

International Labour Conference  
75th Session 1988

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Report III  
(Parts 1, 2 and 3)

## **Summary of Reports**

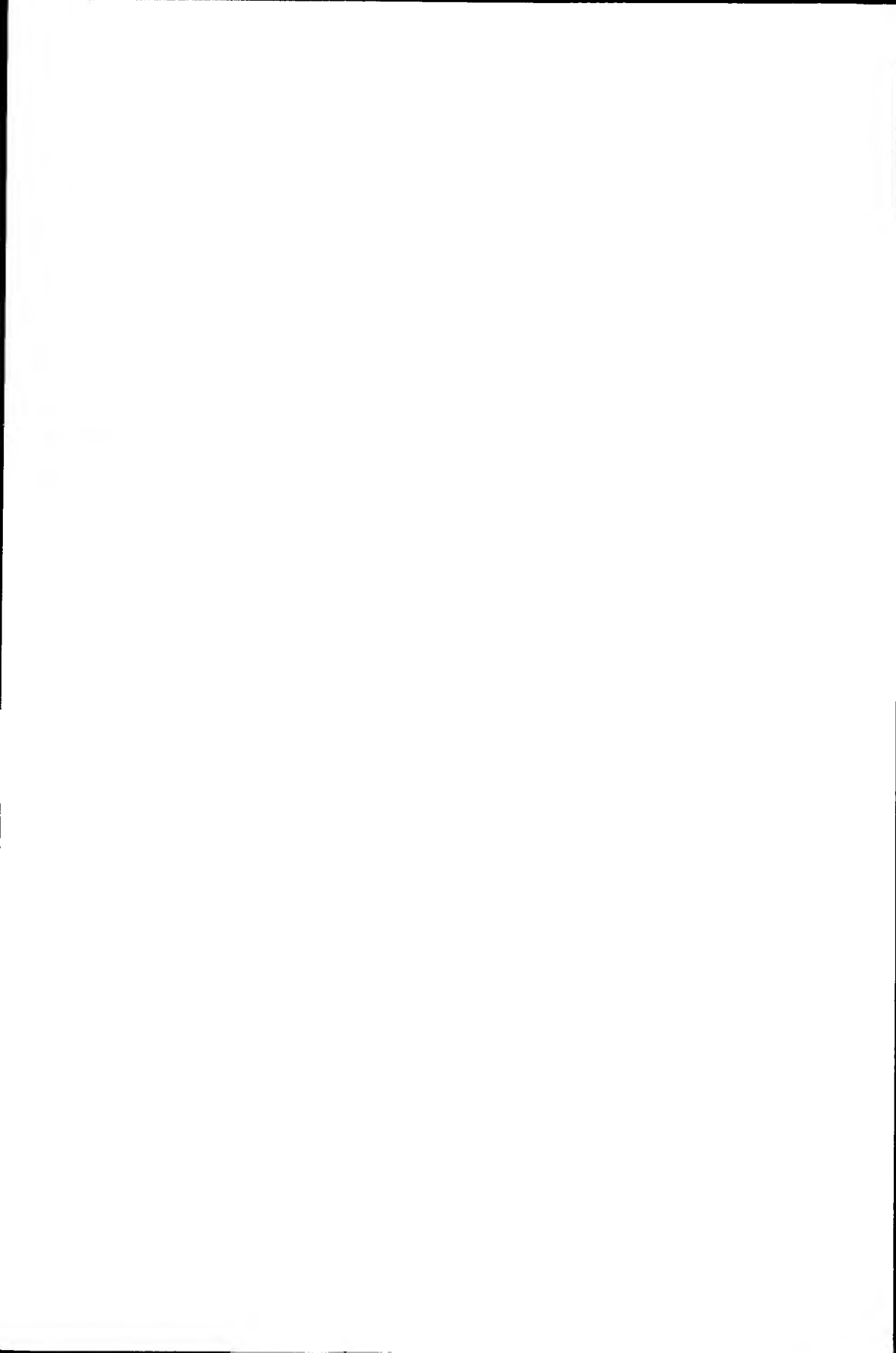
(Articles 19, 22 and 35 of the Constitution)

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International Labour Office Geneva



International Labour Conference  
75th Session 1988

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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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International Labour Office Geneva

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The publication of information concerning action taken in respect of international labour Conventions and Recommendations does not imply any expression of view by the International Labour Office on the legal status of the State having communicated such information (including the communication of a ratification or declaration), or on its authority over the 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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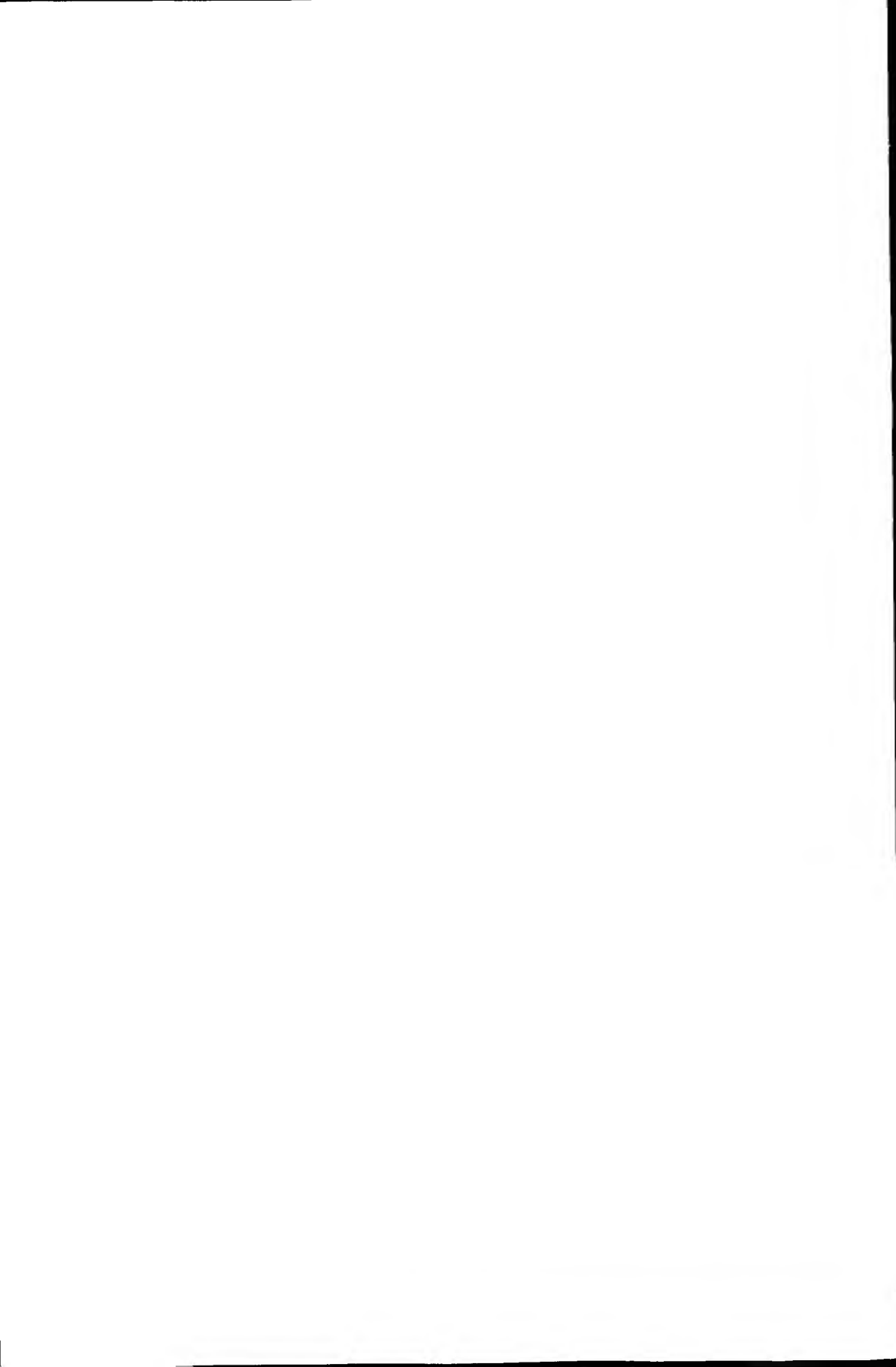
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Part 1

