows in particular that two persistent features stand out, namely youth unemployment and long-term unemployment.

The Committee trusts the Government will continue its efforts to promote the achievement of the aims of the Convention laid down in Article 1 and will provide information in its next report.

Federal Republic of Germany (ratification: 1969)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee notes the information provided by the Government in its report, to the effect that since the last reporting period unemployment has increased, reaching a peak of 8.2 per cent in January 1982. Although there was a diminution to 6.8 per cent in June 1982, this was mainly seasonal, and the Committee notes that unemployment has continued to worsen subsequently. The Government indicates that unemployment rose less among women, part-time workers, the severely handicapped and older workers, than among men and under 20 year olds. The report states that labour market policy has been adapted to the need to consolidate public finances in the light of the rapid deterioration in the general economy, by the adoption of measures designed to concentrate expenditure on the unemployed and those threatened with unemployment and to reduce certain abuses. Further, in February 1982, in its Joint Initiative for Jobs, Growth and Stability, the Government proposed other measures to encourage investment and public and private construction works, and in aid of training and employment for the young; these measures were to have been financed by an increase in value-added tax from 6.5 to 7 per cent, according to the Government's proposals, although such tax increase was not adopted by the legislature. The Committee has taken due note of these measures and appreciates the Government's efforts in this respect. It hopes that progress will be made in the next reporting period towards achieving the goals of employment policy laid down in the Convention, and that the Government will give details of the results of the measures mentioned, as well as the incidence on employment of the overall and sectoral policies referred to in the report form approved by the Governing Body.

The Committee has noted that the rate of unemployment rose further to 9.1 per cent in 1983, according to figures published by the ILO, and has since remained relatively high. In these circumstances, it hopes the Government will supply a report dealing with these matters, amongst others.

Guinea (ratification: 1966)

The Committee notes that the Government's report has not been received. It notes however that a multidisciplinary ILO mission visited Guinea, in early 1985, in connection with the Interim Programme for National Recovery, and that certain projects and studies in the area of employment policy are now in the planning stage. The Committee hopes that the Government will describe job creation programmes that are undertaken pursuant to this mission. The Committee hopes that the Government will also respond to the points raised in its previous observation, which included the following comments:

The Committee has noted from the Five-Year Plan for 1981 to 1985 the importance placed on development of handicrafts and small and medium-sized enterprises and the official statements as to past mistakes made in estimating the amount of investment available, in supervising the fulfilment of the Plan, and in the lack of sufficient statistical analysis. The Committee would hope that in its next report the Government will include copies of the resolutions of national and regional councils referred to in the report, and give greater detail of the progress of policies in these areas, so that it may better appreciate the extent of the attainment of the goals of full, productive and freely chosen employment laid down by Article 1 of the Convention.

The Committee would be grateful if the Government would supply a detailed report in the form approved by the Governing Body, and give particular attention to (a) the supply of statistics and other data concerning the employment situation, indicating how far the objectives of the Five-Year Plan of increasing employment in the public sector by 45 per cent and in the private sector by 75 per cent are being achieved; (b) the measures taken, with ILO/UNDP assistance and otherwise, to encourage handicraft employment in rural areas so as to enable the development of employment in industry to proceed in a more balanced manner in the country as a whole; (c) the steps taken by the national office for the promotion of small and medium-sized Guinean enterprises, created by Decree No. 146/FRG of 2 April 1980; (d) the way in which, whether through formal bodies or otherwise, it is ensured that the persons affected by the policies in this area, especially employers' and workers' representatives, are consulted with a view to securing their full co-operation, as required by Article 3.

Ireland (ratification: 1967)

1. The Committee notes that no report has been received for the period ending June 1984, and that the previous report for the period ending June 1983 was received too late for examination at its last session. The Government has provided detailed information for that period in reply to the previous comments of the Committee and the observations of the Irish Congress of Trade Unions (ICTU). It appears that the rate of unemployment rose further in the two years to

1983 to reach over 15 per cent, and the report refers particularly to the employment difficulties of young workers and women.

2. Further to its previous direct request, the Committee notes with interest the information supplied on the activities of the Youth Employment Agency - set up in 1982 and financed by a 1 per cent levy on virtually all incomes - which have in the first place concentrated on the establishment and expansion of employment programmes, especially at the community level, and the improvement of information systems. The Industrial Training Authority (AnCO) and certain other public bodies have also continued their activities with special attention to the young, women, and the long-term unemployed.

3. The report indicates that Ireland has redirected its economy from protection to free trade and that the industrial policy aims at encouraging high-technology and export-oriented industries. Economic growth over the last two decades has meant an end to involuntary emigration, and the population has been rising. The Government states that a dynamic programme of job creation in the public sector is hindered by the constraints on public finances; its strategy thus relies on the main thrust for new employment coming from the private productive sectors, which must be competitive. The Government is therefore reviewing the operation of the whole economy, the system of Government, the public service, industry and agriculture, so as to eliminate inefficiency and reduce costs. It stresses the employee participation in state bodies and the tripartite consultations, for instance, in the Standing Committee on Employment, and sectoral committees existing since 1981. The National Planning Board has made proposals for macro-economic policy in 1984-87, which are under consideration by the Government.

4. The Committee has noted the explanations by the Government of its policy in the employment sphere; it notes with interest the efforts referred to under paragraph 2 above, as well as the consultations with employers' and workers' representatives in the process. However, it remains very concerned at the high level of unemployment. If the labour force continues to increase more rapidly than employment, the unemployment rate could reach a level close to twice the OECD average. The Committee would hope that the Government will bear in mind the employment aims of the Convention in developing its economic policy. It would also hope that the Government will take full advantage of the views and experience of employers and workers and others affected by employment policies. In this connection, the Committee will be interested to follow developments in respect of the 1984 Bill relating to hours of work and overtime designed to facilitate the expansion of employment in the economy, and developments in incomes policy, as well as the other matters referred to above, and those referred to in a direct request. It hopes the Government will supply a full report in due time dealing further with these questions.

#### Italy (ratification: 1971)

Further to its previous observation the Committee notes that the Government has communicated with its report on the Convention

substantial comments made by the Trade Union Association Intersind. The late receipt of the report did not permit its examination at the present session and the Committee will deal with it at its next session.

Libyan Arab Jamahiriya (ratification: 1971)

The Committee notes with regret that for the third year in succession the Government's report has not been received. The Committee hopes that the Government will not fail to send a report in time for examination at its next session in the form adopted by the ILO Governing Body and that the report will contain full information on the points raised in a direct request.

New Zealand (ratification: 1965)

1. The Committee notes with interest the Government's detailed replies to its previous comments. The report indicates that, following the elections of July 1984, the new Government promised to make the combat against unemployment and, by implication, the creation of employment opportunities, a priority. The report describes developments in the reporting period (ending June 1984) in relation to the matters previously referred to by the employers' and workers' organisations, and the policies being pursued before and after July 1984 in relation to overall and sectoral development, the labour market and employment creation. The Government places its present policy of creating a stable macro-economic environment, where resources are more rationally allocated and labour market adjustment is facilitated, in the context of the last ten years, when a persistent fiscal deficit has been used to attempt to bolster employment in New Zealand. The Government thus, since the reporting period, introduced measures to devalue the currency by 20 per cent, control prices and decontrol interest rates; it has also made it clear that wage restraint is required in the short run, while noting the suggestion of the Reserve Bank of New Zealand that the level of wages is just one of a number of factors which influence the level of employment.

2. The Government refers in its report to comments contained in a New Zealand Employers' Federation (NZEf) paper dated May 1983; the paper draws particular attention to the high proportion of youth unemployment and to the skills shortage. It refers to the need to adapt to structural changes, the rise of labour costs and the disincentives to employment creation, and advocates the promotion of adaptation to change and a climate in which industry wants to create jobs.

3. The Committee notes that, although the level of unemployment in New Zealand compares favourably with the average for OECD countries, it has nevertheless increased markedly in the past few years and can be estimated at about 6 per cent for 1983-84. This is attributed by the Government mainly to an insufficient rate of economic growth and to inadequate flexibility in the labour market;

in this connection, the Committee notes in particular that a tripartite agreement has been reached on the need for reducing the rigidity in the system of wage fixing, and to some extent on the methods for promoting that flexibility. The Committee notes that an immediate improvement in the level of unemployment is not expected, but that specific measures are being taken to provide assistance to the unemployed by way of employment subsidies (which redistribute rather than create employment), training programmes and vocational guidance services. The Government also refers particularly to improved procedures for consultations with employers' and workers' organisations and other groups of persons (e.g. women, young people, and Maori and Pacific island people), as well as among ministers and officials of various government agencies concerning employment policies. The Committee trusts the Government will provide full statistical and other practical information on these matters (as well as certain others referred to in a direct request) and will report on the new initiatives or measures taken to put into practice its "different philosophical outlook" in the field of employment policy.

#### Paraguay (ratification: 1969)

The Committee refers to its previous direct requests. While the Government's report is limited to a reference to an ILO/UNDP technical assistance project concerning human resources planning (PAR/82/001), the Committee notes the close attention given by this project to an analysis of the way in which the employment situation has developed in recent years and to manpower projections and policies for the period 1985-89. It would thus appear that the Government now has a basis on which to proceed towards the adoption and the implementation of a development plan which will include as a major goal an active policy designed to promote full, productive and freely-chosen employment, as required by Article 1 of the Convention. The Committee hopes that consultation will be ensured with representatives of the persons affected by these measures - particularly employers and workers - in accordance with Article 3. It also hopes the Government will supply a full report in the form approved by the Governing Body, together with supporting documentation, describing the measures taken to declare and pursue its employment policy, including, in particular, statistical and other information available on unemployment and underemployment, especially in the rural sector, and on employment-creation effects of measures such as major public works projects and colonisation and land-settlement programmes.

#### Portugal (ratification: 1981)

The Committee has noted with interest the Government's first report on the Convention. The report provides considerable detail on the Government's employment policies and measures and indicates also certain technical assistance received from the ILO in this connection. The Government cites constitutional provisions, which recognise the right to work and the obligation of the State to



guarantee this right; and it describes a wide range of measures which have already been taken, or are now planned, in order to improve the employment situation. These include administrative measures to improve inter-ministerial co-ordination, the establishment of an Institute of Employment and Vocational Training (IEFP) within the Ministry of Labour, employment subsidies and training grants, measures to improve vocational training within the educational system, and special measures to improve employment prospects for youth and the handicapped. The report describes regional measures, including regional employment services and the expansion of its Vocational Training Centres throughout the country; in this connection the Committee has also noted with interest the Government's first report on Convention No. 142, as regards human resources development. The report refers also to the institutional framework for tripartite consultations on employment policy.

The Committee notes, however, from the Government's report that a policy aiming at the creation of full, productive and freely chosen employment has not been completely defined, although a list of actions aimed at meeting these goals has been included within the Programme of the Ninth Constitutional Government. Priority objectives within the present national crisis period are the reduction of the balance of payments and the public sector deficit. A supplementary report states that the financial stabilisation policy adopted through the application of fiscal and monetary measures has affected economic activity, and had an adverse effect on employment from the second half of 1983. In this connection the Committee notes the recent 18.5 per cent rise in unemployment (June 1983 to June 1984) affecting mainly male workers and those looking for new jobs. The unemployment rate was over 10 per cent in 1983 and 11 per cent in 1984 (according to figures published by the OECD) and, in addition, there appears to be a significant element of underemployment. The situation should be considered in the context of a significant labour force growth.

In this connection the Committee would be pleased if the Government would provide information in its next report on its overall and sectoral development policies, indicating how employment objectives are taken into account when decisions are taken in such fields as investment policy, fiscal and monetary policy, and prices and incomes policies; and how the employment-creation objectives are integrated in longer term planning and economic policy.

The Committee has noted the comments on the application of the Convention made by the Portuguese Confederation of Commerce, recommending a series of measures to deal with the growing problem of unemployment, in particular as it affects youths between the ages of 16 and 25 (for instance, subsidies, credit facilities and tax exemptions to enterprises that employ young people; state incentives in respect of first employment and vocational training). The Confederation states that occupational training for the young has been weak or insufficient and urges more practical education for the young including the reintroduction of vocational secondary education. In general, it urges the creation of an atmosphere which is more favourable to private investment, and in this regard it suggests the revision of certain aspects of labour legislation. The Committee further notes that in a supplementary report, the Government refers to

comments made by the General Confederation of Portuguese Workers (CGTP/IN), which will be transmitted in due course together with the Government's further comments.

The Committee is raising various matters in a direct request.

### Spain (ratification: 1970)

1. The Committee has taken note of the Government's report, and of the appended legislation and statistics concerned with employment. The Government has listed a large number of legislative or other measures enacted between 1982 and 1984, which relate to such issues as: overall employment promotion; special measures on behalf of older and younger workers, and the disabled; rural development plans; pensions, social security and unemployment benefits; employment subsidies; the reduction of working time; and measures concerning specific regions of the country. Rural employment measures include Royal Decree No. 3237, of 28 December 1983, on unemployment subsidies for seasonal rural workers; and Royal Decree No. 513, of 29 February 1984, regulating the rural employment plan for those areas with a high incidence of agricultural unemployment. Measures for urban areas include Law No. 27, of 26 July 1984, concerning reconversion and reindustrialisation.

2. The Government states that the fight against inflation has been a priority, and that its policy has revolved around two types of measure, namely wage moderation and a restrictive monetary policy; inflation levels have been reduced considerably in recent years. Furthermore, the Government refers briefly to consultations held with the representatives of employer and worker organisations before the adoption of particular measures on employment creation.

3. While noting the above-mentioned measures, the Committee requests the Government to describe in more detail the methods by which these measures are put into practice; and the procedures for co-ordination between state bodies at both the national and regional levels, and for consultation with employers' and workers' organisations and other persons affected in the regions, over their methods of implementation, in accordance with Article 3 of the Convention.

4. The Government states that by 30 June 1984 overall estimated unemployment was 2,644,900 or 20.15 per cent of the active population. The figures are particularly high for youth with, for example, 41.04 per cent between the ages of 20 and 24 estimated to be unemployed. According to OECD standardised statistics for 1984, overall unemployment levels in Spain appear to be nearly twice as high as the average for the European OECD countries.

5. As stated in its previous observation in 1983, the Committee hopes that, in the light of the current employment situation, special efforts will be made to assess the impact of measures taken, as regards both specific employment-related measures and overall economic policies referred to above. It recalls in this connection that the preparation of a full report on the Convention may require consultation between various ministries or government agencies, such as those responsible for planning, economic affairs and statistics,

and education, as well as labour. The Committee hopes in particular that the next report will describe fully: (a) the effect of legislative and other measures on the employment situation in the more deprived agricultural areas, such as Andalusia and Extremadura; (b) the effect of industrial reconversion measures on the job situation in the industrial regions to the north, such as in the steel and shipbuilding industries, and any new employment created through this reconversion; and more generally (c) how the employment policy objectives are related to other economic and social objectives (Article 2). The Committee hopes that the report will deal also with matters raised in a direct request.

Suriname (ratification: 1976)

The Committee has noted the detailed information provided by the Government in reply to the previous direct request. It is particularly interested to note that the Government has supplied substantial statistical and other information related to employment and unemployment; and that Suriname has had the benefit in the last three years of technical assistance provided by the ILO and UNDP in the fields of manpower planning and vocational training. Furthermore, in connection with Article 3 of the Convention, the Government has indicated that the tripartite Labour Advisory Board was set up on 28 December 1984 under Decree No. E-55 of 24 December 1984 to give advice regarding employment questions in the widest sense. The Government's report and appendices nevertheless point to high and increasing rates of unemployment as a matter of major concern, and the Committee is referring further to certain questions in a new direct request.

United Kingdom (ratification: 1966)

The Committee has noted the detailed information communicated by the Government to the Conference Committee in 1983 and in its report for the period ending June 1984, in reply to the previous observation. The Trades Union Congress (TUC) has also made further comments concerning the application of the Convention.

1. The Government's report reiterates that its policies are designed to maintain a framework which makes possible sustained economic expansion and gives everyone the opportunity to obtain economically viable employment: its macro-economic policies are designed to keep inflation at a low and stable level, with the ultimate aim of stable prices, whilst its micro-economic policies are designed to promote an efficient and competitive market economy. It regards high inflation as inimical to high employment, the development of which is subject to many influences not under the Government's control, and in this context it cites the world economy (it states that recent years have seen a rapid rise in unemployment in all the industrialised countries), the level of wage settlements, and rapid structural change (such as the build-up in North Sea oil production to which the United Kingdom has had to adjust) occasioning higher

frictional unemployment. In this framework, the Government describes its investment policy - which welcomes internationally mobile projects; trade policy - which is a matter for the EEC, although the Government states it is committed to halting protectionism in the belief that open trading will promote competitiveness and thus employment; industrial development policy - which is to act through awareness campaigns and financial inducements to rationalisation and restructuring in favour of new technology (such as micro-electronics); regional development policy - involving selective assistance for viable projects where there is a benefit to employment; small firms policy - involving allowances to help the unemployed set up in business, loan guarantees, advisory services, and an easing of legislative and administrative burdens on small firms; and special measures in favour of Northern Ireland. As regards labour market policies, the Government states that employment services have become more efficient while staff numbers have fallen; and the measures have been taken to liberate the labour market, making it more flexible by reducing labour costs (for example, the national insurance surcharge has been abolished, and the Young Workers' Scheme encourages employment in full-time permanent jobs at rates of pay which reflect the age and relative inexperience of young people). The Government refers to a series of other measures to enhance the employment prospects of unemployed people, and it states 370,000 were currently assisted through them. The report deals also particularly with training for adjustment to new technologies, and measures for training and employment of the disabled.

2. In its comments, the TUC states that unemployment has continued to rise despite a fall in inflation and that the Government's statement of its most serious concern at the situation should be weighed against its refusal to take any measures to bring unemployment down. The number of unemployed (more than 3.2 million in December 1984) increased by 140,000 over the December 1983 to December 1984 period, and the Government's autumn policy statement of 1984 assumed a further rise of 150,000 in registered unemployment in the next financial year. The TUC repeats its estimate that the real shortage of jobs is some 4.5 million, since the official unemployment figures are incomplete. It refers to forecasts that the growth of GDP will slow to 2.5 per cent in the next financial year. It indicates that the suggestion by the Government that labour has been pricing itself out of work is not supported by the evidence. Support for micro-electronics, regional aid and resources for training and manpower policies have all been cut by the Government. In the TUC's view, considering the policies which over the last six years have failed to improve the employment situation, it cannot be maintained that the Government has even attempted to meet its commitment under the Convention.