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.

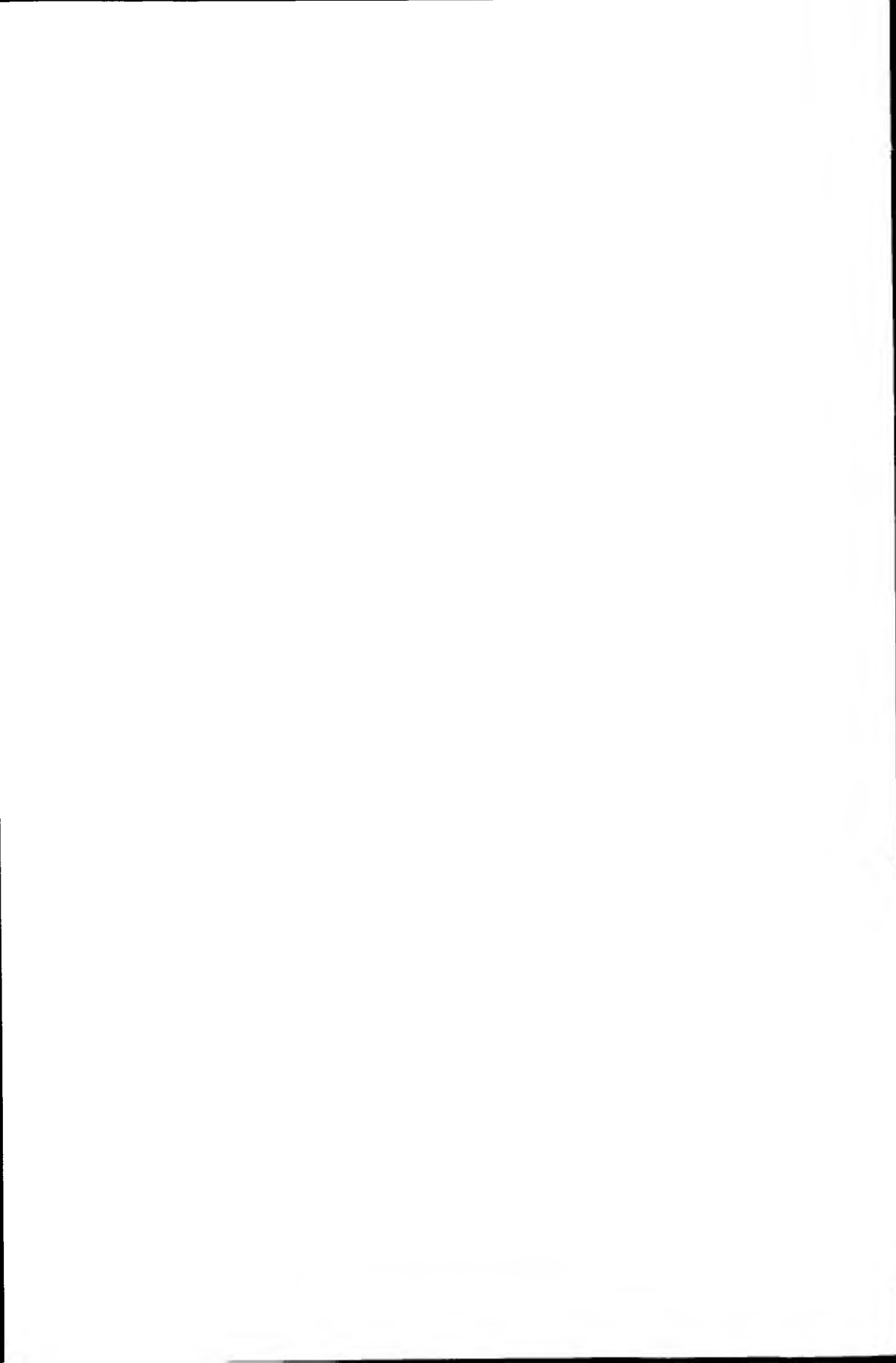
At its 204th (November 1977) Session, the Governing Body approved the following arrangements for the presentation by the Director-General to the Conference of summaries of reports submitted by governments under article 22 of the Constitution:

- (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 1987.

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		95, 105, 137, 141		14, 106, 139, 140
Algeria		13, 29, 32, 62, 63, 81, 100, 119, 120, 127, 142	19, 73, 74, 96, 138	
Angola		27, 81, 98, 100, 107, 111		69
Antigua and Barbuda	111	138	11, 12, 29	14, 19, 81, 94, 101, 105, 108
Argentina		32, 34, 81, 105, 107, 111, 139, 142	69	5, 10, 13, 16, 19, 27, 29, 33, 53, 73, 100
Australia		27, 29, 63, 81, 100, 105, 122	10, 19, 123	16
Norfolk Island		10, 11, 29, 98, 122		27, 87, 105
Austria		29, 100, 111, 142	10, 19, 63, 81, 135	5, 27, 105, 141, 144
Bahamas		29, 105	5	10, 19, 81
Bahrain		29, 81	19	89
Bangladesh		27, 29, 32, 81, 96, 107	59, 87	16, 105, 118
Barbados		29, 63, 100, 105, 111, 115, 144	87, 98, 118	5, 10, 11, 74, 81, 94, 95, 97, 101, 135