3. The Committee notes that, after a decline during the reporting period, numbers in employment have regained the level of June 1982, although the increase came largely from part-time jobs occupied by women. Numbers of self-employed also grew. Productivity increases and demographic factors, amongst others, have caused unemployment to continue to rise during the period; according to the economic survey (1984-85) published by the OECD, the

unemployment rate has risen by 2.5 percentage points during the current recovery (1981-84) and was estimated at about 12-13 per cent of the labour force in 1984; at the same time the rate of inflation fell from 15 per cent to 5 per cent. In Northern Ireland, unemployment was 20.5 per cent. While numbers of unemployed remain over 3 million at the end of 1984, job vacancies have, according to the Government, improved to 171,000 in job centres and 11,600 at careers offices.

4. The Committee recalls that in comments over a number of years it has pointed to the worsening employment situation and the absence of evidence of the Government's policies in this respect having any favourable impact. Whilst the Committee fully accepts the importance of stable prices and competitiveness, it is bound to stress that, even in an economic strategy which regards these as the ultimate aim, an active employment policy must in the terms of the Convention none the less be pursued as a major goal. Measures so far taken appear to have had little impact, a matter of considerable concern.

5. The Committee recalls the conclusion of the Conference Committee discussion of the present case in 1983, that priority should be given to the objective of full employment, and that the Government's present policy had not been able to give satisfactory results in this respect; the Conference Committee considered it was the Government which had primary responsibility in this area.

6. In these circumstances the Committee notes with interest the information provided concerning various measures to promote employment, including certain training and employment programmes, particularly for the young, as well as other initiatives such as the Greater London Enterprise Board set up in 1982 to create new and permanent jobs through the encouragement of socially conscious enterprise - with a strong emphasis on worker co-operatives and minority groups. However, the impact of many such programmes appears to be very limited in terms of numbers of workers covered and follow-up employment, given the overall economic climate in the country. The Government has given no indication of the time-scale on which it expects its strategy and its macro-economic policies to produce the employment effects aimed at by the Convention. The Committee would once again express its concern at the level of unemployment. It would very much hope that the Government would consider the necessity of reviewing its policies and measures in relation to the aims of the Convention in accordance with Article 2, as may be appropriate under national conditions and in the light of the current unfavourable employment situation.

7. Further to its previous observation, the Committee notes the indication by the TUC that its participation in the tripartite National Economic Development Council has been resumed. The Government states that consultations on employment questions with employers' and workers' representatives and other interests have continued in various bodies. The Committee hopes the Government will describe further the programme of work of the Council considering future employment, and the efforts made to ensure the experience and views of employers and workers and other persons affected are taken

fully into account in employment policies, so that their full co-operation can be secured in this respect (Article 3).

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In addition, requests regarding certain points are being addressed directly to the following States: Austria, Barbados, Bolivia, Byelorussian SSR, Cameroon, Chile, Cuba, Cyprus, Czechoslovakia, Hungary, Islamic Republic of Iran, Ireland, Jamaica, Libyan Arab Jamahiriya, Madagascar, Mauritania, Morocco, New Zealand, Nicaragua, Panama, Papua New Guinea, Philippines, Poland, Portugal, Romania, Senegal, Spain, Sudan, Suriname, Sweden, Thailand, Tunisia, Uganda, Ukrainian SSR, USSR, Yugoslavia, Zambia.

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

A request regarding certain points is being addressed directly to Thailand.

### Convention No. 124: Medical Examination of Young Persons (Underground Work) 1965

Requests regarding certain points are being addressed directly to the following States: Bolivia, German Democratic Republic, Greece.

Information supplied by Czechoslovakia in answer to a direct request has been noted by the Committee.

### Convention No. 125: Fishermen's Competency Certificates, 1966

Sierra Leone (ratification: 1967)

Further to its previous observation, the Committee notes the Government's statement that the Ministry of Agriculture and Natural Resources has again been requested to forward a draft of comprehensive legislation relating to the Convention to the Ministry of Labour.

Recalling that there are still no national laws or regulations which give effect to the Convention, the Committee trusts that the Government will be able to adopt the necessary measures in the very near future.

[The Government is asked to report in detail for the period ending 30 June 1985.]

Trinidad and Tobago (ratification: 1972)

The Committee notes the information provided in the Government's report. Further to its earlier comments, it observes that no

legislation has yet been adopted which would give full effect to Parts II (Certification), III (Examination) and IV (Enforcement measures) of the Convention. Noting earlier statements by the Government that the drafting of such legislation had been delayed by administrative problems, the Committee hopes that the Government will soon be in a position to indicate the measures taken in this regard.

The Committee also notes from the Government's report that additional courses are being arranged within the framework of the Caribbean Fisheries Training and Development Institute. As it has pointed out in its earlier direct requests, the Committee again calls attention to the fact that certain conditions of age and professional experience for courses already in place (particularly for mates and engine men) do not correspond to the minima laid down in the Convention. It requests the Government to report on any steps taken or contemplated to make them conform to the terms of the Convention.

[The Government is asked to report in detail for the period ending 30 June 1985.]

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In addition, requests regarding certain points are being addressed directly to the following States: Brazil, Djibouti, Panama, Syrian Arab Republic.

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

#### Panama (ratification: 1971)

The Committee notes with interest the information provided by the Government in reply to the Committee's previous comments, and in particular the adoption of Resolution No. 613-2570 ALCN of 31 August 1981 and its Annex concerning crew accommodation and catering facilities aboard ship. It also notes the Government's statement regarding plans to include a section concerning maritime labour matters in the maritime safety inspection report forms used for annual inspections world-wide.

With regard to the Government's earlier request to the ILO for technical assistance concerning the full application of the maritime Conventions, the Committee requests that information be provided on any developments in this field.

The Committee notes that the above-mentioned resolution gives legislative effect to Article 3(c) and (d) of the Convention, concerning inspection and penalties, and to Article 5(a), (b) and (c), concerning inspection upon a ship's registration, re-registration and substantial alteration to crew accommodation, and upon the occasion of complaints by the crew.

The Committee is addressing a direct request to the Government concerning the application of various technical requirements contained in Part III of the Convention. The Committee hopes that the

Government will be able to take steps in the future to give full effect to all provisions of the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: Djibouti, Panama, Sierra Leone, Yugoslavia.

### Convention No. 127: Maximum Weight, 1967

#### Algeria (ratification: 1969)

With reference to its earlier observations, the Committee notes from the report of the Government and the information supplied to the Conference Committee in 1984 that the Basic Act respecting the prevention of occupational risks and the various regulations concerning the protection of workers employed, in particular, on the handling of merchandise, which the Government has mentioned in its earlier reports, will be adopted and promulgated when other work in the field of labour legislation has been completed. The Committee can only urge the Government once more to do everything within its power to have the above-mentioned legislative texts adopted very shortly, so that they may give full effect to all the provisions of the Convention both in the private sector and in the public sector.

#### Italy (ratification: 1971)

The Committee notes with interest that the Ministry of Labour and Social Welfare has issued a circular dated 19 May 1983 to labour inspectors and to occupational organisations, as well as to other ministries, inviting them to apply the Convention to the sectors within their fields of competence. The Government is requested to provide information in the next report on the practical application of this circular.

Article 3 of the Convention. The Committee recalls that almost no measures have been adopted to apply the Convention. With regard to self-employed porters, according to information given to the Conference Committee in 1980, the Central Commission for Portage had issued directives limiting the weight such workers could carry. The Government has so far failed to communicate a copy of these directives, in spite of repeated requests. As concerns employed porters, the Government has also indicated that of 430 collective agreements examined, only two contain provisions on the weight which any worker may be required to carry (a limit of 100 kgs for port workers, and in the food industry additional pay for the transport of weights of 100 kgs). The Government has also failed to communicate copies of these provisions. The Government states further that manual labour in the transport of goods is now a thing of the past, and, at most, sporadic.



The Committee recalls, as it has on previous occasions, that the Convention does not apply only to workers whose exclusive duties are the transport of goods. According to Article 1(b) of the Convention, it also covers any activity "which normally includes, even though intermittently, the manual transport of loads." The Committee points out that most workers who perform manual labour, and many workers such as shop assistants, transport workers and others will from time to time be required to move loads manually. It therefore cannot but stress the need to adopt standards at the national level which cover all workers, as is explicitly required by this Convention.

Article 7. With regard to women workers, the Government has again stated that the principle of equal protection before the law would be violated by the adoption of lower limits on the weights that women workers may be required to transport. It again states that differentiation between men and women workers can be instituted only by collective agreement, and that the lack of any need for such lower limits can be shown by the absence of any such provisions in the majority of collective agreements which have been concluded.

The Committee must recall its earlier statement that the measures required by Article 7 of the Convention do not infringe the principle of non-discrimination in respect of employment (as laid down in the earlier Discrimination (Employment and Occupation) Convention, 1958 (No. 111)), but are intended simply to protect the health of women workers, in the same way as that of the young workers who are also protected by this Article.

The Committee hopes that the Government will take the measures necessary to apply the Convention, and that it will communicate in its next report the provisions adopted for some workers, to which the Committee has referred previously.

### **Convention No. 128: Invalidity, Old-Age and Survivors' Benefits, 1967**

#### Libyan Arab Jamahiriya (ratification: 1975)

The Committee notes with regret that for the third year in succession no report has been received from the Government. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the following matters raised in its previous direct request:

1. Part II (invalidity benefit), Article 9 of the Convention; Part III (old-age benefit), Article 16, and Part IV (survivors' benefit), Article 22. The Government does not state, in respect of the coverage of these various contingencies, whether it employs subparagraph (a), (b) or (c) of paragraph 1 of each of these Articles. The Committee asks it to provide this information and the data and other information called for in the report form.

2. Part V (standards to be complied with by periodical payments), Articles 26, 27 or 28 in conjunction with Part II (invalidity benefit: Article 10), Part III (old-age benefit: Article 17) and Part IV (survivors' benefit: Article 23). The

Government is requested to supply the statistics called for in the report form at titles I to IV under Article 26 or 27 of the Convention or at titles I to V under Article 28. The Committee would like to know, for example, the wage of a skilled manual male employee, if Article 26 of the Convention is used for the calculation of benefit (employee identified in accordance with paragraph 6 of this Article), or the wage of an ordinary adult male labourer, if Article 27 is used (the labourer must then be identified in accordance with paragraph 4 of Article 27).

3. Part IV (survivors' benefit), Article 21, and Part I (general provisions), Article 1(b). The Government is requested to state whether the right of the breadwinner's widow or child to survivors' benefit is conditional on age. The Committee also asks the Government to provide the text of any regulations issued under section 21 of the Act No. 13 of 1980 respecting social security.

4. Part IV (survivors' benefit), Article 24. The Government is requested to indicate which provisions of Article 24 are used (paragraphs 1 and 2, paragraph 3, paragraph 4 or paragraph 5) and supply corresponding information on the way in which effect is given to these provisions of the Convention (nature and duration of a minimum period, etc.).

5. Part IV (survivors' benefit), Article 25. The Government is requested to state in particular, supplying the text of the provisions that apply, whether survivors' benefit is granted throughout the contingency.

6. Part VI (common provisions), Article 34, paragraph 2. The Government is requested to state whether the appeal procedures referred to by Article 34 of the Convention permit the claimant to be represented or assisted in accordance with paragraph 2 of this Article.

7. The Committee also asks the Government to supply the text of the regulations issued under many of the provisions of Act No. 13 of 1980.

The Committee again expresses the hope that the Government will not fail to provide the whole of the above-mentioned information and asks it in particular to refer, in drawing up its report, to the questions appearing in the report form adopted by the Governing Body.

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In addition, requests regarding certain points are being addressed directly to the following States: Austria, Ecuador, Finland, Federal Republic of Germany, Switzerland.

Information supplied by Norway in answer to a direct request has been noted by the Committee.

**Convention No. 129: Labour Inspection (Agriculture), 1969**Netherlands (ratification: 1973)

The Committee refers to its previous observation regarding comments made by the Confederation of the Netherlands Trade Union Movement (FNV) concerning (1) the shortage of inspection staff in agriculture and (2) the tendency of the labour inspection in agriculture to replace verification and penal sanctions with specifically aimed advice and general information. In its reply the Government gives the following indications:

1. In the Labour Inspectorate, which has at its disposal 280 officials for the purpose of inspection activities, 23 (8 per cent) are employed for the agricultural sector. In the Netherlands 280,000 people are employed in agriculture (5.9 per cent of the national labour force). There are some 140,000 agricultural undertakings, most of which are not employers. As the legislation deals largely with employees, the percentage of labour inspectors in agriculture should be related to the employees in that sector (0.8 per cent). The Labour Inspectorate is, on this count, over-represented in agriculture as compared to trade and industry as a whole. However, due to the scattered geographical location of the undertakings to be inspected, this number of inspectors is necessary.

2. As concerns sanctions 276 (3.6 per cent) of the 7,672 stipulations and directions made in 1981, were in the agricultural sector. The percentage of stipulations and directions is lower than the total percentage of workers working in agriculture (5.9 per cent). It should, however, be related to the percentage of employees (0.8 per cent). The scattered geographical location of the agricultural undertakings and the relatively low number of employees per undertaking also play a part. The inspectors may have recourse to a stipulation or a direction, or to drawing up a warrant, should the first attempt to find a solution through consultation not prove fruitful.

The Committee takes note of this information.

Portugal (ratification: 1983)

See observation under Convention No. 81.

Syrian Arab Republic (ratification: 1972)

The Committee notes from the report of the Government that the bill on relations in agriculture takes full account of its earlier comments, which related to the following points:

Article 16, paragraph 1(b), of the Convention: - right of inspectors to enter by day any premises which they may have reasonable cause to believe to be liable to inspection.

Article 16, paragraph 3: - obligation of inspectors, on the occasion of an inspection visit, to notify the employer or his representative, and the workers or their representatives, of their

presence (unless they consider that such a notification may be prejudicial to the performance of their duties).

Article 19, paragraph 2: - association of inspectors with any inquiry into the causes of occupational accidents.

The Committee hopes that this bill, which the Government has been mentioning for several years, will be adopted shortly.

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In addition, requests regarding certain points are being addressed directly to the following States: Burkina Faso, Italy, Romania, Syrian Arab Republic.

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

#### Libyan Arab Jamahiriya (ratification: 1975)

The Committee notes with regret that for the third consecutive year the Government's report has not been received and asks it again to provide detailed information on each of the questions appearing in the report form approved by the Governing Body. The Committee wishes to call the special attention of the Government to the following points:

1. Part II (medical care), Article 10 of the Convention, and Part III (sickness benefit), Article 19. The Government does not state whether it makes use of subparagraph (a), (b) or (c) of Articles 10 and 19 for determining the coverage in respect of these contingencies. The Committee asks it to provide this information and also the information, particularly statistics, mentioned in the report form.

2. Part II (medical care), Articles 8, 9 and 13. The Committee observes that section 30 of the Social Security Act, No. 13 of 1980, does not appear to establish a general scheme for medical care, applying not only in the event of employment injury, but also in all other cases where this care is necessary in accordance with Articles 8 and 9 of the Convention. Medical care must include at least the different benefits listed in Article 13 of the Convention. The Committee asks the Government to state how effect is given to the above-mentioned Articles of the Convention (legal provisions in force, procedures of application, etc.).

3. Part II (medical care). The Committee also asks the Government to state -

- (a) whether all persons who receive social security benefits (for invalidity, old age, death of the breadwinner or unemployment) and, where appropriate, their wives and children continue to receive medical care (Article 12 of the Convention);
- (b) whether a beneficiary who ceases to belong to one of the groups of protected persons continues to be entitled to

medical care in the conditions established by Article 16, paragraphs 2 and 3, of the Convention;

- (c) whether the national legislation requires the beneficiary or his breadwinner to share in the cost of medical care and, if so, what measures have been taken to ensure that such cost-sharing is so designed as to avoid hardship to the beneficiary, in accordance with Article 17 of the Convention.

4. Part III (sickness benefit), Articles 21 to 24. The Government is requested to provide the statistics called for in the report form at titles I and II under Article 22 or 23 of the Convention or at titles I and II under Article 24. The Committee would like to know, for example, the wage of a skilled manual male employee, if use is made of Article 22 of the Convention in calculating benefit (the employee to be identified in accordance with paragraph 6 of this Article) or an ordinary adult male labourer if use is made of Article 23 (the labourer to be identified in accordance with paragraph 4 of Article 23).

The Committee also asks the Government to provide the text of the regulations to be made under several provisions of Act No. 13 of 1980 (for example, sections 25, 31 and 42).

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Czechoslovakia, Ecuador, Luxembourg, Uruguay.

### **Convention No. 131: Minimum Wage Fixing, 1970**

The Committee refers to the general observation it is making this year under Convention No. 26. It hopes that those governments which have not already done so will make every effort to extend to workers in the home-working trades and to domestic workers the protection afforded by a system of minimum wages. While noting the difficulties of a practical nature involved in the implementation of minimum wage rates for these workers, the Committee requests governments to indicate in their next reports on the application of the Convention the present position in this regard.

The Committee also notes that the information requested under Part V of the report form for this Convention, concerning the practical application of the requirements of the Convention, is of particular importance in assessing the degree to which the Convention is applied. A number of governments, however, have not included such information in their reports. The Committee hopes that governments will make every effort to include such information in their future reports.

Bolivia (ratification: 1977)

Article 4, paragraphs 2 and 3, of the Convention. The Committee refers to its previous comments concerning the consultation of employers' organisations with regard to methods of minimum wage fixing. It notes in this context the report of the Committee set up to examine the representation made by the Confederation of Private Employers of Bolivia under article 24 of the Constitution of the ILO, a report adopted by the Governing Body of the International Labour Office at its 228th Session (November 1984).

With reference to the conclusions adopted by the Governing Body Committee, the present Committee notes that the introduction of machinery for minimum wage fixing, according to the sliding scale principle, and the application of this machinery in various cases referred to in the representation, was not preceded by consultations with the employers' organisations concerned, as required by this provision of the Convention. It also notes the assurances given by the Government to the effect that in the future it will respect and encourage tripartite consultation concerning wages.

The Committee furthermore notes that minimum wage levels have regularly been adjusted in accordance with the sliding scale system in force, whose application procedures were modified under, among others, Supreme Decrees Nos. 20013 of 31 January 1984 and 20451 of 31 August 1984. However, the Government does not provide information concerning the consultation of employers' and workers' organisations at the time of these modifications and adjustments.

The Committee therefore expresses the hope that the employers' and workers' organisations concerned will be consulted prior to the establishment and application of any new method of wage fixing.

[The Government is asked to report in detail for the period ending 30 June 1985.]

Spain (ratification: 1971)

Further to its earlier comments regarding the application of the Convention to domestic workers, the Committee had previously noted the Government's statement to the effect that it had the firm intention of submitting, as soon as possible, a bill (the study of which was already at an advanced stage) regulating the labour relations of these workers so that the provisions relative to minimum wages presently in force for other categories of workers would also apply to them.

The Committee notes the adoption of Act No. 32 of 2 August 1984 concerning the amendment of certain sections of Act No. 8 of 10 March 1980 to promulgate a Workers' Charter, which again authorises the Government, within 12 months of its entry into force, to regulate the special labour relation of domestic workers (section 2 (1) (b) of the Charter).

Recalling the concern expressed by the General Union of Workers and by the Trade Union Confederation of Workers' Commissions, in comments submitted in 1982 on the non-application of the Convention to domestic workers, the Committee requests the Government to supply

information on measures taken in respect of these workers under additional provision No. 1 of Act No. 32 of 2 August 1984.

Sri Lanka (ratification: 1975)

The Committee refers to the comments communicated by the United Plantation Workers' Union in a letter dated 26 September 1984, which was transmitted to the Government on 19 October 1984. The Union states that cost-of-living allowances have been granted to workers in the private sector (on the basis of a collective agreement) since 1971, as well as to government employees since 1982, at a much higher rate than the allowance being paid to plantation workers. It also states that the Wages Board for the Tea Growing and Manufacturing Trade adopted in February 1983 a notion which would have resulted in an increase in the cost-of-living allowance presently being paid to plantation workers; but that contrary to the usual practice the Labour Commissioner has failed to reconvene the Board, which would be necessary for bringing the decision into force. The Union notes that all large-scale tea and rubber plantations are operated by state-controlled agencies.

In reply to these comments, the Government has indicated in a communication received on 18 March 1985 that wage increases have been accorded in the private sector under collective agreements concluded between the social partners, but that no agreement of this kind has been concluded for plantation workers. It states also that no cost-of-living allocation of the amount indicated by the United Plantations Workers' Union has been adopted by the Wages Boards.

The Government also points out that the wages of government employees are not fixed by collective bargaining, and that, consequently, the measures taken as concerns these employees are not necessarily extended to the private sector.

The Government thus considers that the allegation that plantation workers have been the victims of discrimination is not well founded.

The Government has also stated that the Wages Board for the Tea Growing and Manufacturing Trade did pass a motion for the payment of a cost-of-living increase. This proposal was published, but substantial objections from interested groups were received, setting out the serious implications that the proposal might have for the national economy. These objections are being studied.

The Government also indicates that wages have been increased between 19 and 50 per cent during 1984 for plantation workers following negotiations between the social partners, and that these increases cover some 75 per cent of workers in the plantations sector.

The Government states also that, at the request of the major plantations workers' unions, a committee in which these unions are represented has been established to examine the structure of the wages in this sector.

The Committee notes these statements with interest and requests the Government to supply information on the measures which have been taken or are contemplated concerning the motion adopted by the Wages Board for the Tea Growing and Manufacturing Trade to allocate a cost-of-living allowance. It would also be grateful if the

Government would supply information on the work of the ad hoc committee set up to examine the structure of wages in plantations.

Finally, it requests the Government to provide information on the application of Article 4 of the Convention concerning the adjustment from time to time of minimum wages for workers who are not represented by the major trade union organisations, including some 25 per cent of the workers in the plantations sector.

[The Government is asked to report in detail for the period ending 30 June 1986.]

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Australia, Bolivia, Burkina Faso, Cameroon, Costa Rica, Ecuador, Kenya, Libyan Arab Jamahariya, Mexico, Nepal, Swaziland, Syrian Arab Republic, Uruguay, Yemen, Zambia.

#### Convention No. 132: Holidays with Pay (Revised), 1970

Requests regarding certain points are being addressed directly to the following States: Burkina Faso, Iraq, Italy, Kenya, Madagascar, Portugal, Uruguay.

#### Convention No. 134: Prevention of Accidents (Seafarers), 1970

Romania (ratification: 1975)

The Committee takes note of the information furnished by the Government in its report, particularly that concerning the measures that give effect to Article 6, paragraph 4, of the Convention. It observes, however, that this information contains no reply to the other precise questions that have been the subject of comments for a number of years. As in its report for 1982, the Government refers to certain provisions in laws and regulations applying to seafarers, but without enclosing the text.

In these circumstances, the Committee is obliged to ask once again the Government to indicate in detail for each of the Articles of the Convention the provisions of the legislation and regulations under which each Article is applied as required in Point II of the report form, and to supply especially the following:

- (a) copies or extracts of relevant reports of investigations and samples of statistics collected in accordance with the provisions of Article 2, as called for by the report form approved by the Governing Body;
- (b) a copy of the provisions for the protection of labour in maritime navigation, specifying those that give effect to Article 4, paragraphs 2 and 3, and Article 5 (measures for the prevention of accidents peculiar to maritime employment).



[The Government is asked to report in detail for the period ending 30 June 1985.]

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Italy, Nigeria, Uruguay.

### **Convention No. 135: Workers' Representatives, 1971**

#### Gabon (ratification: 1975)

The Committee notes with satisfaction that the protection of workers' representatives against acts - other than dismissal - which could be prejudicial to them is secured by the General Collective Agreement of 6 February 1982, a copy of which has been supplied.

#### Sri Lanka (ratification: 1976)

With reference to its previous observations the Committee notes that the proposed Labour Relations Law (also referred to under Convention No. 98) is not to be enacted in its entirety and that the chapter entitled "Freedom of association and unfair labour practices" is being examined with a view to the preparation of a text providing for sanctions for trade union discrimination and interference by employers. The Committee trusts that the new text will conform to Article 1 of the Convention. It repeats its request to the Government to supply a copy of the new provisions once these are adopted.

The Committee notes that the Government will send a copy of the Establishments Code, which the Committee previously requested, as soon as it is published.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Guinea, Jordan, Kenya, Suriname, Yemen.

### **Convention No. 136: Benzenc, 1971**

#### Morocco (ratification: 1974)

With reference to its earlier observations, the Committee notes from the last report of the Government that its comments will be taken into account when additions or amendments are made to the provisions contained in the regulations part of the draft Labour Code and that it has not therefore been considered necessary to make additions or

amendments at this stage to the legislative texts now in force. The Committee recalls that this statement was first made as long ago as 1980 and that in the meantime no measure has been taken to give effect to the Convention. Since most of the provisions of the Convention are not applied at present, the Committee again expresses the hope that the Government will not fail to take the necessary measures (through the adoption of the draft Labour Code or in any other way) in the very near future in order to give full effect to the following provisions of the Convention:

Articles 1 and 3, paragraph 1, of the Convention (the decision to apply or not to apply the national provisions concerning the prevention of benzene poisoning to certain activities must be made on the basis of a benzene content of 1 per cent by volume in the products used).

Article 2 (obligation to use harmless or less harmful substitute products instead of benzene or products containing benzene whenever they are available).

Article 4 (obligation to specify the work processes in which the use of benzene and of products containing benzene must be prohibited).

Article 6, paragraph 2 (obligation to fix a maximum permissible concentration of benzene in the air of the places of employment) and paragraph 3 (obligation to issue directions on carrying out the measurement of the concentration of benzene in the air).

Article 8, paragraph 1 (provision of adequate means of personal protection for workers who may have skin contact with liquid benzene or liquid products containing benzene).

Article 11, paragraph 2 (prohibition from employing young persons under 18 years of age in work processes involving exposure to benzene or products containing benzene except where they are undergoing education or training and are under adequate technical and medical supervision).

Article 12 (the word "benzene" and the necessary danger symbols must be clearly visible on any container holding benzene or products containing benzene).

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Bolivia, France, Iraq, Israel, Italy, Syrian Arab Republic, Uruguay.

### Convention No. 137: Dock Work, 1973

Requests regarding certain points are being addressed directly to the following States: Afghanistan, Costa Rica, Iraq, Italy, Kenya, Nicaragua, Portugal, Spain, Sweden, Uruguay.

Information supplied by France and Poland in answer to a direct request has been noted by the Committee.

**Convention No. 138: Minimum Age, 1973**

Requests regarding certain points are being addressed directly to the following States: Italy, Kenya.

Information supplied by Byelorussian SSR in answer to a direct request has been noted by the Committee.

**Convention No. 139: Occupational Cancer, 1974**

Requests regarding certain points are being addressed directly to the following States: Afghanistan, Iraq, Italy, Peru, Syrian Arab Republic, Uruguay.

**Convention No. 140: Paid Educational Leave, 1974**Netherlands (ratification: 1976)

The Committee refers to its previous observation regarding comments made by the Federation of Christian Trade Unions in the Netherlands (CNV) and the Confederation of the Netherlands Trade Union Movement (FNV), on the Government's report concerning the application of the Convention for the period 1980-82. In its reply the Government states that:

- (a) for the reasons put forward by the CNV (obstructionist tactics from the Netherlands Council of Employers' Federation) there have never been formal consultations on the experiment on paid educational leave budgeted since 1980; the Government shares the opinion of the CNV that paid educational leave implies a governmental responsibility in accordance with the principle of continuing education. Accordingly, the Government has devised the experiment in question but it is for the social partners to further its implementation;
- (b) the Government supports the view of the FNV that educational leave should be regarded primarily as a policy of compensation, which means priority treatment for certain groups in the population. In addition, a basic principle of paid educational leave is that it should preferably have a positive effect on the workers' performance within the organisation as well as on productivity.

The Committee notes the Government's statement. It hopes that the employers' and workers' organisations will continue to be associated, in accordance with Article 6 of the Convention, in the formulation and application of the policy on paid educational leave.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Guinea, Iraq, Kenya, Netherlands, Spain.

**Convention No. 141: Rural Workers' Organisations, 1975**

Requests regarding certain points are being addressed directly to the following States: Afghanistan, Kenya.

Information supplied by Denmark in answer to a direct request has been noted by the Committee.

**Convention No. 142: Human Resources Development, 1975**

Requests regarding certain points are being addressed directly to the following States: Afghanistan, Brazil, Byelorussian SSR, Cyprus, Ecuador, Guinea, Iraq, Israel, Italy, Jordan, Kenya, Nicaragua, Portugal, Spain, Ukrainian SSR.

Information supplied by Ireland and Norway in answer to a direct request has been noted by the Committee.

**Convention No. 143: Migrant Workers (Supplementary Provisions), 1975**

Requests regarding certain points are being addressed directly to the following States: Burkina Faso, Cameroon, Cyprus, Guinea, Italy, Kenya, Norway, Portugal, Sweden.

**Convention No. 144: Tripartite Consultation (International Labour Standards) 1976****Bahamas (ratification: 1979)**

The Committee notes that the Government's report has not been received. It also notes the comments formulated by the Trades Union Congress, which were transmitted to the Government, but on which the Government has not yet supplied observations.

The Trades Union Congress states that it does not receive any reports from the Government relevant to ILO matters and that the Government does not invite the opinion of the Congress on the Conventions and Recommendations of the ILO.

The Committee recalls that, in a previous direct request, it requested the Government to describe the measures taken, in conformity with Article 2 of the Convention, to ensure effective consultations in the Joint Advisory Committee concerning the questions covered by the Convention. It also requested the Government to supply detailed information on the consultations held on each of the matters set forth in Article 5 and on the frequency of these consultations, specifying the results to which they led.

The Committee hopes that a report on the application of the Convention will be provided for consideration at its next session and that this will contain full information on the above points and on the

comments communicated by the Trades Union Congress, as well as on two other questions formulated in a separate direct request.

Ireland (ratification: 1979)

The Committee takes note of the information furnished by the Government in its latest report, including that concerning the application of Article 2, paragraph 2, and Article 5, paragraph 1(b), of the Convention. It further notes with interest that the Department of Labour has consulted the Federated Union of Employers and the Irish Congress of Trade Unions with a view to securing their agreement on the unratified Conventions and the Recommendations of the ILO that would merit re-examination (Article 5, paragraph 1(c)).

The Committee further asks the Government to state whether consultations have now been held with the representative organisations on the advisability of issuing an annual report on the working of the procedures provided for in the Convention (Article 6).

Netherlands (ratification: 1978)

1. The Committee has examined the information supplied by the Government in its latest report as well as the included comments made by the Netherlands Council of Employers' Federations (RCO).

The Government states, in relation to Article 5, paragraph 1(c) of the Convention, that surveys of non-ratified Conventions were brought to the attention of Parliament in 1983 and in 1984; the representative employers' and workers' organisations were consulted, in this respect, in a letter containing an excerpt of the Parliamentary document, limited to the non-ratified ILO Conventions.

The Netherlands Council of Employers' Federations has considered that submitting a list of non-ratified Conventions already printed in Parliamentary documents did not constitute consultation of representative organisations as prescribed by the Convention.

The Government responds to these observations by stating that reporting annually to Parliament on the state of affairs with regard to non-ratified Conventions (including instruments from other international organisations as well) does not require per se previous consultation of the representative organisations of employers and workers, as provided for in the Convention, since it is a matter of making a factual statement on the situation annually. The Government adds that the use of a list of unratified Conventions for consultation of the employers' and workers' organisations on the re-examination of these instruments does not constitute an instance of non-application of the Convention, since the aim of the Government is to elicit, with that list, the points of view of the organisations concerning priorities as to the future course in the field of ratification of unratified ILO Conventions.

The Committee notes these statements. It requests the Government to transmit further information on the nature and the form of the consultations which take place on the re-examination of unratified Conventions and Recommendations to which effect has not yet

been given, in order to consider what measures might be taken to promote their implementation and ratification, as appropriate.

2. The Committee has also examined the comments submitted by the Netherlands Council of Employers' Federations (RCO), the Confederation of the Netherlands Trade Unions' Movement (FNV) and the Federation of Christian Trade Unions (CNV), in letters dated 22 and 29 October and 12 November 1984 as well as the Government's reply on the matter.

These three organisations have referred to the questionnaire contained in Report VI(1) ("Safety in the use of asbestos") to the 71st Session of the International Labour Conference. They have explained that the European Communities have prepared a joint reply of the ten member States to the questionnaire and that, in these circumstances, the Netherlands is not entitled to send the national comments directly to the ILO. According to them, this procedure prevents the consultation of the employers' and workers' organisations at the national level, as prescribed by the Convention.

While explaining in detail the measures taken to remedy this situation, the Government too considers the deviation from the usual consultation procedure as imposed in practice by the European Communities' claim of exclusive competency in the matter of answering the questionnaire, as unsatisfactory.

The Committee notes this information. It hopes that in the first instance the Government will discuss with the representative organisations of employers and workers ways and means of overcoming the difficulties described above with a view to establishing procedures of consultation in accordance with Article 5, paragraph 1(a), of the Convention. The Committee is confident that the Government could, if necessary, count on the technical assistance of the ILO. It requests the Government to provide detailed information on developments in this connection.

#### United Kingdom (ratification: 1977)

Further to its earlier direct requests, the Committee notes the information communicated by the Government in its last report in respect of Article 5, paragraph 1(c), of the Convention.

The Committee has also examined the comments of the Trades Union Congress (TUC), as well as a communication from the Government in reply to these comments. The Trades Union Congress states in particular that the Government did not properly consult the TUC before denouncing the Labour Clauses (Public Contracts) Convention, 1949 (No. 94), and the Protection of Wages Convention, 1949 (No. 95). The TUC also points out that the Government's decision to deprive workers at the Government Communications Headquarters (GCHQ) at Cheltenham of the right to belong to a trade union was taken without consultation with the TUC or with the trade unions directly concerned. The Government does not accept the allegations that it has failed to respect the provisions of Convention No. 144.

The Committee notes these statements. It appears from all the available information that consultations took place before the denunciation by the United Kingdom of Conventions Nos. 94 and 95, but

that the views expressed by the Trades Union Congress did not find acceptance. The Committee observes in this connection that Article 5, paragraph 1(e), of the Convention does not require, when consultations have taken place, that the Government should accept the opinion expressed by a workers' or employers' organisation.

Moreover, the Committee points out that no provision in the Convention required the Government to consult employers' and workers' organisations before adopting the measures mentioned above in respect of GCHQ staff. The Committee is this year making comments on these measures, in relation to the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). It hopes that the Government will consult the Trades Union Congress on the questions raised in those comments in conformity with Article 5, paragraph 1(d), of the Convention.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Australia, Bahamas, Bangladesh, Finland, Greece, Iraq, Italy, Portugal, Swaziland, Zambia.

Information supplied by Denmark and Mexico in answer to a direct request has been noted by the Committee.

### **Convention No. 145: Continuity of Employment (Seafarers), 1976**

#### Finland (ratification: 1978)

Further to its previous observation, the Committee notes that the Maritime Division of the Delegation for Employment Service - which includes representatives of shipowners and seafarers and is chaired by a Government representative - has unanimously proposed reform of the "list system" of seamen's employment services into a new system involving lists of different occupational groups. The Government indicates that the reform observes Conventions Nos. 9 and 145, and it is due to start operating in 1985. The Committee looks forward to receiving details of the reform in due course.

\* \* \*

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

### **Convention No. 146: Seafarers' Annual Leave with Pay, 1976**

#### Netherlands (ratification: 1980)

The Committee acknowledges the information provided by the Government in response to the earlier observation. It notes the Government's statement that a minimum of 30 days' annual leave is

guaranteed to all seafarers under collective agreements in which leave entitlement is expressed in terms of working days, by virtue of sections 381, 392, 414 and 450c of the Commercial Code (Article 3 of the Convention). It further notes the Government's explanation of the rules on rights to proportional annual leave under section 1638cc, paragraph 1, of the Civil Code, whereby service which lasts less than one month is counted for purposes of ensuring proportional annual leave and compensation in lieu thereof (Articles 4 and 7, paragraph 3).

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: France, Italy, Morocco, Nicaragua.

#### **Convention No. 147: Merchant Shipping (Minimum Standards), 1976**

A request regarding certain points is being addressed directly to Spain.

#### **Convention No. 148: Working Environment (Air Pollution, Noise and Vibration), 1977**

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

#### **Convention No. 149: Nursing Personnel, 1977**

Requests regarding certain points are being addressed directly to the following States: Egypt, Iraq, Poland, Uruguay, Zambia.

Information supplied by Byelorussian SSR and Ukrainian SSR in answer to a direct request has been noted by the Committee.