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Belgium		29, 81, 96, 100, 105, 111, 115, 125, 147	5, 6, 10, 13, 19, 26, 33, 53, 62, 69, 73, 74, 95, 97, 99, 123	12, 16, 17, 27, 32, 87, 113, 120
Belize		16, 81, 94, 105	5, 10	19
Benin		29, 33, 100, 105, 111		5, 13, 85
Bolivia		81, 95, 96, 100, 107, 111, 122	5, 118, 123	19
Brazil		29, 91, 105, 107, 142, 148	5, 11, 94, 97	16
Bulgaria		11, 29, 79, 87, 98, 100, 111, 138	6, 16, 81, 127	13, 19, 22, 23, 27, 32, 53, 62, 69, 73, 108, 113
Burkina Faso		81, 100, 111, 129	29, 33, 135	5, 13, 19
Burma		29, 63	17	16, 19, 27, 52
Burundi		29, 81, 105	19	27, 59, 62
Byelorussian SSR		29	142	16, 27, 32, 138
Cameroon		29, 81, 108	100, 135	5, 13, 16, 19, 33, 105, 123
Canada		63, 100, 105, 111, 122	26, 32	16, 27, 69, 73, 74
Cape Verde		98, 111	17	
Central African Republic		94		10, 81
Chad		29, 52, 81, 95, 105, 111	13, 87, 98	5, 11, 18, 33, 100
Chile		2, 5, 6, 10, 26, 27, 29, 32, 63, 100, 127	13, 15, 16, 19, 22	45
China	16, 27, 32, 59		8	



Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Colombia		29, 62, 81, 100, 105, 111, 129	10, 13, 15, 16, 19, 21, 136	5, 6
Comoros	95	29, 81, 100, 105, 122	19	5, 10, 33
Congo		119		
Costa Rica		29, 81, 129, 135, 138	148	
Côte d'Ivoire		29	19, 85, 87, 96, 100, 136	5, 13, 33, 105, 135
Cuba		13, 29, 63, 81, 100, 105, 108, 136, 138, 152, 155	19, 27, 96, 142, 151	16, 53, 113, 135, 141
Cyprus		29, 105, 114, 119	19, 81, 142, 151	16, 95, 123, 141
Czechoslovakia	159	29, 63, 111	5, 10, 100, 142	13, 19, 27, 123, 136
Democratic Yemen			59	
Denmark		29, 53, 63, 100, 134, 147, 149	14, 32, 115, 118	5, 16, 19, 27, 73, 105, 135, 141
Faeroe Islands		16	27, 53	5, 19
Greenland		122		
Djibouti		100	122	
Dominica	14	26, 29, 81, 98, 105	95	19, 97
Dominican Republic		77, 95, 105, 111		119
Ecuador		29, 100, 105, 136, 141, 142, 144	87, 118, 139	81, 111, 113
Egypt	134, 137, 149,	9, 29, 53, 56, 62, 63, 69, 71, 73, 81, 92, 96, 100, 105, 142, 145, 147	19, 74, 139	135

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Equatorial Guinea	100, 103, 138			
Ethiopia		87	11, 88	
Finland	155, 159	13, 53, 62, 63, 81, 96, 98, 100, 134, 135, 136, 138, 139, 142, 144, 151, 152, 156	118, 147	16, 19, 27, 29, 73, 105, 129, 141
France	90, 142	53, 96, 100, 123, 125, 129, 136, 141, 147	19, 62, 69, 74, 118, 135	5, 10, 13, 22, 33, 94, 97, 124
<u>Overseas Departments:</u>				
French Guiana		29, 53, 125	19, 62, 69, 74, 114	5, 10, 13, 45, 94, 135, 136
Guadeloupe		29, 53, 125	19, 62, 69, 74, 114	5, 10, 13, 45, 94, 135, 136
Martinique		29, 53, 125	19, 62, 69, 74, 114	5, 10, 13, 45, 94, 135, 136
Réunion		29, 53, 125	19, 62, 69, 74, 114	5, 10, 13, 45, 94, 135, 136
Territorial Community of St. Pierre and Miquelon		35, 53, 125	11, 19, 69	5, 10, 13, 22, 29, 33, 56, 71, 96
<u>Overseas Territories:</u>				
French Polynesia		24, 29, 53, 77, 100, 120	5, 10, 13, 19, 33, 69, 81, 82, 96, 105, 115, 123	11, 16, 44, 56, 63, 71, 73, 78, 87, 95, 98, 125
New Caledonia		5, 10, 13, 33, 63, 98, 100, 115, 123	19, 81, 96, 125	16, 29, 53, 69, 73

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Gabon		29, 81, 100, 105, 111, 124	95, 123	5, 10, 13, 19, 33, 96, 135
German Democratic Republic			16, 27, 142	100, 135, 138
Germany, Federal Republic of	152	81, 100, 111, 122, 136, 139	19, 62, 63, 96, 118, 134, 135, 138, 147	16, 27, 73, 113, 129, 141
Ghana		81	19, 59	16, 69, 74, 96
Greece	62, 122	13, 29, 68, 69, 100, 103, 105, 115, 134, 136, 147	5, 19, 73	27, 42, 81
Grenada		29, 144	5	
Guatemala		62, 63, 87, 96, 127		19, 81, 113, 118
Guinea		29, 87, 100, 105, 119, 122, 134, 135, 142, 151, 152	111, 118, 136, 139	5, 10, 13, 16, 33, 62, 113, 148
Guinea-Bissau		6, 27, 29, 89, 100, 104, 105, 111	18, 19, 74, 98, 143	69, 73, 107
Guyana	142	29, 81, 100, 129, 131, 135, 141, 151		5, 10, 19, 42, 105, 136, 137, 139
Honduras		27, 29, 81, 108, 111, 122, 138		32, 62, 78, 95, 100
Hungary		27, 29, 62, 100, 111	123, 136, 139, 142	10, 13, 16, 19, 135
Iceland		100, 105		29, 62
India		5, 26, 81, 100, 111, 123	27, 32, 118, 141	16, 19
Indonesia		29, 100	27	19
Iran, Islamic Republic of		59, 111	105	

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Iraq	138, 146	29, 81, 105, 122, 135, 136, 139, 142, 149	16, 22, 108, 144	13, 16, 19, 22, 27
Ireland	53, 124	63, 122	19, 22, 26, 74, 96, 99, 108, 138	8, 16, 27, 69, 118
Israel		92, 111, 122, 134, 136, 142	53, 96, 138, 141	19, 29, 81
Italy	143	74, 81, 92, 95, 97, 103, 111, 122, 127, 132, 137, 142, 145, 146, 147	13, 22, 32, 44, 55, 71, 77, 115, 117, 124, 144	53, 78, 114, 135, 139, 141
Jamaica		81, 100, 111, 117	8, 87, 94, 98	
Japan	147	29, 81, 100	5, 10, 16, 73, 96, 134	27, 69, 139
Jordan		29, 98, 100, 106, 111, 119, 124, 135, 142	81, 118, 122	105
Kenya		19, 29, 63, 81, 94, 105, 131, 140, 142	11, 12, 17, 32, 99, 135, 138, 141	14, 16, 27, 89, 132, 143
Lesotho				5
Liberia		29, 53, 55, 105, 108, 111		58, 112, 113, 114
Libyan Arab Jamahiriya		95, 122	52, 130	98
Luxembourg		29, 96, 100, 130	19, 27, 28	13, 16, 81, 105, 135, 138
Madagascar		29, 100, 119	118, 129	5, 13, 19, 33, 81, 123, 127
Malawi		100	81, 129	19
Malaysia		29, 81, 105	123	
Peninsular Malaysia				19