#### **Convention No. 150: Labour Administration, 1978**

Requests regarding certain points are being addressed directly to the following States: Burkina Faso, Denmark, Finland, Gabon, Federal Republic of Germany, Iraq, Israel, Mexico, Netherlands, Norway, Suriname, Sweden, United Kingdom, Zambia.



**Convention No. 151: Labour Relations (Public Service), 1978**Cyprus (ratification: 1981)

The Committee takes note of the Government's first report and of the comments of the Cyprus Civil Servants' Trade Union (PASDYD) on this, in particular concerning the application of Articles 7 and 8 of the Convention.

According to PASDYD, on 25 August 1982 and on 1 March 1984 the House of Representatives rejected and/or modified collective agreements (one in the form of a Supplementary Appropriation Bill, concerning the extension to public servants of salary increases which had already been given to employees in semi-state undertakings, and the other concerning new grades and salary structure for public service posts) which had been concluded within the framework of free collective negotiations between the union and the Government. PASDYD considers that this unilateral intervention by the House of Representatives not only violates the Convention, but also long-standing Cyprus parliamentary practice that the House cannot interfere once a decision on labour relations matters has been taken between the public servants' unions and the Government.

The Committee hopes that full information on these matters will be made available by the Government to enable the Committee to examine them at its next session.

Finland (ratification: 1980)

The Committee notes with satisfaction the Government's reply to its previous observation, and in particular, that by virtue of the new Main Agreement for the municipal sector (signed on 16 April 1984) the Central Union of Technical Employees' Organisations (STTK) enjoys the same negotiating rights as other public employees' unions in this sector. In addition, the Committee notes that a working party has been set up to further develop the negotiation and disputes settlement system available to technical employees in the other levels of the public sector (whose union - the STTK - at present has the right to adhere to collective agreements but not to participate in their negotiation).

Peru (ratification: 1980)

The Committee takes note of the comments of the Central Union of Workers in the Peruvian Institute of Social Security on the Government's application of this Convention, in particular its observations concerning section 44 of Legislative Decree No. 276 of 24 March 1984 on the system of public sector remuneration. The section reads as follows: "The public authorities are prohibited from negotiating with their employees, directly or through their trade union organisations, conditions of work or benefits which imply increases in remuneration or which modify the unified remuneration system established by this legislation ...". The Committee recalls

that it raised the question of the system of determining public servants' remuneration in its 1984 direct request on this Convention.

The Central Union also states that section 28(k) of the Legislative Decree takes away established public servants' rights in that it provides for disciplinary sanctions or termination of the employment contract of a public servant for three consecutive days' unjustified absence whereas in the past 10 days had been the limit.

The Committee requests the Government to reply to these observations and to supply full information on the questions raised in its 1984 direct request (concerning protection of public servants against acts of anti-union discrimination, the unified remuneration system and the procedures for the resolution of disputes) in order to enable it to examine all these matters at its next session.

#### Portugal (ratification: 1981)

The Committee takes note of the Government's first report as well as the comments thereon submitted by the General Confederation of Portuguese Workers - National Interunion (CGTP-IN).

1. Given the CGTP-IN's comment on the lack of prior consultation by the Government, the Committee would request the Government to specify which public servants' organisations are the most representative in the sector and what criteria are used to determine this.

2. As regards the CGTP-IN's allegation that the Government in 1984 refused to meet with it, the Committee observes that the Government is by law (Legislative Decree No.45-A/84) obliged to consult and maintain relations with the representative organisations of employees and, in practice, an agreement was concluded with the Federation of State Employees in February 1984 providing for consultation. It accordingly considers that the Government's application of the Convention is not properly called into question on this point.

3. The Committee notes that the Decree concerning the exercise of freedom of association by public servants, referred to in section 50 of Legislative Decree No. 215-B/75, has not been published. It accordingly requests the Government to inform it of the promulgation of such legislation and to supply a copy of the text, once adopted.

#### United Kingdom (ratification: 1980)

The Committee notes the Government's detailed reply to the comments made by the Trades Union Congress (TUC) on the application of Articles 1, 4, 7, 8 and 9 of the Convention, which were noted in a previous observation.

Article 1. The TUC maintains that the staff at the House of Lords are not covered by any employment legislation and that staff working in the House of Commons - employed by the House of Commons Commission - do not receive the same protection under employment legislation as central government employees, i.e. they are not immune

from liability in tort for unlawful industrial action under the Trade Union and Labour Relations Act, 1974.

The Government replies that the staff of the House of Commons and of the House of Lords are not employees of the Government and therefore they are not covered by the relevant legislation, although certain provisions are applied to them as a matter of general principle. It confirms that provisions in the Trade Union and Labour Relations Act, 1974, as amended, which do not apply to them include those relating to (a) immunities for various acts done in furtherance of trade disputes; (b) peaceful picketing; and (c) secret ballots, and states that the basis for differentiating between these categories of public servants and employees of government departments is that the working of the Houses of Parliament must not be impeded by the activities of other bodies however justifiable these may be in other contexts.

The Committee observes that the basis for the distinction is not to be found in Article 1, paragraph 2, of the Convention and that the resultant restriction on the full enjoyment of trade union rights is consistent neither with the ILO's principles on freedom of association nor with the Convention's objective of promoting sound labour relations between public authorities and public employees' organisations (Preamble, paragraph 4).

The Committee would, accordingly, invite the Government to consider the possibility of taking such measures as will enable the categories of workers concerned to enjoy the rights and protection that the Convention affords.

Article 4. The TUC alleges that, in a number of recent cases, civil servants have been threatened with disciplinary action or dismissal because of articles which they have written in their trade union journals, and that the Government is seeking to deter civil servants from contacting Members of Parliament to enlist support on matters affecting their employment conditions e.g. cuts in the public service.

The Government replies on each specific instance and states generally that, although there is no bar on civil servants expressing legitimate opinions through the press, there are certain areas in which they are required - under the Civil Service Code - to exercise discretion when using official information or experience; in addition, it states that the Civil Service Code protects the right of these employees to approach MPs and points out that in one case where civil servants had contacted a Member of Parliament, they enclosed with their letter unpublished confidential official information and were accordingly warned not to disclose official information.

In this connection, while emphasising that the right of workers' organisations to express their views through the press is a normal trade union activity, the exercise of which should not result in any measures being taken against the public employees concerned that is prejudicial to them, the Committee considers that the action taken by the Government with regard to the specific publications described, given the nature and content of those publications, did not go beyond the kind of measures that might reasonably be expected to be taken by a Government in such circumstances.

Article 7. The TUC alleges that the Government has pre-empted collective bargaining in 1983 and 1984 by unilaterally deciding on the amount to be set aside in the budget for wages in central government. Moreover, according to the TUC, the independent pay data - supplied under the terms of the 1975 pay agreement which was broken by the Government in 1981 - were not supplied to the negotiating parties (see 211th Report of the Committee on Freedom of Association, Case No. 1038, paras. 120 to 141). Although the Government has now agreed to the collection of pay comparability evidence by an independent body for the 1984 pay review, the TUC states that it is unsure of the status of such data in view of the fixed budgetary allocation.

The Government replies that it had explained to the Council of Civil Service Unions - prior to the 1983 negotiations - that public expenditure planning required it to make certain decisions well in advance, but that the negotiations would be genuine and that negotiations did in fact lead to an agreed wage increase. In addition, in announcing the public expenditure plans for 1984-85, the Government made it clear that this did not determine the level of any wages settlement but was an important indication of cost considerations. As regards the data to be collected for the 1984 negotiations, the Government states that these will inform but not constrain the negotiations.

The Committee observes that Article 7 permits a measure of flexibility in the choice of procedures to be used in the determination of terms and conditions of employment and that, in the present case, the parties concerned continue to negotiate pay scales. Given that the Government has agreed to use pay data obtained from independent sources as one of the factors in the 1984 negotiations with the civil servants' unions, the Committee does not consider that there has been a violation of Article 7 of the Convention.

Article 8. The TUC alleges that the Government has not established arbitration machinery which enjoys the confidence of the parties since it has declined in 1982 and 1983 to make any advance commitment to go to arbitration if a negotiated settlement on pay could not be reached.

The Government replies that discussions on arbitration arrangements are continuing with the Council of Civil Service Unions in the context of the talks aimed at reaching agreement on longer term pay arrangements; it states that the findings of the independent inquiry, set up to examine the principles and system determining civil service pay, support the Government's view that neither party to a dispute should be forced to go to arbitration.

The Committee points out that this Article envisages alternative approaches to the settlement of disputes, namely, negotiation between the parties or recourse to an independent and impartial machinery, it being understood that they are not mutually exclusive. The Committee notes the Government's hope that a speedy and satisfactory result may be achieved through negotiations and is accordingly of the opinion that the Government's refusal to commit itself to arbitration proceedings does not constitute a violation of this Article.

Article 9. The TUC alleges that the Government has sought - by warning letters, formal reprimands or denial of promotion - to deter union members holding middle management positions in the civil service from taking part in official industrial action.

The Government states that civil servants are allowed to participate in such activities on condition that these are consistent with the need for political impartiality and avoid any conflict with official duties and responsibilities. According to the Government, staff in management grades have an obligation to maintain the work of their department when there is a threat to the normal functioning of the service for whatever reason; and among their responsibilities is the expectation that managers should subordinate their personal feelings about the merits of any industrial dispute to their obligations as managers.

The Committee recalls that the Article is designed to guarantee those civil and political rights of public service employees which are necessary for the normal exercise of freedom of association, subject only to obligations arising from the status of such employees or the nature of their functions, although it is clearly established that recognition of the principle of freedom of association in the case of public officials does not necessarily imply the right to strike.

The Committee would, however, like to emphasise that this Article is intended to guarantee to those public employees covered by the Convention the rights affirmed to be essential for the normal exercise of trade union rights by the Resolution concerning trade union rights and their relation to civil liberties, adopted at the 54th Session of the International Labour Conference in 1970. The Committee considers that an extension of the scope of the exceptions beyond those specifically authorised under Article 1, paragraph 2, of the Convention would unduly limit the protection and guarantees afforded by the Convention in respect of those public servants to whom it applies.

\* \* \*

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

### **Convention No. 153: Hours of Work and Rest Periods (Road Transport), 1979**

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

### **Convention No. 156: Workers with Family Responsibilities, 1981**

A request regarding certain points is being addressed directly to Norway.

**Appendix I. Receipt of Detailed Reports on Ratified Conventions  
as at 27 March 1985**

*(Article 22 of the Constitution)*

Reports requested: 1,669      Reports received: 1,286      Reports not received: 383

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Afghanistan . . . . .	3	111, 137, 140	0	—	3
Algeria . . . . .	19	3, 11, 32, 58, 62, 68, 77, 78, 87, 91, 92, 97, 98, 99, 111, 119, 120, 122, 127	0	—	19
Angola . . . . .	7	1, 7, 68, 91, 92, 98, 111	1	26	8
Antigua and Barbuda . . . . .	0	—	3	11, 87, 98	3
Argentina . . . . .	16	1, 3, 9, 11, 15, 26, 30, 35, 36, 58, 68, 87, 105, 107, 111, 115	2	19, 98	18
Australia . . . . .	14	7, 9, 11, 15, 47, 87, 98, 99, 111, 112, 122, 131, 137, 144	0	—	14
Austria . . . . .	6	26, 98, 102, 103, 111, 122	7	11, 27, 87, 99, 105, 128, 144	13
Bahamas . . . . .	0	—	6	7, 11, 26, 97, 98, 144	6
Bahrain . . . . .	1	14	0	—	1
Bangladesh . . . . .	11	1, 11, 15, 29, 87, 96, 98, 105, 107, 111, 144	0	—	11
Barbados . . . . .	12	7, 11, 26, 63, 87, 97, 98, 102, 111, 118, 122, 128	0	—	12
Belgium . . . . .	23	1, 9, 11, 15, 26, 43, 58, 68, 77, 87, 91, 92, 97, 98, 99, 102, 111, 112, 120, 122, 126, 144, 147	0	—	23
Belize . . . . .	8	7, 11, 15, 26, 58, 87, 97, 98	1	99	9
Benin . . . . .	2	26, 111	4	11, 87, 98, 143	6
Bolivia . . . . .	14	1, 19, 26, 30, 87, 95, 98, 100, 102, 103, 106, 111, 131, 136	5	20, 120, 122, 124, 128	19

## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Brazil . . . . .	15	11, 26, 58, 91, 92, 97, 98, 99, 103, 107, 111, 117, 120, 122, 148	0	—	15
Bulgaria . . . . .	20	1, 3, 9, 11, 20, 26, 30, 35, 36, 37, 38, 39, 40, 43, 49, 68, 87, 98, 111, 120	0	—	20
Burkina Faso . . . . .	12	3, 5, 11, 14, 19, 97, 98, 100, 111, 132, 135, 143	1	87	13
Burma . . . . .	7	1, 11, 15, 17, 26, 52, 87	0	—	7
Burundi . . . . .	3	1, 11, 26	0	—	3
Byelorussian SSR . . . . .	9	11, 47, 87, 98, 103, 111, 119, 120, 122	0	—	9
Cameroon . . . . .	0	—	12	3, 9, 11, 15, 87, 97, 98, 108, 122, 131, 143, 146	12
Canada . . . . .	8	1, 15, 26, 58, 68, 87, 111, 122	0	—	8
Cape Verde . . . . .	6	17, 81, 98, 100, 105, 111	0	—	6
Central African Republic . .	0	—	11	3, 11, 26, 67, 87, 98, 99, 105, 111, 118, 119	11
Chad . . . . .	13	5, 11, 13, 26, 29, 33, 81, 87, 95, 98, 100, 105, 111	0	—	13
Chile . . . . .	18	1, 2, 3, 7, 9, 11, 15, 20, 24, 25, 26, 30, 35, 36, 37, 38, 111, 122	0	—	18
China . . . . .	4	7, 11, 15, 26	0	—	4
Colombia . . . . .	15	1, 3, 6, 7, 9, 10, 11, 15, 20, 26, 30, 87, 98, 99, 111	0	—	15
Comoros . . . . .	13	1, 11, 13, 19, 26, 29, 81, 87, 98, 99, 100, 105, 122	0	—	13
Congo . . . . .	4	11, 26, 87, 119	0	—	4
Costa Rica . . . . .	13	1, 11, 87, 92, 98, 99, 102, 111, 120, 122, 131, 137, 144	0	—	13
Cuba . . . . .	24	1, 9, 11, 20, 30, 67, 87, 91, 92, 97, 98, 103, 105, 110, 111, 120, 122, 131, 137, 145, 148, 150, 152, 155	0	—	24

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Cyprus . . . . .	13	11, 15, 87, 97, 98, 106, 111, 114, 119, 128, 143, 144, 150	1	122	14
Czechoslovakia . . . . .	19	1, 11, 26, 35, 36, 37, 38, 39, 40, 43, 49, 77, 78, 87, 98, 99, 111, 122, 124	0	—	19
Democratic Yemen . . . . .	0	—	3	15, 58, 98	3
Denmark . . . . .	18	9, 11, 15, 29, 42, 58, 87, 92, 111, 112, 120, 122, 126, 130, 141, 142, 144, 151	2	98, 102	20
Djibouti . . . . .	17	1, 9, 11, 15, 26, 36, 43, 49, 58, 81, 87, 91, 96, 98, 99, 120, 126	4	35, 37, 38, 122	21
Dominica . . . . .	0	—	5	11, 26, 87, 97, 98	5
Dominican Republic . . . . .	9	1, 7, 87, 88, 95, 98, 105, 111, 119	2	26, 77	11
Ecuador . . . . .	17	11, 77, 78, 87, 97, 98, 103, 111, 112, 114, 119, 120, 122, 128, 130, 131, 144	1	110	18
Egypt . . . . .	13	1, 11, 30, 62, 87, 98, 111, 131, 135, 139, 142, 144, 149	10	9, 55, 56, 68, 69, 71, 73, 92, 134, 137	23
El Salvador . . . . .	0	—	1	107	1
Ethiopia . . . . .	4	11, 87, 98, 111	0	—	4
Fiji . . . . .	0	—	9	11, 26, 29, 58, 59, 84, 85, 98, 105	9
Finland . . . . .	17	9, 11, 20, 30, 87, 91, 92, 98, 111, 119, 120, 122, 128, 137, 144, 145, 150	0	—	17
France . . . . .	32	3, 9, 11, 15, 35, 36, 37, 38, 43, 49, 53, 58, 68, 74, 84, 87, 92, 97, 98, 100, 102, 112, 118, 120, 122, 126, 131, 136, 137, 144, 145, 146	1	111	33
Gabon . . . . .	9	3, 11, 26, 81, 87, 98, 99, 111, 150	0	—	9
German Democratic Republic . . . . .	11	11, 47, 77, 78, 87, 98, 103, 111, 120, 122, 124	0	—	11



## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Germany, Federal Republic of . . . . .	13	3, 9, 11, 26, 92, 97, 98, 102, 111, 120, 126, 128, 152	4	87, 99, 122, 144	17
Ghana . . . . .	0	—	12	1, 11, 15, 26, 30, 58, 87, 92, 98, 111, 119, 120	12
Greece . . . . .	14	1, 3, 9, 11, 15, 23, 58, 68, 87, 90, 98, 102, 115, 144	0	—	14
Grenada . . . . .	10	19, 26, 29, 58, 81, 94, 95, 98, 99, 105	7	5, 10, 11, 15, 16, 97, 108	17
Guatemala . . . . .	15	19, 26, 30, 58, 87, 94, 97, 98, 99, 105, 110, 111, 112, 119, 120	0	—	15
Guinea . . . . .	0	—	27	3, 11, 13, 26, 29, 87, 94, 98, 99, 105, 111, 112, 115, 118, 119, 120, 121, 122, 135, 140, 142, 143, 148, 149, 150, 151, 152	27
Guinea-Bissau . . . . .	0	—	9	1, 7, 26, 68, 91, 92, 98, 105, 111	9
Guyana . . . . .	8	7, 11, 15, 26, 87, 97, 98, 111	0	—	8
Haiti . . . . .	0	—	9	1, 24, 25, 30, 87, 98, 100, 105, 111	9
Honduras . . . . .	4	87, 98, 111, 122	0	—	4
Hungary . . . . .	10	7, 15, 26, 87, 98, 99, 103, 111, 122, 145	0	—	10
Iceland . . . . .	0	—	9	11, 15, 58, 87, 91, 98, 102, 111, 144	9
India . . . . .	6	1, 11, 15, 26, 111, 144	0	—	6
Indonesia . . . . .	3	27, 98, 120	0	—	3
Iran, Islamic Republic of . .	2	105, 122	1	111	3

## REPORT OF THE COMMITTEE OF EXPERTS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Iraq . . . . .	13	1, 15, 30, 58, 92, 98, 111, 122, 131, 137, 140, 144, 145	0	—	13
Ireland . . . . .	12	11, 23, 29, 68, 87, 92, 98, 100, 105, 118, 122, 142	8	26, 43, 49, 62, 81, 99, 102, 144	20
Israel . . . . .	13	1, 9, 20, 30, 87, 91, 92, 97, 98, 102, 111, 122, 150	1	78	14
Italy . . . . .	24	9, 26, 35, 36, 37, 38, 39, 40, 68, 87, 92, 97, 98, 99, 102, 103, 111, 119, 120, 122, 137, 143, 144, 146	1	11	25
Ivory Coast . . . . .	10	3, 11, 14, 26, 52, 87, 98, 99, 110, 111	0	—	10
Jamaica . . . . .	3	11, 26, 87	7	15, 16, 58, 97, 98, 111, 122	10
Japan . . . . .	8	9, 15, 58, 87, 98, 102, 119, 131	0	—	8
Jordan . . . . .	10	98, 100, 106, 111, 117, 119, 120, 122, 123, 124	0	—	10
Democratic Kampuchea . . .	0	—	5	4, 6, 13, 29, 122	5
Kenya . . . . .	2	11, 97	6	98, 99, 131, 132, 137, 143	8
Kuwait . . . . .	7	1, 30, 87, 105, 111, 117, 119	0	—	7
Lao People's Democratic Republic . . . . .	3	4, 6, 29	1	13	4
Lebanon . . . . .	0	—	14	1, 14, 15, 29, 30, 45, 98, 105, 111, 115, 120, 122, 127, 131	14
Lesotho . . . . .	0	—	4	11, 26, 87, 98	4
Liberia . . . . .	5	22, 23, 55, 58, 92	6	87, 98, 111, 112, 113, 114	11
Libyan Arab Jamahiriya . . . . .	0	—	16	1, 3, 88, 89, 96, 98, 102, 103, 105, 111, 118, 121, 122, 128, 130, 131	16

## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Luxembourg . . . . .	17	1, 9, 11, 19, 20, 26, 29, 30, 77, 78, 87, 98, 100, 102, 103, 105, 132	1	130	18
Madagascar . . . . .	6	11, 26, 29, 81, 87, 119	4	111, 120, 122, 132	10
Malawi . . . . .	0	—	6	11, 26, 97, 98, 99, 111	6
Malaysia . . . . .	3	98, 105, 119	0	—	3
Peninsular Malaysia . . . .	1	11	0	—	1
Sabah . . . . .	1	15	0	—	1
Sarawak . . . . .	3	7, 11, 15	0	—	3
Mali . . . . .	5	11, 26, 87, 98, 111	0	—	5
Malta . . . . .	10	7, 11, 15, 26, 35, 36, 87, 98, 99, 111	0	—	10
Mauritania . . . . .	6	3, 11, 15, 58, 91, 112	9	22, 26, 81, 84, 87, 94, 102, 111, 122	15
Mauritius . . . . .	8	11, 15, 26, 58, 84, 97, 98, 99	0	—	8
Mexico . . . . .	17	9, 11, 30, 43, 49, 58, 87, 102, 110, 111, 112, 120, 131, 144, 150, 152, 153	0	—	17
Mongolia . . . . .	4	87, 103, 111, 122	1	98	5
Morocco . . . . .	16	11, 15, 26, 29, 30, 52, 81, 98, 99, 100, 111, 119, 122, 136, 145, 146	0	—	16
Mozambique . . . . .	4	1, 11, 30, 111	0	—	4
Nepal . . . . .	3	100, 111, 131	0	—	3
Netherlands . . . . .	20	9, 11, 68, 87, 92, 97, 102, 103, 111, 114, 122, 126, 128, 131, 137, 140, 144, 145, 146, 150	0	—	20
New Zealand . . . . .	18	1, 8, 9, 11, 15, 23, 26, 30, 47, 49, 58, 68, 84, 92, 97, 99, 122, 145	1	88	19
Nicaragua . . . . .	15	1, 3, 9, 11, 13, 28, 29, 30, 87, 98, 111, 119, 131, 144, 146	6	77, 78, 110, 122, 137, 141	21
Niger . . . . .	0	—	8	11, 26, 87, 98, 102, 105, 111, 119	8

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Nigeria . . . . .	10	11, 15, 16, 19, 26, 32, 58, 87, 97, 98	1	134	11
Norway . . . . .	27	9, 11, 26, 30, 43, 47, 49, 68, 87, 91, 92, 97, 98, 102, 111, 119, 120, 122, 126, 128, 137, 143, 145, 150, 154, 155, 156	1	144	28
Pakistan . . . . .	7	1, 11, 15, 87, 98, 107, 111	0	—	7
Panama . . . . .	15	3, 11, 20, 26, 30, 43, 52, 53, 58, 68, 87, 98, 112, 119, 120	11	9, 15, 22, 32, 92, 94, 110, 111, 122, 125, 126	26
Papua New Guinea . . . . .	0	—	10	7, 10, 11, 19, 26, 27, 85, 98, 99, 122	10
Paraguay . . . . .	12	1, 11, 26, 30, 87, 98, 99, 107, 111, 119, 120, 122	0	—	12
Peru . . . . .	15	1, 9, 11, 20, 26, 58, 67, 68, 87, 98, 99, 105, 111, 112, 122	12	24, 25, 35, 36, 37, 38, 39, 40, 56, 71, 102, 107	27
Philippines . . . . .	5	77, 99, 110, 111, 122	2	87, 98	7
Poland . . . . .	25	9, 11, 35, 36, 37, 38, 39, 40, 68, 87, 91, 92, 98, 99, 103, 111, 113, 119, 120, 122, 137, 140, 145, 149, 151	0	—	25
Portugal . . . . .	18	1, 7, 8, 11, 22, 23, 26, 68, 87, 91, 92, 97, 98, 111, 122, 137, 143, 144	0	—	18
Qatar . . . . .	0	—	1	111	1
Romania . . . . .	13	1, 3, 9, 11, 29, 87, 98, 111, 122, 129, 131, 134, 137	0	—	13
Rwanda . . . . .	3	11, 26, 111	0	—	3
Saint Lucia . . . . .	15	5, 7, 8, 11, 14, 15, 16, 19, 26, 29, 87, 94, 95, 101, 105	2	97, 98	17
Sao Tome and Principe . . . . .	3	19, 81, 100	1	111	4
Saudi Arabia . . . . .	4	1, 30, 106, 111	0	—	4
Senegal . . . . .	0	—	9	11, 26, 87, 98, 99, 102, 111, 120, 122	9
Seychelles . . . . .	4	8, 11, 29, 87	6	7, 15, 26, 58, 99, 105	10

## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Sierra Leone . . . . .	8	8, 15, 26, 58, 87, 98, 99, 125	5	59, 81, 111, 119, 126	13
Singapore . . . . .	6	5, 7, 8, 11, 15, 98	0	—	6
Somalia . . . . .	2	84, 111	1	22	3
Spain . . . . .	24	1, 9, 11, 20, 27, 30, 68, 87, 92, 97, 98, 103, 111, 119, 120, 122, 126, 131, 137, 140, 146, 148, 150, 152	0	—	24
Sri Lanka . . . . .	6	11, 15, 58, 98, 99, 131	0	—	6
Sudan . . . . .	3	26, 98, 111	3	19, 105, 122	6
Suriname . . . . .	16	11, 13, 19, 27, 29, 62, 81, 96, 105, 112, 118, 122, 135, 144, 150, 151	1	87	17
Swaziland . . . . .	0	—	9	11, 26, 29, 87, 98, 99, 111, 131, 144	9
Sweden . . . . .	21	9, 11, 15, 47, 58, 87, 92, 98, 102, 111, 119, 120, 122, 128, 137, 143, 144, 146, 150, 154, 155	1	156	22
Switzerland . . . . .	10	11, 15, 26, 58, 87, 102, 111, 120, 128, 153	0	—	10
Syrian Arab Republic . . . .	11	1, 11, 30, 63, 98, 105, 106, 111, 119, 129, 131	4	29, 87, 117, 120	15
Tanzania, United Republic of	4	11, 15, 26, 98	0	—	4
Tanganyika . . . . .	0	—	0	—	0
Zanzibar . . . . .	3	7, 58, 97	0	—	3
Thailand . . . . .	2	105, 122	0	—	2
Togo . . . . .	4	11, 26, 84, 87	0	—	4
Trinidad and Tobago . . . . .	5	15, 87, 97, 98, 111	0	—	5
Tunisia . . . . .	9	8, 26, 29, 58, 87, 91, 111, 119, 122	5	11, 98, 99, 112, 120	14
Turkey . . . . .	11	11, 15, 26, 58, 95, 98, 99, 102, 111, 119, 122	0	—	11
Uganda . . . . .	3	11, 26, 98	3	29, 122, 143	6

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Ukrainian SSR . . . . .	12	11, 47, 87, 92, 98, 103, 111, 119, 120, 122, 126, 149	0	—	12
USSR . . . . .	11	11, 47, 87, 92, 98, 103, 111, 119, 120, 122, 126	0	—	11
United Arab Emirates . . . .	2	1, 81	2	29, 89	4
United Kingdom . . . . .	20	7, 11, 15, 26, 35, 36, 37, 38, 39, 40, 68, 84, 87, 92, 97, 99, 120, 122, 144, 150	2	98, 102	22
United States . . . . .	1	58	0	—	1
Uruguay . . . . .	21	1, 9, 11, 30, 43, 67, 87, 97, 98, 103, 110, 119, 122, 128, 131, 132, 134, 136, 137, 139, 149	0	—	21
Venezuela . . . . .	9	1, 3, 7, 11, 26, 95, 98, 103, 120	9	22, 87, 100, 102, 111, 118, 121, 122, 130	18
Yemen . . . . .	0	—	6	29, 87, 98, 111, 131, 135	6
Yugoslavia . . . . .	17	9, 11, 15, 58, 87, 91, 92, 97, 98, 102, 103, 111, 112, 119, 122, 126, 143	0	—	17
Zaire . . . . .	7	11, 26, 29, 84, 98, 119, 120	0	—	7
Zambia . . . . .	10	11, 29, 95, 97, 103, 111, 131, 148, 149, 150	2	122, 144	12
<i>Other States</i>					
Albania <sup>1</sup> . . . . .	0	—	14	10, 11, 16, 21, 29, 52, 58, 59, 77, 78, 87, 98, 100, 112	14
Nauru . . . . .	0	—	5	19, 21, 27, 29, 105	5
South Africa <sup>1</sup> . . . . .	1	26	0	—	1
Western Samoa . . . . .	0	—	2	14, 29	2

<sup>1</sup> Albania and South Africa have withdrawn from the ILO, but these States continue to be bound by the Conventions which they have ratified (article 1, paragraph 5, of the Constitution).

## Appendix II. Statistical Table of Reports received on Ratified Conventions as at 27 March 1985

(Article 22 of the Constitution)

Period	Reports requested	Reports received at the date requested		Reports received in time for the session of the Committee		Reports received in time for the session of the Conference	
		Number	Percentage	Number	Percentage	Number	Percentage
1931-1932	447	—	—	406	90.8	423	94.6
1932-1933	522	—	—	435	83.3	453	86.7
1933-1934	601	—	—	508	84.5	544	90.5
1934-1935	630	—	—	584	92.7	620	98.4
1935-1936	662	—	—	577	87.2	604	91.2
1936-1937	702	—	—	580	82.6	634	90.3
1937-1938	748	—	—	616	82.4	635	84.9
1938-1939	766	—	—	588	76.8	—	—
1943-1944	583	—	—	251	43.1	314	53.9
1944-1945	725	—	—	351	48.4	523	72.2
1945-1946	731	—	—	370	50.6	578	79.1
1946-1947	763	—	—	581	76.1	666	87.3
1947-1948	799	—	—	521	65.2	648	81.1
1948-1949	806	134 <sup>1</sup>	16.6	666	82.6	695	86.2
1949-1950	831	253	30.4	597	71.8	666	80.1
1950-1951	907	288	31.7	705	77.7	761	83.9
1951-1952	981	268	27.3	743	75.7	826	84.2
1952-1953	1 026	212	20.6	840	81.8	917	89.3
1953-1954	1 175	268	22.8	1 077	91.7	1 119	95.2
1954-1955	1 234	283	22.9	1 063	86.1	1 170	94.8
1955-1956	1 333	332	24.9	1 234	92.5	1 283	96.2
1956-1957	1 418	210	14.7	1 295	91.3	1 349	95.1
1957-1958	1 558	340	21.8	1 484	95.2	1 509	96.8
1958-1959	995 <sup>2</sup>	200	20.4	864	86.8	902	90.6
1958-1960	1 100	256	23.2	838	76.1	963	87.4
1959-1961	1 362	243	18.1	1 090	80.0	1 142	83.8
1960-1962	1 309	200	15.5	1 059	80.9	1 121	85.6
1961-1963	1 624	280	17.2	1 314	80.9	1 430	88.0
1962-1964	1 495	213	14.2	1 268	84.8	1 356	90.7
1963-1965	1 700	282	16.6	1 444	84.9	1 527	89.8
1964-1966	1 562	245	16.3	1 330	85.1	1 395	89.3
1965-1967	1 883	323	17.4	1 551	84.5	1 643	89.6
1966-1968	1 647	281	17.1	1 409	85.5	1 470	89.1
1967-1969	1 821	249	13.4	1 501	82.4	1 601	87.9
1968-1970	1 894	360	18.9	1 463	77.0	1 549	81.6
1969-1971	1 992	237	11.8	1 504	75.5	1 707	85.6
1970-1972	2 025	297	14.6	1 572	77.6	1 753	86.5
1971-1973	2 048	300	14.6	1 521	74.3	1 691	82.5
1972-1974	2 189	370	16.5	1 854	84.6	1 958	89.4
1973-1975	2 034	301	14.8	1 663	81.7	1 764	86.7
1974-1976	2 200	292	13.2	1 831	83.0	1 914	87.0
-1977	1 529 <sup>3</sup>	215	14.0	1 120	73.2	1 328	87.0
-1978	1 701	251	14.7	1 289	75.7	1 391	81.7
-1979	1 593	234	14.7	1 270	79.8	1 376	86.4
-1980	1 581	168	10.6	1 302	82.2	1 437	90.8
-1981	1 543	127	8.1	1 210	78.4	1 340	86.7
-1982	1 695	332	19.4	1 382	81.4	1 493	88.0
-1983	1 737	236	13.5	1 388	79.9	1 558	89.6
-1984	1 669	189	11.3	1 286	77.0	—	—

<sup>1</sup> First year for which this figure is available.

<sup>2</sup> As a result of a decision by the Governing Body, detailed reports were requested as from 1958-59 until 1976 only on certain ratified Conventions.

<sup>3</sup> As a result of a decision by the Governing Body (November 1976), detailed reports are now requested, according to certain criteria, at yearly, two-yearly or four-yearly intervals.

## **II. Observations on the Application of Conventions in Non-Metropolitan Territories (Article 22 and Article 35, Paragraphs 6 and 8, of the Constitution)**

### **A. GENERAL OBSERVATIONS**

#### **Australia**

The Committee notes that no declarations have yet been made pursuant to article 35 of the ILO Constitution regarding the extent of application to Norfolk Islands of a number of Conventions ratified by Australia from 1975 to 1979 (Nos. 81, 100, 111, 131, 137 and 144). The Committee also notes a communication received from the Norfolk Island Public Service Association alleging failure by the Government to make declarations of application for Norfolk Islands in respect of Conventions Nos. 100, 111 and 131. Moreover, the Association refers to the absence of any action on some Conventions in respect of which the Government had in the past made declarations reserving its decision regarding their application to Norfolk Islands (Nos. 12, 17, 19 and 42). The Committee refers in this connection to paragraph 14 of Part I of this report, and expresses the hope that the necessary action will be taken with a view to communicating the declarations provided for in article 35 of the Constitution in respect of the Conventions concerned.

#### **Denmark**

The Committee notes with regret that for the third year in succession none of the reports due in respect of the application of Conventions in the Farøe Islands have been received (including the first report on Convention No. 27 which has been due for two years), and most of those concerning Greenland have not been received. It trusts that the reports in question will be available for examination by the Committee at its next session.

#### **France**

The Committee notes that no declarations have yet been made pursuant to article 35 of the ILO Constitution regarding the extent of application of a number of Conventions ratified by France from 1974 to 1981 (Nos. 102, 111, 118, 127, 129, 131, 134, 137, 140, 145, 146 and



147) to territories for whose international relations France is responsible. The Committee refers in this connection to paragraph 14 of Part I of this report, and expresses the hope that the necessary action will be taken with a view to communicating the declarations provided for in article 35 of the Constitution in respect of the Conventions concerned.

#### Netherlands

The Committee notes with regret that once again the reports due in respect of the application of Conventions in the Netherlands Antilles have not been received. It trusts that the reports in question will be available for examination by the Committee at its next session.

The Committee also notes that no declarations have yet been made pursuant to article 35 of the ILO Constitution regarding the extent of application to the Netherlands Antilles of a number of Conventions ratified by the Netherlands from 1965 to 1981 (Nos. 24, 32, 44, 100, 103, 111, 112, 115, 121, 126, 129, 131, 135, 137, 138, 140, 141, 142, 144, 145, 146 and 150). The Committee refers in this connection to paragraph 14 of Part I of this report, and expresses the hope that the necessary action will be taken with a view to communicating the declarations provided for in article 35 of the Constitution in respect of the Conventions concerned.

#### New Zealand

The Committee notes with regret that for the fourth year in succession the reports due on the application of Conventions in the Cook Islands have not been received and that this year the reports also due in respect of the Tokelau Islands have not been supplied. The Committee trusts that the reports in question will be available for examination by the Committee at its next session.

#### United Kingdom

The Committee notes that the reports due on the application of Conventions in the Falkland Islands (Malvinas) (including the first report on Convention No. 141 which has been due for four years) and, for the Isle of Man, the first report on Convention No. 150 which has been due for two years, have not been received. It trusts that the reports in question will be available for examination by the Committee at its next session.

#### United States

The Committee notes that the reports due in respect of the application of Conventions in Puerto Rico and the Virgin Islands have not been received. It trusts that the Government will not fail in

future to discharge its obligation to report on the application of ratified Conventions.

## B. INDIVIDUAL OBSERVATIONS

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

Requests regarding certain points are being addressed directly to France (New Caledonia, St. Pierre and Miquelon).