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Sabah				16
Sarawak				16, 19
Malì		29, 81, 100, 111		5, 13, 19, 33, 105
Malta		81	19, 29, 32	5, 10, 16, 105
Mauritania		111, 122		95
Mauritius		14	8, 74	11, 16, 59, 63
Mexico	56	13, 29, 34, 53, 62, 63, 105, 107, 118, 134, 142, 152		16, 19, 27, 100, 111, 123, 135, 141
Mongolia		87, 103, 111, 122		19, 59, 98, 100, 123
Morocco		29, 81, 105, 111, 122, 136	13, 98, 129, 147	27, 30
Mozambique		30, 100, 111	18, 81	1
Nepal		111		
Netherlands		27, 29, 32, 100, 129, 135, 142	19, 62, 63, 81, 118, 141	13, 16, 69, 73, 74, 105, 138, 147
Aruba				71
Netherlands Antilles		94, 105, 106	8, 33	11, 14, 25, 81, 87, 95, 101
New Zealand		81, 100, 105, 111	10, 29, 42, 53, 63, 69, 74, 134	16, 32, 59
Tokelau		100, 111		29, 105
Nicaragua		29, 63, 88, 100, 105, 110, 122, 135, 136, 141, 142, 146	87, 139	13, 16, 19, 27, 119, 138

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Niger		29, 100		6, 11, 13, 41, 81, 105, 135
Nigeria		29, 59, 81, 100, 105	32	16, 123
Norway		16, 29, 42, 53, 69, 96, 100, 139, 147, 152, 155, 156	13, 19, 73, 81, 113, 118, 129, 134, 135, 141, 142	27, 63, 105, 151
Pakistan		29, 81, 87, 96, 98, 105, 111	18	11, 14, 16, 19, 22, 27, 32, 45, 59, 89, 90, 106, 114, 118
Panama		22	55, 92	
Paraguay		77, 78, 107, 111, 117, 122		11, 59, 60, 95, 115, 123, 124
Peru		29, 32, 53, 56, 62, 68, 69, 71, 77, 78, 81, 100, 105, 107, 111, 114, 122, 139, 151	10, 19, 44, 73	8, 11, 22, 59, 90, 113
Philippines		59, 95, 100, 105, 141	17, 53	
Poland		29, 69, 74, 98, 105, 111, 142	12, 17, 18, 19, 24, 25, 42, 62, 87, 96, 99, 103, 119	13, 16, 27, 73, 100, 123, 134, 135, 138, 151
Portugal	63, 96, 103, 124, 127, 147, 155, 156	74, 81, 95, 108, 120, 122, 129, 131, 135, 142, 146, 148		27, 69, 73, 151
Qatar		111		81
Romania		100, 135		13, 16, 27, 29, 81, 129, 134, 136, 138
Rwanda		81, 100, 105	19, 122, 123, 138	62
San Marino	88, 100, 142, 143, 144			

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Saudi Arabia		29, 81, 100		105, 123
Senegal		19, 29, 100, 105, 111, 122, 125	12	5, 10, 13, 33, 81, 89, 95, 96, 117, 120, 135
Seychelles		8	11	
Sierra Leone	144	88, 95, 101, 105, 119, 125	8, 59	45, 81, 87, 94, 98
Singapore		8, 29, 32, 98	19, 81	5, 11, 16, 94
Solomon Islands	16, 19, 81, 94, 95	29	84	11, 14
South Africa		63	19, 26	
Spain	151, 154, 155, 157, 158	13, 29, 53, 62, 73, 74, 81, 97, 100, 105, 119, 122, 129, 132, 134, 136, 142, 147, 148, 152	16, 19, 27, 63, 96, 113, 135, 138	69, 123, 141
Sri Lanka		8, 29, 81, 96, 135	63	5, 16, 106
Sudan		29, 105		
Suriname		29, 81, 105, 144	62, 135, 151	13, 19, 27, 96
Swaziland		29, 81, 96, 100		19, 45, 59, 89, 90, 105, 123
Sweden	158, 159	13, 96, 111, 122, 139, 142, 152, 155, 156	10, 16, 19, 29, 63, 73, 81, 118, 151, 154	27, 105, 129, 135, 141
Switzerland	159	19, 29, 81, 100, 136, 139, 154	62, 141, 142	5, 16, 27, 63, 105, 123, 151
Syrian Arab Republic	144	1, 29, 30, 63, 81, 96, 105, 106, 135, 136	139	53, 125
Tanzania, United Republic of	140, 152	29, 63, 81, 98, 105, 131, 135	17, 95, 101, 148	11, 16, 19, 59, 94

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Thailand			123	14
Togo		100		13, 29, 85, 138
Trinidad and Tobago		29, 105, 125	85, 87, 98	97
Tunisia		13, 29, 105, 119, 127	59, 100, 118	16, 19, 62, 73, 81, 113, 123
Turkey		94, 98, 100	96, 118	81, 95, 105
Uganda		94, 95, 122, 124	123	11, 17
Ukrainian SSR		29	142	16, 27, 32, 69, 73, 138
USSR		29, 142		16, 27, 32, 69, 73, 113, 138
United Kingdom	126	69, 81, 98, 100, 105, 147, 151	19, 32, 63, 74, 135, 141	5, 10, 16, 29, 44
Anguilla		105	8	5, 29, 59, 85
Bermuda		105	59	5, 10, 16, 19, 29, 135
British Virgin Islands		105		5, 10, 19, 29, 59, 85
Falkland Islands (Malvinas)		141		32
Gibraltar		100, 105	59	16, 19, 29, 63, 81, 135, 142, 151
Guernsey		81, 142	19, 63, 141	5, 10, 16, 29, 32, 69, 105, 135, 151
Hong Kong		29, 81, 105, 122, 142	10, 16, 19, 26, 32, 59, 63, 141, 148, 151	5, 147
Isle of Man		105	19, 63, 69	16, 29, 95, 150



Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Jersey			19, 32, 63, 95	5, 10, 29, 81, 105
Montserrat		59, 105	17, 19	5, 16, 29, 85
St. Helena		105	8, 16, 29, 63, 82, 150, 151	5, 10, 11, 14, 19, 59, 85, 87, 98
United States		53, 55, 74		58
American Samoa			53	
Guam		74	53	
Puerto Rico		74	53	
Pacific Islands (Trust Territory)			53	
United States Virgin Islands		74	53	
Uruguay		9, 22, 63, 81, 96, 105, 114, 129, 134, 139	27, 32, 62, 113, 136	13, 16, 73, 138
Venezuela	117, 142, 153, 155, 156, 158	81, 95, 100, 141, 144	98, 118	102, 121
Yemen		135	56	
Yugoslavia	131	100, 111, 122, 132, 136, 139	13, 16, 19, 24, 25, 32, 62, 73, 81, 113, 143, 148	8, 11, 14, 27, 97, 106, 129, 140
Zaire		29, 81, 100	27	19
Zambia		29, 100, 141, 149, 151	123, 138, 148	19, 135
Zimbabwe	19			



Part 2

Summary of reports on Convention No. 111  
and Recommendation No. 111

Equality in Employment and Occupation

(Article 19 of the Constitution)



## 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.

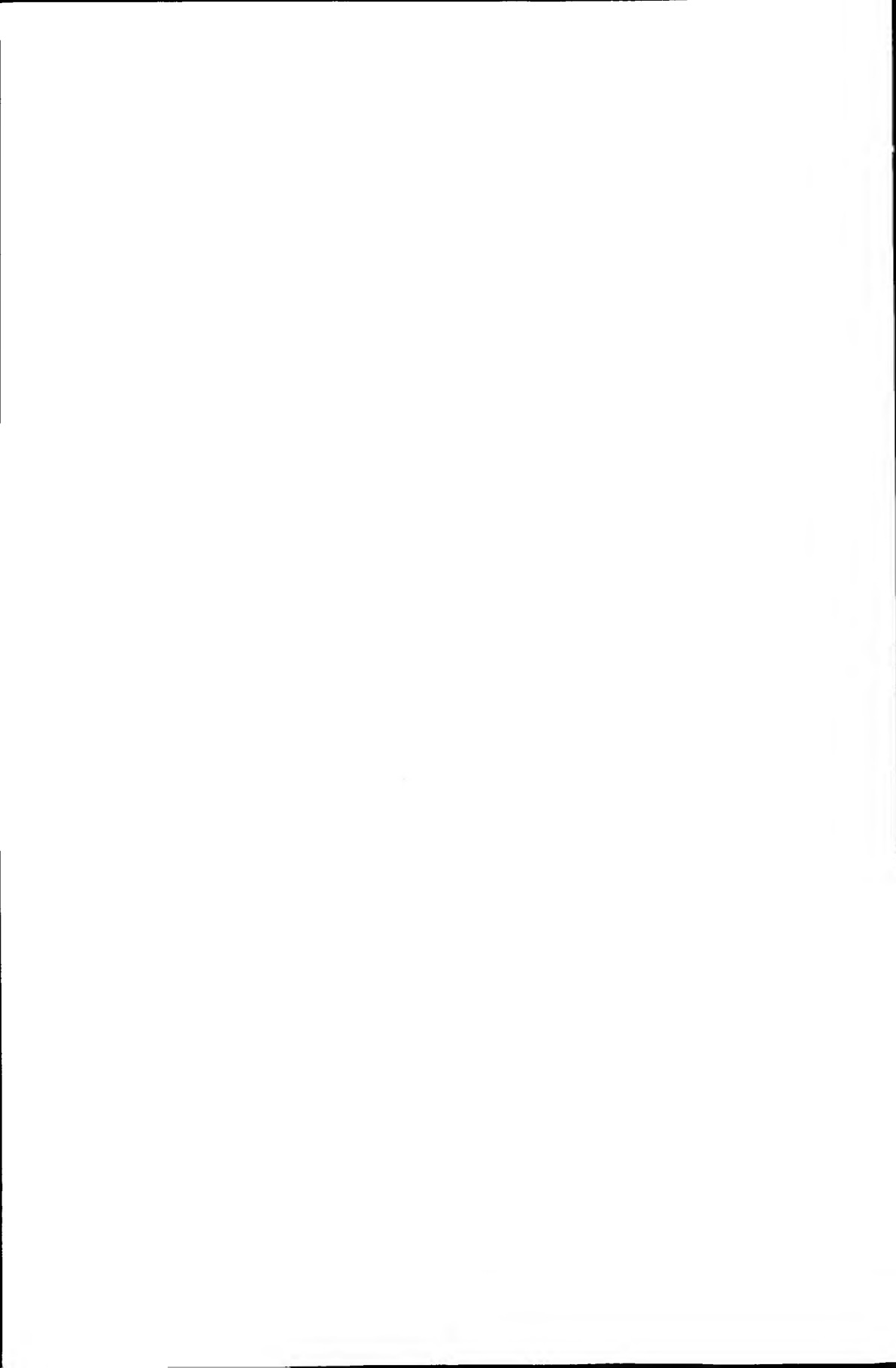
At its 218th (November 1981) Session, the Governing Body decided to discontinue the publication of summaries of reports on unratified Conventions and on Recommendations and to publish only a list of reports received, on the understanding that the Director-General would make available for consultation 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 Discrimination (Employment and Occupation) Convention (No. 111) and Recommendation (No. 111), 1958.

The governments of member States were requested to send their reports to the International Labour Office by 1 July 1987.

The report of the Committee of Experts on the Application of Conventions and Recommendations, which will be submitted to the Conference at its 75th (1988) Session, will include a general survey on the reports on the above-mentioned Conventions and Recommendations (Report III, Part 4B).



REPORTS RECEIVED ON CONVENTION No. 111  
AND RECOMMENDATION No. 111

Member States	Convention No. 111		Recommendation No. 111
	Date of ratification	Art. 19	Art. 19
Afghanistan	01.10.69		X
Algeria	12.06.69		X
Angola	04.06.76		X
Antigua and Barbuda	02.02.83		X
Argentina	18.06.68		X
Australia	15.06.73		X
Austria	10.01.73		X
Bahamas		X	X
Bahrain		X	X
Bangladesh	22.06.72		X
Barbados	14.10.74		X
Belgium	22.03.77		X
Belize		X	X
Benin	22.05.61		-
Bolivia	31.01.77		X
Brazil	26.11.65		X
Botswana		X	X
Bulgaria	22.07.60		X
Burkina Faso	16.04.62		X
Burma		X	X
Burundi		X	X
Byelorussian SSR	04.08.61		X
Cameroon		X	X
Canada	26.11.64		X
Cape Verde	03.04.79		-
Central African Republic	09.06.64		-
Chad	29.03.66		X
Chile	20.09.71		X
China		X	X
Colombia	04.03.69		X
Comoros		-	X
Congo		-	-
Costa Rica	01.03.62		X
Côte d'Ivoire	05.05.61		X
Cuba	26.08.65		X
Cyprus	02.02.68		X
Czechoslovakia	21.01.64		X
Democratic Yemen		-	-
Denmark	22.06.60		X
Djibouti		-	-
Dominica	28.02.83		-