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

A request regarding certain points is being addressed directly to Denmark (Faerøe Islands).

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

A request regarding certain points is being addressed directly to Denmark (Faerøe Islands).

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

A request regarding certain points is being addressed directly to France (French Polynesia).

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

#### Denmark

#### Faerøe Islands

Article 3 of the Convention. The Committee notes with regret that for the fourth year in succession no report has been received, and that the Government has not yet replied to the requests it has been repeating since 1977 on the provisions to be adopted to provide for the annual repetition of the medical examination of seafarers under 18 years of age. The Committee trusts that the Government will shortly indicate the measures adopted.

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

Article 7 of the Convention. The Committee notes the statement of the Government that additional compensation is granted to a worker in the event of it emerging that the constant help of a third party is necessary, and that this compensation is allocated on the basis of the general provision at the end of section 4, paragraph 2 of the Antillean Ordinance regulating accident benefit (PB 1966, No. 14), which provision provides that all benefits in respect of medical treatment and care shall be provided to the extent necessary in view of the consequences of the accident. The Committee requests the Government to supply all available information on the application in practice of the provision cited in respect of the cases covered by Article 7 of the Convention (total number of injuries due to industrial accidents; cases where additional compensation was allocated; levels of additional compensation paid; procedure to be followed to obtain additional compensation). It also hopes that the Government will introduce as soon as possible a specific provision to sanction this practice and bring the legislation formally into conformity with this Article of the Convention.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the United Kingdom (Anguilla, Falkland Islands (Malvinas)).

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

The Committee takes note of the information provided by the Government in its report.

Article 2, paragraph 2(c), of the Convention. In comments made for a number of years, the Committee had pointed out that, under section 87 of Order No. 1074/APA of 25 August 1951 to reorganise the prison system, persons sentenced to imprisonment may be assigned to the service of private individuals. The Government had stated that this provision was not applied in practice and had stated its intention of repealing it.

The Committee notes the statement by the Government in its report that Order No. 1074/APA of 25 August 1951 has been amended by Order No. 1464 of 30 March 1977 giving executory force to Decisions Nos. 76-184 of 30 November 1976 and 77-30 of 10 February 1977 to regulate

the prison system. It notes that, under section 60 of Decision No. 76-184, persons sentenced to imprisonment for acts deemed to be common crimes or offences are obliged to perform labour, and that, under section 81 of the same Decision, they may be employed outside the prison establishment, on behalf of private individuals, and may then be placed under the responsibility and supervision of a person or persons provided by the employing service and approved by the administration.

The Committee observes that, under Article 2, paragraph 2(c), of the Convention, prison labour must be carried out under the supervision and control of a public authority and the prisoner must not be hired to or placed at the disposal of private individuals, companies or associations. The Committee recalls, however, the opinion it has expressed on earlier occasions that it is not incompatible with the Convention if certain prisoners are granted the possibility of voluntarily accepting a normal employment in the service of a private employer, subject to the necessary guarantees in respect of remuneration, social security, etc.

The Committee hopes that the provisions in question of Decision No. 76-184 of 30 November 1976 will be amended to bring the law into conformity with the Convention on this point, either by prohibiting the employment of prisoners on behalf of private individuals or by guaranteeing to the prisoners concerned the normal conditions of a freely accepted employment relation.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Reunion, St. Pierre and Miquelon), Netherlands (Netherlands Antilles).

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

A request regarding certain points is being addressed directly to France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion).

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

#### France

#### New Caledonia

Article 12, paragraph 5, of the Convention. The Committee takes note of the information furnished by the Government in its report. The Committee observes, however, that no progress has been made with a view to amending section 1 of Resolution No. 300 of 17 June 1961,

under which foreign workers are entitled to benefit if they have their residence and legal domicile in New Caledonia or reside in a country that has entered into a reciprocity agreement with France. The Committee points out that, under this provision of the Convention, any restrictions that may apply in the event of residence abroad can apply to pensioners and their dependants who are nationals of any Member bound by the Convention and reside in the territory of any Member bound thereby only to the extent to which these restrictions apply to nationals of the country in which the pension has been acquired, irrespective of the conclusion of a bilateral agreement for the purpose. The Committee therefore again expresses the hope that the Government will take the necessary measures to bring the national legislation into conformity with the Convention on this point too and asks it to report any progress made.

\* \* \*

Information supplied by France (French Polynesia) in answer to a direct request has been noted by the Committee.

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

#### France

#### New Caledonia

Article 12, paragraph 5, of the Convention. See under Convention No. 35.

\* \* \*

Information supplied by France (French Polynesia) in answer to a direct request has been noted by the Committee.

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

A request regarding certain points is being addressed directly to France (French Polynesia).

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

A request regarding certain points is being addressed directly to France (French Polynesia).

**Convention No. 44: Unemployment Provision, 1934**FranceNew Caledonia

With reference to its previous comments, the Committee has taken note of the adoption of Resolution No. 533 of 2 February 1983 establishing a partial and total unemployment insurance scheme in New Caledonia and Order No. 2800-847/IT of 29 March 1983 specifying the occupational branches in which benefits may be granted in case of partial unemployment. The Committee notes with satisfaction that under the terms of Chapter II and section 8 of Resolution No. 533 a new scheme providing for the payment of partial unemployment allowance has been introduced to meet cases of temporary close-down of establishments or reduction of hours of work and that a worker who leaves his employment voluntarily without just cause will now be disqualified for the receipt of benefit for only three months, in accordance with the requirements of Article 3 and Article 10, paragraph 2(b), of the Convention.

\* \* \*

In addition, requests regarding certain points are being addressed directly to France (French Polynesia, New Caledonia).

**Convention No. 47: Forty-Hour Week, 1935**

A request regarding certain points is being addressed directly to Australia (Norfolk Islands).

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

A request regarding certain points is being addressed directly to France (French Polynesia).

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

The Committee notes that the Government's report has not been received. In its previous observation, the Committee had noted that the adoption of the draft to amend the Decree concerning the

recruitment of seamen (PB 1960, No. 201), which was to fix a minimum age of 16 years, was uncertain.

The Committee must recall that the Convention requires a minimum age of 15 years to be fixed by the national laws or regulations. The Committee hopes that the necessary measures will be taken in the near future.

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

A request regarding certain points is being addressed directly to the United Kingdom (Montserrat).

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

A request regarding certain points is being addressed directly to France (St. Pierre and Miquelon).

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

#### Netherlands

#### Netherlands Antilles

Further to its previous observations, the Committee notes the Government's statement that the draft ordinance to ensure compliance with Articles 2, 3, 4 and 6 of the Convention has not been adopted and that the Government wishes to consider further the desirability and feasibility of such legislation owing to the practical difficulties in providing training and in finding candidates for training as ship's cooks. In this regard the Committee would point out once again that while under Article 3, the Convention requires a certificate of qualification of persons engaged as ship's cook, it does not require a training programme to be instituted. Under Article 4, such certificates may be granted by the competent authority or an approved body. Finally, Article 6 of the Convention permits the recognition of certificates of qualification issued in other territories.

The Committee hopes accordingly that the Government will bear these comments in mind when reassessing the need for giving effect to the Convention, and that it will supply information on any developments in its next report.

\* \* \*

In addition, a request regarding certain points is being addressed directly to France (French Polynesia).

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

A request regarding certain points is being addressed directly to the United States (Guam, Puerto Rico, Virgin Islands).

**Convention No. 81: Labour Inspection, 1947**NetherlandsNetherlands Antilles

Articles 10, 20 and 21, of the Convention. The Committee regrets to note that no annual report of inspection has been published since 1962. Recalling the assurances given by the Government in its latest reports on the application of the Convention, it trusts that the Government will not delay in taking the necessary measures - including the increasing of the numerical strength of the inspection service - so that in future these annual reports of inspection, containing all the information called for by Article 21 of the Convention, may be published and transmitted to the ILO within the periods laid down by Article 20.

\* \* \*

In addition, requests regarding certain points are being addressed directly to France (French Polynesia, New Caledonia).

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

Requests regarding certain points are being addressed directly to the United Kingdom (Hong Kong, Montserrat).

**Convention No. 88: Employment Service, 1948**

Information supplied by France (St. Pierre and Miquelon) in answer to a direct request has been noted by the Committee.



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

Further to its previous comments, the Committee notes with satisfaction the adoption, by Order No. 858 AA of 27 March 1984, of Decision No. 84-20 of 1 March 1984 containing the Public Contracts Code. It notes that the Code applies the Convention in most respects and refers to the request it is addressing directly to the Government on some points.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: France (French Polynesia), Netherlands (Netherlands Antilles), United Kingdom (Anguilla).

**Convention No. 97: Migration for Employment (Revised), 1949**

Information supplied by the United Kingdom (Hong Kong) in answer to a direct request has been noted by the Committee.

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

The Committee takes note of the report of the Government and observes that this, like the previous report, does not reply to its comments, which concerned the prohibition, contained in Ordinance No. 82-1114 of 23 December 1982, of clauses indexing wages to the cost-of-living index.

Article 30 of this text prohibits all wage indexing in collective agreements since 1 January 1984.

The Committee would point out, as it has already done, in particular in paragraphs 309, 311 and 313 to 315 of its 1983 General Survey that restrictions on the independence of trade union organisations to fix wages are incompatible with the principle of the promotion of collective bargaining under Article 4 of the Convention. It recalls that if, for compelling reasons of national economic interest, such restrictions, should be unavoidable, they should be imposed as an exceptional measure, and only to the extent necessary, without exceeding a reasonable period, and they should be accompanied by adequate safeguards to protect the living standards of the workers.

In addition, the Committee would point out that, instead of adopting legislative measures to prohibit wage indexation to the cost of living in order to reduce inflationary trends, steps should be taken to persuade the parties to collective bargaining to have regard voluntarily in their negotiations to major economic and social policy considerations and the general interest invoked by the Government.

The Committee would, accordingly, request the Government to take the necessary steps to ensure that collective bargaining on wages is no longer subject to legal restrictions thereby giving full effect to Article 4 of the Convention.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the United Kingdom (Guernsey, Montserrat).

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

A request regarding certain points is being addressed directly to the United Kingdom (Anguilla).

### **Convention No. 105: Abolition of Forced Labour, 1957**

Requests regarding certain points are being addressed directly to the following States: Denmark (Faeröe Islands), France (French Polynesia), New Zealand (Niue Island), United Kingdom (British Virgin Islands).

### **Convention No. 108: Seafarers' Identity Documents, 1958**

Requests regarding certain points are being addressed directly to the United Kingdom (Anguilla, Falkland Islands (Malvinas)).

### **Convention No. 115: Radiation Protection, 1960**

France

French Polynesia

With reference to its earlier observations, the Committee notes from the report of the Government that a draft order to give effect to the Convention has been communicated to the social partners and that it was likely to be promulgated before the end of 1984. The Committee points out that there are still no provisions in laws or regulations giving effect to the Convention. It hopes that the

above-mentioned draft order will be adopted in the very near future and that it will give full effect to the Convention.

[The Government is asked to report in detail for the period ending 30 June 1985.]

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

#### France

#### French Polynesia

The Committee observes that the report of the Government contains no reply to its previous direct request. The Government again refers to Order No. 621/IT of 1950, which contains no provisions to give effect to Articles 9, 10, 11, 13 and 15 to 19 of the Convention. The Committee recalls the statement by the Government made in its previous report to the effect that the comments of the Committee concerning the above-mentioned Articles of the Convention will be taken into consideration when, following the amendment of the Overseas Labour Code, new decisions are taken under it by the Council of Government in respect of health and safety.

The Committee again expresses the hope, then, that the Government will not fail to take the necessary measures to ensure the application of the whole of the Convention and that in its next report it will indicate any progress made in this connection.

[The Government is asked to report in detail for the period ending 30 June 1985.]

\* \* \*

In addition, a request regarding certain points is being addressed directly to France (New Caledonia).

### Convention No. 122: Employment Policy, 1964

Requests regarding certain points are being addressed directly to the following States: France (New Caledonia, St. Pierre and Miquelon), United Kingdom (Guernsey, Isle of Man).

Information supplied by Australia (Norfolk Island) in answer to a direct request has been noted by the Committee.

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

Requests regarding certain points are being addressed directly to the following States: Denmark (Faerøe Islands), France (New Caledonia).

**Convention No. 136: Benzene, 1971**

A request regarding certain points is being addressed directly to France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion).

**Convention No. 150: Labour Administration, 1978**

A request regarding certain points is being addressed directly to the United Kingdom (Hong Kong).

**Appendix. Receipt of Detailed Reports on Ratified Conventions  
(Non-Metropolitan Territories) as at 27 March 1985**

*(Articles 22 and 35 of the Constitution)*

Reports requested: 399      Reports received: 315      Reports not received: 84

Countries and Territories	Reports received		Reports not received		Popula- tion <sup>1</sup> (thous- ands)
	Total	Conventions Nos.	Total	Conventions Nos.	
<i>Australia</i> . . . . .	6		0		
Norfolk Island . . . . .	6	11, 47, 87, 98, 112, 122	0	—	2.1
<i>Denmark</i> . . . . .	2		23		
Faerøe Islands . . . . .	0	—	19	5, 7, 8, 9, 11, 14, 15, 16, 19, 27, 29, 52, 53, 87, 92, 98, 105, 106, 126	41.9
Greenland . . . . .	2	87, 122	4	7, 11, 15, 126	49.6
<i>France</i> . . . . .	155		10		
<i>Overseas Departments:</i>					
French Guiana . . . . .	22	9, 15, 35, 36, 37, 38, 43, 49, 58, 68, 74, 87, 91, 92, 98, 99, 100, 112, 120, 126, 136, 144	2	3, 32	73
Guadeloupe . . . . .	23	9, 11, 15, 35, 36, 37, 38, 43, 49, 58, 68, 74, 87, 91, 92, 98, 99, 100, 112, 120, 126, 136, 144	2	3, 32	323.7
Martinique . . . . .	23	9, 11, 15, 35, 36, 37, 38, 43, 49, 58, 68, 74, 87, 91, 92, 98, 99, 100, 112, 120, 126, 136, 144	2	3, 32	323.7
Reunion . . . . .	23	9, 11, 15, 35, 36, 37, 38, 43, 49, 58, 68, 74, 87, 91, 92, 98, 99, 100, 112, 120, 126, 136, 144	2	3, 32	474.9
St. Pierre and Miquelon . .	21	9, 11, 15, 26, 35, 36, 37, 38, 43, 49, 58, 87, 88, 91, 98, 99, 100, 120, 122, 126, 144	2	3, 82	6

Countries and Territories	Reports received		Reports not received		Population <sup>1</sup> (thousands)
	Total	Conventions Nos.	Total	Conventions Nos.	
<i>Overseas Territories:</i>					
French Polynesia . . . . .	22	3, 9, 11, 15, 26, 35, 36, 37, 38, 43, 44, 49, 58, 87, 91, 94, 98, 99, 115, 120, 122, 126	0	—	137.3
New Caledonia . . . . .	21	3, 9, 11, 15, 26, 35, 36, 37, 38, 43, 44, 49, 58, 87, 91, 98, 99, 100, 120, 122, 126	0	—	133.2
<i>Netherlands</i> . . . . .	0		6		
Netherlands Antilles . . . .	0	—	6	9, 11, 58, 87, 94, 122	218.3
<i>New Zealand</i> . . . . .	9		13		
Cook Islands . . . . .	0	—	11	11, 14, 29, 50, 64, 65, 82, 84, 99, 104, 105	17.7
Niue Island . . . . .	9	11, 14, 29, 50, 64, 65, 82, 84, 105	2	99, 104	3.8
Tokelau . . . . .	0	—	0	—	1.5
<i>United Kingdom</i> . . . . .	141		30		
Anguilla . . . . .	31	5, 7, 8, 11, 12, 14, 17, 19, 22, 26, 29, 42, 50, 58, 59, 64, 65, 82, 84, 85, 86, 87, 94, 97, 98, 99, 101, 105, 108, 140, 148	0	—	70
Bermuda . . . . .	7	7, 11, 15, 58, 84, 87, 98	0	—	67.7
British Virgin Islands. . . .	18	5, 7, 10, 11, 14, 19, 26, 29, 58, 59, 82, 84, 85, 87, 94, 97, 98, 105	0	—	12
Falkland Islands (Malvinas) . . . . .	0	—	24	7, 10, 11, 12, 14, 17, 19, 22, 26, 29, 32, 35, 36, 42, 45, 58, 59, 82, 84, 87, 98, 105, 108, 141	1.8
Gibraltar . . . . .	11	7, 11, 15, 26, 35, 39, 58, 84, 87, 98, 150	0	—	26.4

# NON-METROPOLITAN TERRITORIES

Countries and Territories	Reports received		Reports not received		Population <sup>1</sup> (thousands)
	Total	Conventions Nos.	Total	Conventions Nos.	
Guernsey . . . . .	16	7, 11, 15, 26, 35, 36, 37, 38, 39, 40, 87, 97, 98, 99, 122, 151	0	—	53.3
Hong Kong . . . . .	13	3, 11, 15, 26, 58, 84, 87, 92, 97, 98, 122, 144, 147	0	—	4 986.5
Isle of Man . . . . .	14	7, 11, 15, 26, 35, 36, 37, 38, 39, 40, 92, 97, 99, 122	4	87, 98, 102, 150	64.6
Jersey . . . . .	12	7, 11, 15, 26, 35, 36, 37, 38, 39, 40, 87, 98	2	97, 99	76
Montserrat . . . . .	11	7, 11, 15, 26, 58, 59, 84, 85, 87, 97, 98	0	—	11.6
St. Helena . . . . .	8	11, 15, 26, 58, 84, 87, 98, 150	0	—	5.1
United States . . . . .	2		2		
American Samoa . . . . .	1	58	0	—	32.3
Guam . . . . .	1	58	0	—	105.9
Puerto Rico . . . . .	0	—	1	58	3 196.5
Trust Territory of Pacific Islands . . . . .	0	—	0	—	132.9
Virgin Islands . . . . .	0	—	1	58	96.5

<sup>1</sup> Source: United Nations: *Demographic Year Book*, 1982.

### **III. Observations concerning the Submission to the Competent Authorities of the Conventions and Recommendations Adopted by the International Labour Conference (Article 19 of the Constitution)**

#### **Afghanistan**

The Committee notes from the information supplied by the Government, in particular to the Conference Committee in 1984, that the instruments adopted from the 61st to the 67th Sessions of the Conference have been submitted to the competent authorities and that the ILO will be informed of the decisions taken in this respect and receive the corresponding documents. In the absence of any further information on the matter, the Committee hopes that the Government will shortly supply the documents and information in question. It also hopes that the Government will state whether the instruments adopted from the 52nd to the 56th and at the 68th and 69th Sessions have been submitted to the competent authorities.