Member States	Convention No. 111		Recommendation No. 111
	Date of ratification	Art. 19	Art. 19
Dominican Republic	13.07.64		-
Ecuador	10.07.62		X
Egypt	10.05.60		X
El Salvador		-	-
Equatorial Guinea		X	X
Ethiopia	11.06.66		X
Fiji		-	-
Finland	23.04.70		X
France	28.05.81		X
Gabon	29.05.61		-
German Democratic Republic	7.05.75		X
Germany, Federal Republic of	15.06.61		X
Ghana	04.04.61		-
Greece	07.05.84		X
Grenada		-	-
Guatemala	11.10.60		X
Guinea	01.09.60		X
Guinea-Bissau	21.02.77		X
Guyana	13.06.75		-
Haiti	09.11.76		-
Honduras	20.06.60		X
Hungary	20.06.61		X
Iceland	29.07.63		X
India	03.06.60		X
Indonesia		X	X
Iran, Islamic Republic of	30.06.64		-
Iraq	15.06.59		X
Ireland		X	X
Israel	12.01.59		X
Italy	12.08.63		-
Jamaica	10.01.75		-
Japan		X	X
Jordan	04.07.63		-
Democratic Kampuchea		-	-
Kenya		X	X
Kuwait	01.12.66		X
Lao People's Democratic Republic		-	-
Lesotho		-	-
Lebanon	01.06.77		-
Liberia	22.07.59		-
Libyan Arab Jamahiriya	13.06.61		-



Member States	Convention No. 111		Recommendation No. 111
	Date of ratification	Art. 19	Art. 19
Luxembourg		X	X
Madagascar	11.08.61		X
Malawi	22.03.65		-
Malaysia		X	X
Mali	02.03.64		X
Malta	01.07.68		-
Mauritania	08.11.63		-
Mauritius		X	X
Mexico	11.09.61		X
Mongolia	03.06.69		X
Morocco	27.03.63		X
Mozambique	06.06.77		X
Nepal	19.09.74		X
Netherlands	15.03.73		X
New Zealand	03.06.83		X
Nicaragua	31.10.67		X
Niger	23.03.62		X
Nigeria		X	X
Norway	24.09.59		X
Pakistan	24.01.61		X
Panama	16.05.66		X
Papua New Guinea		-	-
Paraguay	10.07.67		-
Peru	10.08.70		X
Philippines	17.11.60		-
Poland	30.05.61		X
Portugal	19.11.59		X
Qatar	18.08.76		X
Romania	06.06.73		X
Rwanda	02.02.81		X
Saint Lucia	18.08.83		-
San Marino	19.12.86		X
Sao Tome and Principe	01.06.82		-
Saudi Arabia	15.06.78		X
Senegal	13.11.67		X
Seychelles		X	X
Sierra Leone	14.10.66		X
Singapore		X	X
Solomon Islands		X	X
Somalia	08.12.61		X
Spain	06.11.67		X
Sri Lanka		X	X
Sudan	22.10.70		X
Suriname		X	X
Swaziland	05.06.81		X

Member States	Convention No. 111		Recommendation No. 111
	Date of ratification	Art. 19	Art. 19
Sweden	20.06.62		X
Switzerland	13.07.61		X
Syrian Arab Republic	10.05.60		X
Tanzania, United Republic of		-	-
Thailand		X	X
Togo	08.11.83		X
Trinidad and Tobago	26.11.70		-
Tunisia	14.09.59		X
Turkey	19.07.67		X
Uganda		-	-
Ukrainian SSR	04.08.61		X
United Arab Emirates		X	X
United Kingdom		X	X
United States		X	X
Uruguay		X	X
USSR	04.05.61		X
Venezuela	03.06.71		X
Yemen	22.08.69		-
Yugoslavia	02.02.61		X
Zaire		X	-
Zambia	23.10.79		X
Zimbabwe		-	X

Note: The Convention is also applicable without modification to the following non-metropolitan territories: France (Guadeloupe, French Guiana, Martinique, Réunion, St. Pierre and Miquelon, French Polynesia, New Caledonia), New Zealand (Tokelau).

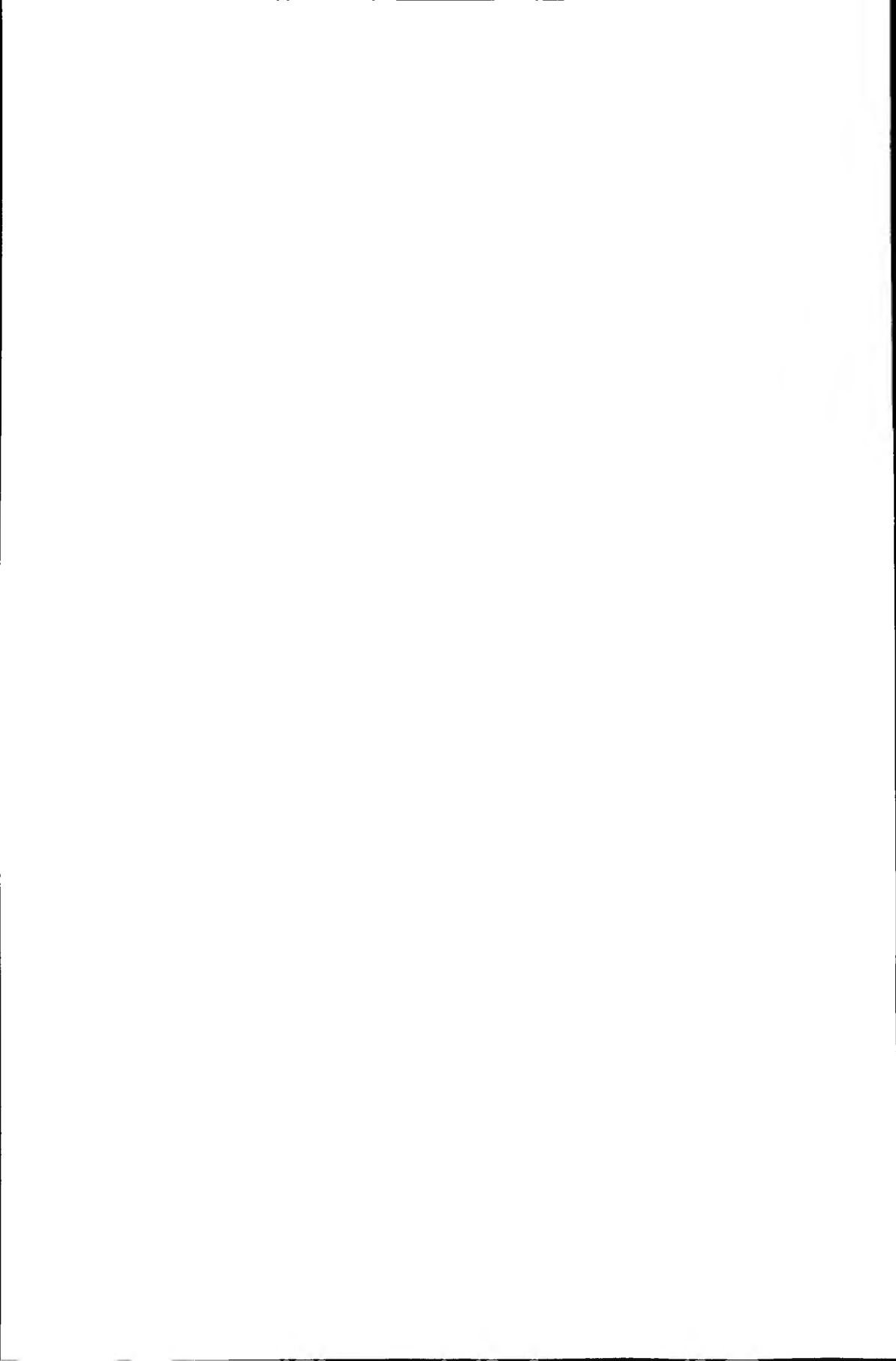
In addition, a total of 17 reports have been received, under article 19 of the Constitution, in respect of the following non-metropolitan territories: United Kingdom (Bermuda, British Virgin Islands, Falkland Islands (Malvinas), Gibraltar, Guernsey, Hong Kong, Isle of Man, Jersey and Montserrat.