#### **Angola**

The Committee regrets to note that the Government has not replied to its previous direct requests, and hopes that the Government will soon state whether the instruments adopted at the 66th, 67th and 68th Sessions of the Conference have been submitted to the competent authorities. It would also be grateful if the Government would state whether the instruments adopted at the 69th Session have been submitted to the competent authorities.

#### **Bolivia**

Further to its previous observation, the Committee takes note of the information communicated by a Government representative to the Conference Committee in 1984, according to which the Government was to have submitted to Parliament the instruments still outstanding. In the absence of any further information on the subject, the Committee hopes that the Government will shortly communicate the information and documents called for in the Memorandum adopted by the Governing Body in respect of the submission to the competent authorities of Recommendation No. 151, adopted at the 60th Session of the Conference, and the instruments adopted at the 63rd, 64th, 65th, 66th, 67th, 68th and 69th Sessions. Furthermore, the Committee hopes that the



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Government will soon indicate the proposals made and the decisions taken on the action to be taken on Recommendation No. 152, adopted at the 61st Session of the Conference, and also on the instruments adopted at the 62nd Session (points II and III of the questionnaire at the end of the Memorandum).

### Botswana

Further to its previous observation, the Committee takes note of the information communicated by the Government on the submission to the Cabinet of the instruments adopted from the 64th to the 68th Session of the Conference. It hopes that these instruments will now be submitted as well to Parliament, which is the legislative authority under article 86 of the Constitution of Botswana, as the Government itself states in its report. Furthermore, the Committee would be grateful if the Government would state whether the instruments adopted at the 69th Session of the Conference have been submitted and if it would provide the information and documents called for in the Memorandum adopted by the Governing Body in relation to all these instruments.

### Brazil

Referring to its previous observations, the Committee regrets that there has been no reply to them. It trusts that Government will soon state that the submission of the many remaining instruments, which began in 1982, has been completed and that it will provide in this respect the information and documents called for in the Memorandum adopted by the Governing Body (points I and II of the questionnaire).

### Chad

Referring to its previous observation, the Committee notes the explanations given by a Government representative to the Conference Committee in 1984 concerning the difficulties delaying the submission of instruments to the competent authorities and the intention of the Government to request the technical assistance of the ILO with a view to observing fully its constitutional obligations in this field. The Committee therefore hopes that the Government will shortly be able to state that the instruments adopted from the 55th to the 69th Sessions of the Conference have been submitted to the competent authorities and that it will communicate in respect of these instruments and of those adopted from the 50th to the 54th Sessions, already submitted, the information and documents requested in the Memorandum adopted by the Governing Body (points II and III of the questionnaire).

Congo

Further to its previous observation, the Committee notes, from the statement made by a Government representative to the Conference Committee in 1984, that Conventions Nos. 154 and 155 (67th Session of the Conference) have been submitted to the competent authorities. It would be grateful if the Government would provide in this respect the information and documents called for in the Memorandum adopted by the Governing Body, particularly as concerns the nature of the authority to which these instruments have been submitted and the proposals or comments of the Government on the action to be taken on these instruments. Recalling its previous comments, the Committee hopes that the Government will shortly be able to state that the instruments adopted at the 63rd Session of the Conference, which had been submitted to the Council of Ministers, have also now been submitted to the People's National Assembly, as well as the Recommendations adopted at the 54th and 55th Sessions, the instruments adopted at the 60th, 61st, 62nd, 65th, 66th, 68th and 69th Sessions and the instruments remaining from the 58th, 63rd and 67th Sessions (Conventions Nos. 137, 148 and 156 and Recommendations Nos. 145, 156, 163, 164 and 165) and that the Government will provide the information and documents mentioned above in respect of all these instruments.

Democratic Yemen

The Committee notes the information communicated by the Government, in reply to its previous observation, indicating that the instruments adopted from the 62nd to 68th Sessions of the Conference will be submitted to the People's Supreme Council as soon as their examination has been completed. The Committee hopes that the Government will provide a copy of the documents by means of which these instruments have been submitted and information upon decisions taken in respect of them.

El Salvador

The Committee notes that the Government has not replied to its previous observation. It hopes that the Government will shortly be able to state that the instruments adopted at the 62nd, 65th, 66th, 67th and 68th Sessions of the Conference and the remaining instruments of the 63rd and 64th Sessions have been submitted to the competent authority. Furthermore, the Committee would be grateful if the Government would state whether the instruments adopted at the 69th Session have been submitted to these authorities.

Concerning the new submission procedure in respect of the instruments adopted at the 52nd, 55th, 56th and 59th Sessions of the Conference, which have already been submitted, the Committee hopes that the Government will provide the documents and information called for in the Memorandum adopted by the Governing Body.

Ethiopia

With reference to its previous observation, the Committee notes with interest from the information communicated by the Government that the instruments adopted from the 59th to the 61st and at the 63rd, 64th, 66th and 69th Sessions of the Conference, Recommendation No. 136, adopted at the 54th Session, Convention No. 138 and Recommendation No. 146, adopted at the 58th Session, and Convention No. 153 and Recommendation No. 161, adopted at the 65th Session, have been submitted to the competent authorities. The Committee hopes that the Government will supply in respect of these instruments the documents called for in the Memorandum adopted by the Governing Body and that it will shortly be able to state that Convention No. 137 and Recommendation No. 145 (58th Session) and Convention No. 152 and Recommendation No. 160 (65th Session) have also been submitted. Furthermore, the Committee hopes that the Government will provide a copy of the submission documents for the instruments adopted at the 62nd, 67th and 68th Sessions, which were submitted in March 1983.

Fiji

With reference to its previous observation, the Committee hopes that the Government will soon be able to state that the instruments adopted from the 64th to the 68th Sessions of the Conference have been submitted to the competent authorities, the preparatory work having already been started. Furthermore, the Committee would be grateful if the Government would state whether the instruments adopted at the 69th Session have been submitted to the competent authorities.

Ghana

The Committee notes that the Government has not replied to its direct requests of 1983 and 1984. It hopes that the Government will soon state that the instruments adopted at the 66th, 67th and 68th Sessions of the Conference have been submitted to the competent authorities and provide in respect of these instruments the information and documents called for in the Memorandum adopted by the Governing Body. Furthermore, the Committee would be grateful if the Government would state whether the instruments adopted at the 69th Session have been submitted to the competent authorities.

Guinea-Bissau

In the absence of any answer to its previous comments, the Committee hopes that the Government will soon state that the submission to the competent authorities of the instruments adopted from the 63rd to the 68th Sessions of the Conference has taken place. Furthermore, it would be grateful if the Government would state whether the instruments adopted at the 69th Session have been submitted. It recalls in this respect that the authorities to which

these instruments should be submitted are those vested with the power to legislate. The Committee hopes that the Government will also provide the information and documents called for in this respect in the Memorandum adopted by the Governing Body, particularly concerning the nature of the competent authority and the proposals or comments made by the Government at the time of submission as to the action to be taken on these instruments.

#### Haiti

The Committee notes that there has been no reply to its direct requests of 1983 and 1984. It hopes that the Government will soon state whether the instruments adopted at the 67th and 68th Sessions of the Conference have been submitted to the competent authorities, and that it will also indicate, in accordance with points II(b) and (c) and III of the questionnaire at the end of the Memorandum adopted by the Governing Body, whether, when the instruments adopted at the 64th and 65th Sessions of the Conference were submitted, proposals were made on these instruments and whether decisions were taken on them.

#### Islamic Republic of Iran

With reference to its previous comments, the Committee takes note of the discussion that was held at the Conference Committee in 1984 and of the statement of a Government representative concerning the difficulties that have delayed the submission procedure and the measures being taken with regard to the examination of all the remaining instruments and their submission to the legislative body. The Committee hopes that the Government will soon be able to state that these instruments, adopted at the 62nd, 63rd, 64th, 65th, 66th, 67th, 68th and 69th Sessions of the Conference have been submitted to Parliament.

#### Ireland

With reference to its previous observation, the Committee notes from the information provided by the Government to the Conference Committee in 1984, that the examination of all the instruments adopted from the 62nd to the 65th Sessions of the Conference has now been completed, the procedure for their submission to Parliament is under way, a draft document of submission has been prepared for the instruments adopted at the 66th and 67th Sessions, and work is proceeding on those adopted at the 68th Session. The Committee therefore hopes that the Government will soon be able to state that the submission of these instruments has been carried out. Furthermore, it would be grateful if the Government would state whether the instruments adopted at the 69th Session have been submitted to Parliament.

The Committee recalls its earlier comments on the submission to the competent authorities of the European Communities of the Hours of

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Work and Rest Periods (Road Transport) Convention (No. 153) and Recommendation (No. 161), both adopted at the 65th Session. The Committee hopes that the Government will shortly be able to indicate the results of this procedure and transmit the relative information and documents.

### Democratic Kampuchea

The Committee notes the absence of any information concerning the submission to competent authorities of the instruments adopted by the Conference.

### Kenya

Further to its previous observation, the Committee notes the information given by the Government to the effect that the draft document of submission for the instruments adopted from the 64th to the 68th Sessions of the Conference has now been transmitted to the Cabinet with a view to their early submission to the competent authorities. The Committee hopes that the Government will shortly be able to state that this submission has taken place. Furthermore, it would be grateful if the Government would state whether the submission of the instruments adopted at the 69th Session of the Conference to the competent authorities has taken place.

### Lao People's Democratic Republic

The Committee notes the absence of any information concerning the submission to the competent authorities of the instruments adopted by the Conference.

### Lebanon

The Committee hopes that the Government will soon be able to state that the remaining instruments, adopted from the 31st to the 68th Sessions of the Conference, have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would state whether the submission of the instruments adopted at the 69th Session has been carried out.

### Lesotho

The Committee notes that the Government has not replied to its previous direct requests. It hopes that the Government will soon state that the instruments adopted at the 66th, 67th and 68th Sessions of the Conference have been submitted to the competent authorities, in accordance with article 19, paragraphs 5(b) and 6(b), of the Constitution of the ILO. Furthermore, it would be grateful if the

Government would state whether the instruments adopted at the 69th Session have been submitted. The Committee recalls in this respect that the authorities to which these instruments must be submitted are the authorities vested with the power to legislate. The Committee hopes that the Government will also communicate in respect of these instruments the information and documents called for in the Memorandum adopted by the Governing Body, particularly as concerns the proposals or comments of the Government on the action to be taken on the instruments in question (point II of the questionnaire at the end of the Memorandum).

#### Libyan Arab Jamahiriya

The Committee notes that the Government has made no reply to its previous observation. It hopes that the Government will soon state that the instruments adopted at the 64th, 65th, 66th, 67th and 68th Sessions of the Conference have been submitted to the competent authorities. Furthermore, it would be grateful if the Government would state whether the submission of the instruments adopted at the 69th Session has been carried out.

#### Malawi

Referring to its previous observations, the Committee recalls that under article 19, paragraphs 5 and 6, of the ILO Constitution, the Conventions and Recommendations adopted by the Conference must be submitted to the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action. Since, under article 35(2) of the Constitution of Malawi, "the legislative power of Parliament shall be exercised by bills passed by the National Assembly and assented to by the President", it seems that the National Assembly is the authority competent to enact legislation for the purposes of article 19 of the ILO Constitution, and the Conventions and Recommendations should therefore, as a rule, be submitted to the National Assembly.

The Committee therefore hopes that the Government will be able to submit the instruments adopted at the 55th and from the 58th to the 69th Sessions of the Conference to the National Assembly as well.

#### Mauritius

Further to its previous observation, the Committee notes, from the information furnished by the Government to the Conference Committee in 1984, that the preparatory work for the submission to the competent authorities of instruments adopted at the 59th and 60th Sessions and from the 63rd to the 68th Sessions of the Conference has still not been completed. The Committee hopes that the Government will soon be able to state that the instruments mentioned above, and also those adopted at the 69th Session, have been submitted to Parliament, and that it will communicate in this connection the

information and documents called for in the Memorandum adopted by the Governing Body.

#### Nepal

The Committee notes the information communicated by the Government on the action to be taken in respect of some of the instruments adopted at the 60th and 63rd Sessions of the Conference (Conventions Nos. 141 and 149). With reference to its earlier comments, the Committee hopes that these instruments will be submitted at an early date to Parliament, together with those adopted at the 51st to 61st Sessions and at the 66th to 69th Sessions. In this connection the Committee points out that Conventions and Recommendations should normally be submitted to the National Parliament, as the body invested with legislative authority and that, in the case of instruments not calling for legislative measures, it would also be preferable to submit them to the parliamentary body to ensure that the obligation of submission fully achieves its aim, which is to bring the Conventions and Recommendations to public notice. The Committee also hopes that the Government will communicate, in respect of the instruments mentioned above and also of those adopted at the 64th and 65th Sessions, which have already been submitted, the information and documents requested in the Memorandum adopted by the Governing Body (points I, II and III of the questionnaire).

#### Nicaragua

The Committee takes note of the information provided by the Government concerning the submission to the Junta of the Government of the instruments adopted at the 69th Session of the Conference.

The Committee refers to its earlier comments and again expresses the hope that the Government will reconsider the question of the competent authority and will be able to submit the instruments adopted by the Conference not only to the Junta of the Government but also to the Council of State, since the Council of State shares legislative power with the Junta.

#### Nigeria

The Committee takes note of the information communicated by the Government to the effect that the instruments adopted at the 65th, 66th and 69th Sessions have been submitted to the competent authorities. It hopes that the Government will soon indicate the proposals made and any decisions taken in respect to the instruments adopted at the 65th and 66th Sessions. Referring to its previous observation, the Committee notes, from the reply of the Government, that no decision has yet been taken on other instruments already submitted (45th to 59th and 68th Sessions). The Committee hopes that

the Government will provide information on the gist of the proposals that were made regarding these instruments upon their submission.

#### Qatar

Further to its earlier comments, the Committee notes with interest the information communicated by the Government to the effect that the instruments adopted at the 62nd, 63rd, 67th and 68th Sessions of the Conference have been submitted to the competent authorities. It hopes that the Government will supply at an early date the information and documents requested in their respect in the Memorandum adopted by the Governing Body.

The Committee also notes the explanations of the Government concerning the problems delaying the submission of the instruments adopted at the 64th, 65th and 66th Sessions of the Conference. It hopes that these problems will soon be overcome, and that the submission of these instruments may be carried through in the near future. The Committee would also be grateful if the Government would indicate whether the instruments adopted at the 69th Session of the Conference have been submitted to the competent authorities.

#### Seychelles

The Committee regrets to note that the Government has once more failed to reply to its earlier observation and to the comments which have been addressed to it since 1979. It trusts that the Government will indicate at an early date whether the instruments adopted at the 63rd, 64th, 65th, 66th, 67th and 68th Sessions of the Conference have been submitted to the competent authorities, in conformity with article 19, paragraphs 5(b) and 6(b) of the Constitution of the ILO. It would also be grateful if the Government would state whether the submission of the instruments adopted at the 69th Session has been carried out. In this connection, it points out that the authorities to which these instruments must be submitted are those authorities within whose competence the enactment of legislation lies. The Committee hopes that the Government will also supply the information and documents requested in this connection in the Memorandum adopted by the Governing Body, especially with regard to the proposals or comments of the Government on the effect to be given to the instruments in question (point II(b) of the questionnaire). It wishes to clarify in this respect that the obligation of submission does not imply that governments must propose the ratification of the Conventions or the application of the Recommendations under consideration. Regarding the nature of the proposals made in respect of the Conventions and Recommendations submitted to the competent authorities, governments are quite free to make their own decisions. All the instruments adopted by the Conference must therefore be submitted, irrespective of the effect the governments intend to give thereto.



Sierra Leone

The Committee regrets to note that the Government has again not replied to its earlier observation. It trusts that the Government will soon indicate whether Convention No. 146 and Recommendation No. 154, adopted at the 62nd Session of the Conference, as well as the instruments adopted at the 63rd, 64th, 65th, 66th, 67th and 68th Sessions, have been submitted to Parliament. It would also be grateful if the Government would indicate whether the instruments adopted at the 69th Session of the Conference have been submitted.

The Committee also trusts that the Government will communicate at an early date the information on the proposals made in Parliament and the possible decisions taken by that body regarding those instruments adopted at the 46th to 62nd Session of the Conference which have already been submitted.

Syrian Arab Republic

With reference to its earlier comments, the Committee notes, from information communicated by the Government to the Conference Committee in 1984, that the instruments adopted at the 62nd Session of the Conference have been submitted to the competent authorities. It also notes that Convention No. 137, adopted at the 58th Session of the Conference, is still under study, and the instruments adopted at the 63rd to 68th Sessions, have been transmitted, according to the Government, to the three parties and the bodies concerned for their consideration. The Committee hopes that the Government will shortly be able to indicate that the submission of these instruments, as well as those adopted at the 69th Session, has been carried out.

United Republic of Tanzania

The Committee refers to its earlier comments. In the absence of new information, it hopes that the Government will be able to indicate shortly that the instruments adopted at the 54th to 65th Sessions of the Conference, already submitted to the Cabinet, have also been submitted to the National Assembly, with proposals respecting the effect to be given to them. The Committee also hopes that the Government will shortly be able to indicate that all the instruments adopted at the 66th to 69th Sessions, have been submitted to the National Assembly and that the Government will supply in their respect, as well as for those adopted at the 47th to 53rd Sessions already submitted, the information and documents requested in the Memorandum adopted by the Governing Body.

Tunisia

The Committee notes the absence of a reply to its earlier direct request. It hopes that the Government will shortly indicate that the instruments adopted at the 62nd, 64th, 65th, 66th, 67th and 68th

Sessions of the Conference have been submitted to the competent authorities, and that it will supply in this connection the information and documents requested in the Memorandum adopted by the Governing Body. The Committee also hopes that the Government will communicate the documents by which the submission of the instruments adopted at the 61st Session was carried out, and will indicate whether proposals were made and decisions taken in respect of the instruments adopted at the 54th to 60th Sessions, which were under study by the Ministry of Social Affairs. The Committee would also be grateful if the Government would indicate whether the submission of the instruments adopted at the 69th Session of the Conference has been carried out.