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 72nd Session held in Geneva from 4 to 25 June 1986.

The period of one year provided for the submission to the competent authorities of the instruments in question expired on 25 June 1987 and the period of 18 months on 25 December 1987.

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 71st Sessions (1948 to 1985). 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 73rd 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 62nd TO 72nd SESSIONS

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).

70th Session (1984)

Employment Policy (Supplementary Provisions) Recommendation  
(No. 169).



71st Session (1985)

Labour Statistics Convention (No. 160);

Occupational Health Services Convention (No. 161);

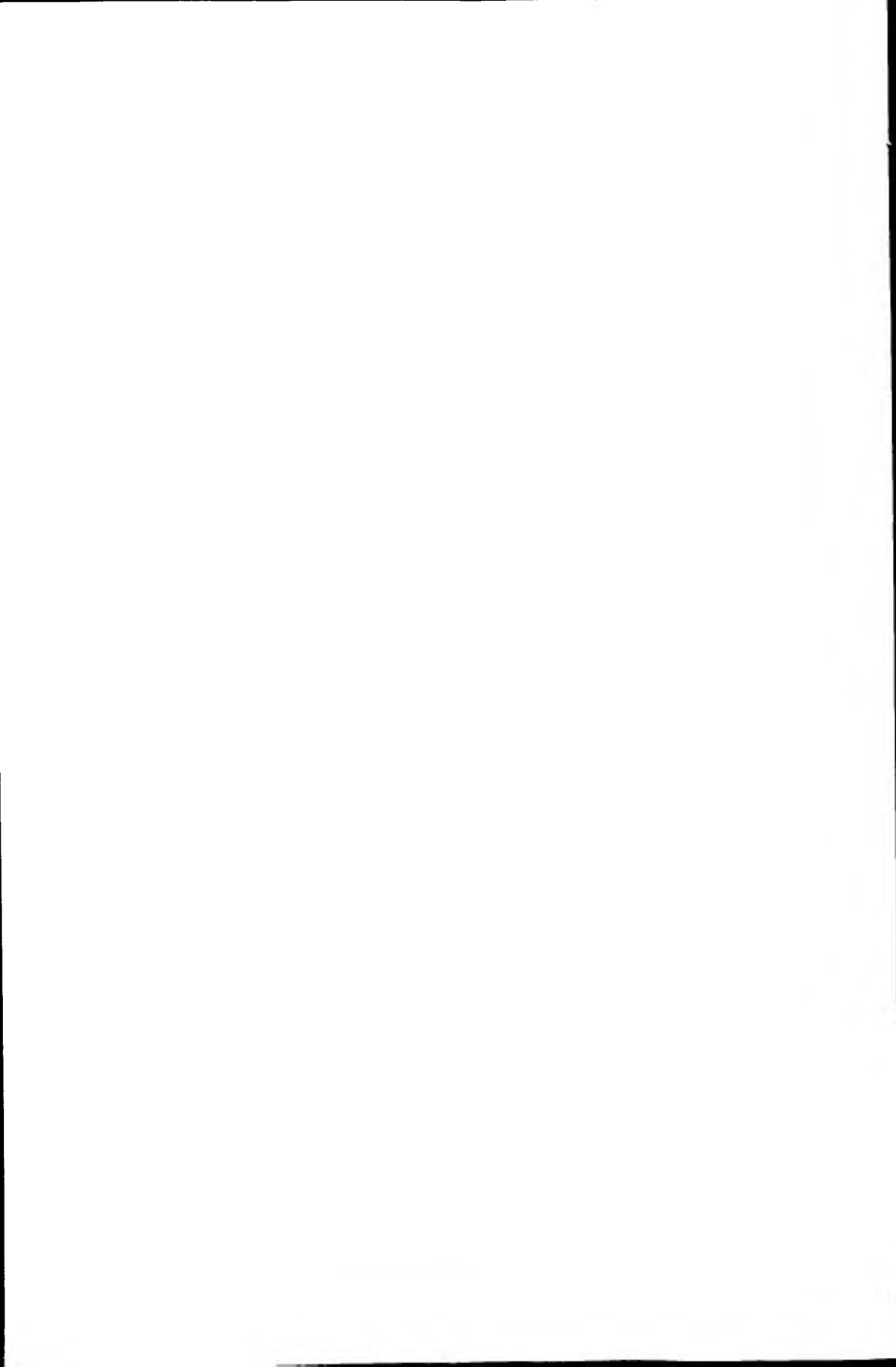
Labour Statistics Recommendation (No. 170);

Occupational Health Services Recommendation (No. 171).

72nd Session (1986)

Asbestos Convention (No. 162);

Asbestos Recommendation (No. 172).



SUMMARY OF INFORMATION RELATING TO THE SUBMISSION TO  
THE COMPETENT AUTHORITIES OF THE CONVENTIONS AND  
RECOMMENDATIONS ADOPTED BY THE INTERNATIONAL LABOUR  
CONFERENCE AT ITS 72nd SESSION (GENEVA, 1986) AND  
SUPPLEMENTARY INFORMATION ON THE TEXTS ADOPTED AT  
ITS 31st TO 71st SESSIONS (1948-85)

Afghanistan. The instruments adopted at the 52nd to 56th and 61st to 70th Sessions of the Conference have been submitted to the Council of Ministers.

Australia. The instruments adopted at the 72nd Session of the Conference were submitted to the House of Representatives and to the Senate on 8 and 9 December 1987, respectively.

Austria. The instruments adopted at the 71st Session of the Conference have been submitted to the National Assembly. Convention No. 160 has been ratified.

Bahamas. The instruments adopted at the 72nd Session of the Conference have been submitted to the competent authorities.

Bahrain. The instruments adopted at the 72nd Session of the Conference were submitted to the Council of Ministers on 10 December 1987.

Barbados. The instruments adopted at the 72nd Session of the Conference have been submitted to Parliament.

Belgium. The instrument adopted at the 70th Session of the Conference was submitted to Parliament on 30 June 1987. The instruments adopted at the 71st Session were submitted on 3 June 1987. The ratification of Convention No. 160 has been proposed.

Botswana. The instruments adopted at the 72nd Session of the Conference were submitted to Parliament in December 1987.