#### Uganda

The Committee notes that the Government has not replied to its earlier observation. It hopes that the Government will shortly indicate that the instruments adopted at the 66th, 67th and 68th Sessions of the Conference have been submitted to the competent authorities, and that it will communicate in this respect the information and documents called for in the Memorandum adopted by the Governing Body. The Committee would also be grateful if the Government would indicate whether the submission of the instruments adopted at the 69th Session has been carried out.

#### Yemen

The Committee notes with regret that, for the fourth consecutive year, the Government has not replied to its observations. It trusts that the Government will supply at an early date, in respect of the instruments adopted at the 50th to 56th and at the 60th to 64th Sessions of the Conference, submitted to the legislative authority, the information and documents requested in the Memorandum adopted by the Governing Body, in particular regarding point II on the questionnaire. The Committee also hopes that the Government will shortly indicate whether the instruments adopted at the 65th, 66th, 67th, 68th and 69th Sessions have been submitted to the competent authorities.

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In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Antigua and Barbuda, Austria, Bahamas, Bangladesh, Barbados, Belgium, Belize, Benin, Burkina Faso, Burma, Cameroon, Canada, Cape Verde, Central African Republic, China, Costa Rica, Cyprus, Czechoslovakia, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Equatorial Guinea, France, Gabon, Federal Republic of Germany, Greece, Grenada, Guatemala, Guinea, Guyana, Haiti, Honduras, Iceland, Indonesia, Iraq, Israel, Italy, Jamaica, Luxembourg, Madagascar, Mali, Malta, Mauritania, Mongolia, Morocco, Mozambique, Netherlands, New Zealand,

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Niger, Pakistan, Papua New Guinea, Paraguay, Peru, Philippines,  
Portugal, Romania, Saint Lucia, San Marino, Sao Tome and Principe,  
Senegal, Singapore, Somalia, Spain, Sri Lanka, Sudan, Suriname,  
Swaziland, Thailand, Trinidad and Tobago, USSR, United Arab Emirates,  
United Kingdom, United States, Uruguay, Venezuela, Yugoslavia, Zaire,  
Zambia.

Information supplied by Hungary in answer to a direct request has been noted by the Committee.

**Appendix I. Information Supplied by Governments with Regard to the Obligation to Submit Conventions and Recommendations to the Competent Authorities**

*(31st to 69th Sessions of the International Labour Conference, 1948-83)<sup>1</sup>*

*Note.* The number of the Convention or Recommendation is given in parentheses, preceded by the letter "C" or "R" as the case may be, when only some of the texts adopted at any one session have been submitted. Ratified Conventions are considered as having been submitted.

Account has been taken of the date of admission or readmission of States Members to the ILO for determining the sessions of the Conference whose texts are taken into consideration.

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Afghanistan . . . . .	31 to 51, 53 (C 129, 130), 54 (C 131, 132), 55 (C 133, 134), 56 (C 135, 136) and 58 to 67	52, 53 (R 133, 134), 54 (R 135, 136), 55 (R 137, 138, 139, 140, 141, 142), 56 (R 143, 144), 68 and 69
Algeria . . . . .	47 to 69	—
Angola . . . . .	61 to 65	66, 67, 68 and 69
Antigua and Barbuda . . .	68	69
Argentina . . . . .	31 to 69	—
Australia . . . . .	31 to 69	—
Austria . . . . .	31 to 68	69
Bahamas . . . . .	61 to 69	—
Bahrain . . . . .	63 to 69	—
Bangladesh . . . . .	58 to 65 and 68	66, 67 and 69
Barbados . . . . .	51 to 69	—
Belgium . . . . .	31 to 68	69
Belize . . . . .	68	69
Benin . . . . .	45 to 69	—
Bolivia . . . . .	31 to 59, 60 (C 141, 142, 143; R 149, 150), 61 and 62	60 (R 151), 63, 64, 65, 66, 67, 68 and 69
Botswana . . . . .	—	64, 65, 66, 67, 68 and 69

<sup>1</sup> The Conference did not adopt any Conventions or Recommendations at its 57th Session (June 1972).

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Brazil . . . . .	31 to 45, 46 (C 117, 118; R 116), 47 (C 119), 48 (C 120, 121, 122; R 120), 49 (C 123, 124; R 124, 125), 50 (C 125; R 126), 51 (C 127; R 128, 131), 53 (R 133, 134), 54 (C 131; R 135), 55 (C 133, 134; R 139), 56 (C 135, 136; R 144), 58 (C 137, 138; R 145), 59 (C 140; R 148), 60 (C 142; R 150) and 63 (C 148; R 156)	46 (R 117), 47 (R 118, 119), 48 (R 121, 122), 49 (R 123), 50 (C 126; R 127), 51 (C 128; R 129, 130), 52, 53 (C 129, 130), 54 (C 132; R 136), 55 (R 137, 138, 140, 141, 142), 56 (R 143), 58 (R 146), 59 (C 139; R 147), 60 (C 141, 143; R 149, 151), 61, 62, 63 (C 149; R 157), 64, 65, 66, 67, 68 and 69
Bulgaria . . . . .	31 to 69	—
Burkina Faso . . . . .	45 to 58, 60 (C 143; R 151), 61 to 64, 66 and 67	59, 60 (C 141, 142; R 149, 150), 65, 68 and 69
Burma . . . . .	31 to 68	69
Burundi . . . . .	47 to 69	—
Byelorussian SSR . . . . .	37 to 69	—
Cameroon . . . . .	44 to 68 and 69 (C 159; R 168)	69 (R 167)
Canada . . . . .	31 to 67	68 and 69
Cape Verde . . . . .	65 to 68	69
Central African Republic . . . . .	45 to 64 and 66 to 68	65 and 69
Chad . . . . .	45 to 54	55, 56, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68 and 69
Chile . . . . .	31 to 69	—
China . . . . .	69	—
Colombia . . . . .	31 to 69	—
Comoros . . . . .	65 to 69	—
Congo . . . . .	45 to 53, 54 (C 131, 132), 55 (C 133, 134), 56, 58 (C 138; R 146), 59, 63 (C 149; R 157), 64 and 67 (C 154, 155)	54 (R 135, 136), 55 (R 137, 138, 139, 140, 141, 142), 58 (C 137; R 145), 60, 61, 62, 63 (C 148; R 156), 65, 66, 67 (C 156; R 163, 164, 165), 68 and 69
Costa Rica . . . . .	31 to 63, 64 (C 150, 151; R 158), 65 (C 152, 153), 67 (C 154, 155, 156) and 68 (C 157, 158)	64 (R 159), 65 (R 160, 161), 66, 67 (R 163, 164, 165), 68 (R 166) and 69
Cuba . . . . .	31 to 69	—
Cyprus . . . . .	45 to 67	68 and 69
Czechoslovakia . . . . .	31 to 68 and 69 (C 159; R 168)	69 (R 167)

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State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Democratic Yemen . . . .	53 to 68	69
Denmark . . . . .	31 to 67	68 and 69
Djibouti . . . . .	64, 65 and 67	66, 68 and 69
Dominica . . . . .	—	68 and 69
Dominican Republic . . .	31 to 62, 64 and 68	63, 65, 66, 67 and 69
Ecuador . . . . .	31 to 66	67, 68 and 69
Egypt . . . . .	31 to 69	—
El Salvador . . . . .	31 to 61, 63 (C 149) and 64 (C 150)	62, 63 (C 148; R 156, 157), 64 (C 151; R 158, 159), 65, 66, 67, 68 and 69
Equatorial Guinea . . . .	67	68 and 69
Ethiopia . . . . .	31 to 56, 58 (C 138, 146), 59 to 64, 65 (C 153; R 161) and 66 to 69	58 (C 137; R 145) and 65 (C 152; R 160)
Fiji . . . . .	59 to 63	64, 65, 66, 67, 68 and 69
Finland . . . . .	31 to 69	—
France . . . . .	31 to 69	—
Gabon . . . . .	45 to 64, 66 to 68	65 and 69
German Democratic Republic . . . . .	59 to 69	—
Germany, Federal Republic of . . . . .	34 to 64, 65 (C 152, 153; R 160), 66 and 67 (C 154, 155; R 163, 164)	65 (R 161), 67 (C 156; R 165), 68 and 69
Ghana . . . . .	40 to 65	66, 67, 68 and 69
Greece . . . . .	31 to 61, 62 (C 145, 146, 147; R 155), 63, 67 and 68 (C 158; R 166)	62 (R 153, 154), 68 (C 157) and 69
Grenada . . . . .	—	66, 67, 68 and 69
Guatemala . . . . .	31 to 69	—
Guinea . . . . .	43 to 67	68 and 69

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State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Guinea-Bissau . . . . .	—	63, 64, 65, 66, 67, 68 and 69
Guyana . . . . .	50 to 68	69
Haiti . . . . .	31 to 66	67, 68 and 69
Honduras . . . . .	39 to 66 and 68	67 and 69
Hungary . . . . .	31 to 69	—
Iceland . . . . .	31 to 68	69
India . . . . .	31 to 69	—
Indonesia . . . . .	33 to 65	66, 67, 68 and 69
Iran, Islamic Republic of .	31 to 61	62, 63, 64, 65, 66, 67, 68 and 69
Iraq . . . . .	31 to 40, 41 (C 109; R 105, 106, 107, 108, 109) and 42 to 68	41 (C 108) and 69
Ireland . . . . .	31 to 61	62, 63, 64, 65, 66, 67, 68 and 69
Israel . . . . .	32 to 67	68
Italy . . . . .	31 to 69	—
Ivory Coast . . . . .	45 to 69	—
Jamaica . . . . .	47 to 69	—
Japan . . . . .	35 to 69	—
Jordan . . . . .	39 to 69	—
Democratic Kampuchea .	53, 54 and 56	55, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68 and 69
Kenya . . . . .	48 to 63	64, 65, 66, 67, 68 and 69
Kuwait . . . . .	45 to 69	—
Lao People's Democratic Republic .	—	48, 49, 50, 51, 52, 53, 54, 55, 56, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68 and 69

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Lebanon . . . . .	31 (C 88, 89, 90; R 83), 32 (C 95, 98; R 85), 34 (C 100; R 90), 35 (C 102, 103), 40 (C 105, 106; R 103), 42 (C 111; R 111), 44 (C 115), 45 (C 116), 46 (C 117, 118), 47 (C 119), 48 (C 120, 121, 122; R 120, 122), 49 (C 123, 124), 50 (C 125, 126) and 51 to 66	31 (C 87), 32 (C 91, 92, 93, 94, 96, 97; R 84, 86, 87), 33, 34 (C 99; R 89, 91, 92), 35 (C 101; R 93, 94, 95), 36, 37, 38, 39, 40 (C 107; R 104), 41, 42 (C 110; R 110), 43, 44 (R 113, 114), 45 (R 115), 46 (R 116, 117), 47 (R 118, 119), 48 (R 121), 49 (R 123, 124, 125), 50 (R 126, 127), 67, 68 and 69
Lesotho. . . . .	—	66, 67, 68 and 69
Liberia . . . . .	31 to 69	—
Libyan Arab Jamahiriya . . . . .	35 to 63	64, 65, 66, 67, 68 and 69
Luxembourg . . . . .	31 to 69	—
Madagascar . . . . .	45 to 54, 56 to 69	55
Malawi . . . . .	49 to 54 and 56	55, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68 and 69
Malaysia . . . . .	41 to 69	—
Mali . . . . .	44 to 68	69
Malta . . . . .	49 to 55, 56, 58 to 64, 65 (C 152; R 160), 66 and 67	65 (C 153; R 161), 68 and 69
Mauritania. . . . .	45 to 67	68 and 69
Mauritius. . . . .	53 to 58, 59 (C 139; R 147), 61 and 62	59 (C 140; R 148), 60, 63, 64, 65, 66, 67, 68 and 69
Mexico . . . . .	31 to 69	—
Mongolia. . . . .	53 to 69	—
Morocco . . . . .	39 to 69	—
Mozambique . . . . .	63 to 68	61, 62 and 69
Nepal . . . . .	54 (C 131) and 62 to 65	51, 52, 53, 54 (C 132; R 135, 136), 55, 56, 58, 59, 60, 61, 66, 67, 68 and 69
Netherlands . . . . .	31 to 66, 67 (C 154, 156; R 163, 165) and 68 (C 157)	67 (C 155; R 164), 68 (C 158; R 166) and 69
New Zealand . . . . .	31 to 68	69
Nicaragua . . . . .	40 to 69	—
Niger . . . . .	45 to 66	67, 68 and 69



# SUBMISSION TO COMPETENT AUTHORITIES

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Nigeria . . . . .	45 to 69	—
Norway . . . . .	31 to 69	—
Pakistan . . . . .	31 to 66	67, 68 and 69
Panama . . . . .	31 to 69	—
Papua New Guinea . . . .	61 to 65	66, 67, 68 and 69
Paraguay . . . . .	40 to 67	68 and 69
Peru . . . . .	31 to 64, 65 (C 152; R 160), 66, 67 (C 154, 156; R 163, 165) and 68 (C 158, R 166)	65 (C 153; R 161), 67 (C 155; R 164), 68 (C 157) and 69
Philippines . . . . .	31 to 66	67, 68 and 69
Poland . . . . .	31 to 69	—
Portugal . . . . .	31 to 68	69
Qatar . . . . .	58 to 63, 67 and 68	64, 65, 66 and 69
Romania . . . . .	39 to 68	69
Rwanda . . . . .	47 to 69	—
Saint Lucia . . . . .	—	66, 67, 68 and 69
San Marino . . . . .	—	68 and 69
Sao Tome and Principe . .	—	68 and 69
Saudi Arabia . . . . .	61 to 69	—
Senegal . . . . .	44 to 67	68 and 69
Seychelles . . . . .	—	63, 64, 65, 66, 67, 68 and 69
Sierra Leone . . . . .	45 to 62 (C 145, 147; R 153, 155)	62 (C 146; R 154), 63, 64, 65, 66, 67, 68 and 69
Singapore . . . . .	50 to 68	69
Somalia . . . . .	45 to 67	68 and 69
Spain . . . . .	39 to 62, 63 (C 148; R 156, 157), 64 to 66	63 (C 149), 67, 68 and 69
Sri Lanka . . . . .	31 to 67	68 and 69
Sudan . . . . .	39 to 66	67, 68 and 69
Suriname . . . . .	61 to 64	65, 66, 67, 68 and 69
Swaziland . . . . .	60 to 67	68 and 69
Sweden . . . . .	31 to 69	—

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Switzerland . . . . .	31 to 69	—
Syrian Arab Republic . . .	31 to 58 (C 138; R 146), 59, 60, 61 and 62	58 (C 137; R 145), 63, 64, 65, 66, 67, 68 and 69
Tanzania, United Republic of . . . . .	46 to 65	66, 67, 68 and 69
Thailand . . . . .	31 to 68	69
Togo . . . . .	44 to 69	—
Trinidad and Tobago . . .	47 to 64	65, 66, 67, 68 and 69
Tunisia . . . . .	39 to 61 and 63	62, 64, 65, 66, 67, 68 and 69
Turkey . . . . .	31 to 69	—
Uganda . . . . .	47 to 65	66, 67, 68 and 69
Ukrainian SSR . . . . .	37 to 69	—
USSR . . . . .	37 to 67	68 and 69
United Arab Emirates . .	58 to 67	68 and 69
United Kingdom . . . . .	31 to 69	—
United States . . . . .	31 to 60, 62 (C 145, 146; R 153, 154), 63 to 69	61 and 62 (C 147; R 155)
Uruguay . . . . .	31 to 68 and 69 (R 167)	69 (C 159; R 168)
Venezuela . . . . .	31 to 63, 64 (C 150, 151; R 158), 65 (C 153; R 161), 67 (C 155, 156; R 163, 164, 165) and 68 (C 157, 158)	64 (R 159), 65 (C 152; R 160), 66, 67 (C 154), 68 (R 166) and 69
Yemen . . . . .	49 to 64	65, 66, 67, 68 and 69
Yugoslavia . . . . .	31 to 68	69
Zaire . . . . .	45 to 61 and 63 to 65	62, 66, 67, 68 and 69
Zambia . . . . .	49 to 66	67, 68 and 69
Zimbabwe . . . . .	66 to 69	—

## Appendix II. Overall position of member States as at 27 March 1985

Sessions at which decisions were adopted	Number of States in which, according to information supplied by Government,			
	All the texts have been submitted	Some of these texts have been submitted	None of these texts have been submitted (including cases in which no information has been supplied by the Government)	Number of States which were Members of the Organisation at the time of the session
31 (June 1948) . . . . .	58	2	—	60
32 (June 1949) . . . . .	59	2	—	61
33 (June 1950) . . . . .	61	— <sup>1</sup>	2	63
34 (June 1951) . . . . .	62	2	—	64
35 (June 1952) . . . . .	64	2	—	66
36 (June 1953) . . . . .	64	—	2	66
37 (June 1954) . . . . .	67	— <sup>1</sup>	2	69
38 (June 1955) . . . . .	67	1	1	69
39 (June 1956) . . . . .	74	—	2	76
40 (June 1957) . . . . .	75	2	—	77
41 (April/May 1958) . . . . .	76	2	1	79
42 (June 1958) . . . . .	78	1	—	79
43 (June 1959) . . . . .	78	1	1	80
44 (June 1960) . . . . .	81	1	1	83
45 (June 1961) . . . . .	99	2	—	101
46 (June 1962) . . . . .	99	3	—	102
47 (June 1963) . . . . .	103	4	1	108
48 (June/July 1964) . . . . .	107	2	1	110
49 (June 1965) . . . . .	111	2	1	114
50 (June 1966) . . . . .	110	4	1	115
51 (June 1967) . . . . .	116	1	—	117
52 (June 1968) . . . . .	112	— <sup>1</sup>	6	118
53 (June 1969) . . . . .	117	2	2	121
54 (June 1970) . . . . .	114	5	2	121
55 (October 1970) . . . . .	111	3	7	121
56 (June 1971) . . . . .	111	2	8	121
58 (June 1973) . . . . .	108	5	10	123
59 (June 1974) . . . . .	115	2	8	125
60 (June 1975) . . . . .	113	3	10	126
61 (June 1976) . . . . .	116	—	15	131
62 (October 1976) . . . . .	114	2	16	132
63 (June 1977) . . . . .	105	3	27	135
64 (June 1978) . . . . .	111	3	22	136
65 (June 1979) . . . . .	101	5	33	139
66 (June 1980) . . . . .	92	— <sup>1</sup>	52	144
67 (June 1981) . . . . .	90	5	50	145
68 (June 1982) . . . . .	74	5	71	150
69 (June 1983) . . . . .	51	3	96	150

<sup>1</sup> At this session the Conference adopted one Recommendation only.