Brazil. Conventions Nos. 126, 132, 145, 146, 159, 160 and 162, as well as Recommendations Nos. 168, 170 and 172 have been submitted to Congress. The ratification of Conventions Nos. 159, 160, and 162 has been proposed.

Bulgaria. The instruments adopted at the 72nd Session of the Conference have been submitted to the National Assembly.

Burkina Faso. The instruments adopted at the 59th, 65th, 68th, 69th, 70th and 71st Sessions of the Conference, as well as Conventions Nos. 141 and 142 and Recommendations Nos. 149 and 150 (60th Session) have been submitted to the competent authorities.

Burundi. The instruments adopted at the 72nd Session of the Conference were submitted to the President of the Republic on 15 November 1986.

Byelorussian SSR. The instruments adopted at the 72nd Session of the Conference were submitted to the Supreme Soviet in May 1987.

Canada. The instruments adopted at the 70th, 71st and 72nd Sessions of the Conference were submitted to the House of Commons and to the Senate on 3 and 9 June 1987, respectively. The ratification of Conventions Nos. 160 and 162 may be envisaged.

Chad. The instruments adopted at the 71st and 72nd Sessions of the Conference were submitted to the Council of Ministers on 25 June 1987.

Chile. The instruments adopted at the 72nd Session of the Conference were submitted to the legislative authorities on 17 November 1987.

China. The instruments adopted at the 72nd Session of the Conference have been submitted to the People's National Assembly.

Congo. Convention No. 153 and Recommendation No. 161, adopted at the 65th Session of the Conference, have been submitted to the National Assembly.

Côte d'Ivoire. The instruments adopted at the 71st and 72nd Sessions of the Conference were submitted to the National Assembly on 9 July 1987 and 29 August 1986, respectively.

Cuba. The instruments adopted at the 72nd Session of the Conference were submitted to the Council of Ministers on 15 July 1987.

Cyprus. The instruments adopted at the 69th and 71st Sessions of the Conference were submitted to the House of Representatives on 18 September 1987. Conventions Nos. 159 and 160 have been ratified.

Czechoslovakia. The instruments adopted at the 71st and 72nd Sessions of the Conference have been submitted to the Federal Assembly. Conventions Nos. 160 and 161 have been ratified.

Denmark. The instruments adopted at the 71st and 72nd Sessions of the Conference were submitted to Parliament in September 1987.

Djibouti. The instruments adopted at the 71st and 72nd Sessions of the Conference have been submitted to the National Assembly.

Egypt. The instruments adopted at the 72nd Session of the Conference have been submitted to the People's Assembly.

El Salvador. Convention No. 160 and Recommendation No. 170, adopted at the 71st Session of the Conference, have been submitted to the competent authorities. The Convention has been ratified.

Equatorial Guinea. The instruments adopted at the 68th to 71st Sessions of the Conference were submitted to the House of People's Representatives in July 1986. The ratification of Convention No. 158 may be envisaged.

Ethiopia. The instruments adopted at the 71st Session of the Conference were submitted to the competent authorities on 11 February 1988. The instruments adopted at the 72nd Session were submitted on 20 December 1986.

Finland. The instruments adopted at the 72nd Session of the Conference were submitted to Parliament on 18 December 1987.

France. The instruments adopted at the 72nd Session of the Conference were submitted to Parliament on 24 December 1987. The ratification of Convention No. 162 might be approved.

German Democratic Republic. The instruments adopted at the 72nd Session of the Conference have been submitted to the People's Assembly.

Federal Republic of Germany. The instruments adopted at the 68th and 69th Sessions of the Conference were submitted to Parliament in January 1988. The ratification of Convention No. 159 has been proposed.

Greece. Recommendations Nos. 153 and 154, adopted at the 62nd Session of the Conference, were submitted to Parliament on 10 November 1987.

Honduras. The instruments adopted at the 69th Session of the Conference as well as the Protocol to Convention No. 110, adopted at the 68th Session, were submitted to Congress on 23 June 1987. The instruments adopted at the 71st Session were submitted on 5 November 1986 and those adopted at the 72nd Session on 18 September 1986.

Hungary. The instruments adopted at the 72nd Session of the Conference were submitted to the Presidential Council on 18 June 1987.

Iceland. The instruments adopted at the 72nd Session of the Conference were submitted to Parliament on 10 March 1987.

Indonesia. The instruments adopted at the 66th to 72nd Sessions of the Conference were submitted to Parliament on 23 May 1987.

Italy. The instruments adopted at the 71st and 72nd Sessions of the Conference were submitted to Parliament on 5 September 1986. They have also been submitted to the competent organs of the European Communities.

Japan. The instruments adopted at the 72nd Session of the Conference were submitted to the Diet on 22 May 1987.

Kuwait. The instruments adopted at the 72nd Session of the Conference have been submitted to the Council of Ministers.

Liberia. The instruments adopted at the 72nd Session of the Conference were submitted to the House of Representatives on 31 January 1987.

Libyan Arab Jamahiriya. The instruments adopted at the 71st and 72nd Sessions of the Conference have been submitted to the General People's Committee.

Luxembourg. The instruments adopted at the 71st Session of the Conference were submitted to the House of Representatives on 13 May 1986.

Malaysia. The instruments adopted at the 71st and 72nd Sessions of the Conference were submitted to Parliament in July 1987.

Mali. The instruments adopted at the 71st and 72nd Sessions of the Conference were submitted to the National Assembly on 18 October 1986.

Mongolia. The instruments adopted at the 71st Session of the Conference have been submitted to the competent authorities.

Morocco. The instruments adopted at the 72nd Session of the Conference have been submitted to the House of Representatives.

Mozambique. The instruments adopted at the 72nd Session of the Conference were submitted to the Council of Ministers on 16 April 1987.

Netherlands. Convention No. 159 and Recommendation No. 168, adopted at the 69th Session of the Conference, were submitted to Parliament on 26 November 1987. The ratification of Convention No. 159 may be envisaged.

Nicaragua. The instruments adopted at the 72nd Session of the Conference were submitted to the President of the Republic and to the Legislative Assembly on 28 November 1986.

Nigeria. The instruments adopted at the 72nd Session of the Conference have been submitted to the competent authorities.

Norway. The instruments adopted at the 72nd Session of the Conference were submitted to Parliament on 4 December 1987.

Poland. The instruments adopted at the 72nd Session of the Conference were submitted to Parliament on 7 May 1987.

Portugal. The instruments adopted at the 72nd Session of the Conference have been submitted to the National Assembly.

Romania. The instruments adopted at the 72nd Session of the Conference were submitted to the Grand National Assembly on 12 December 1986.

Rwanda. The instruments adopted at the 71st Session of the Conference were submitted to the President of the Republic on 25 October 1985.

Senegal. The instruments adopted at the 68th, 69th, 71st and 72nd Sessions of the Conference were submitted to the National Assembly on 11 June 1987.

Singapore. The instruments adopted from the 70th to the 72nd Sessions of the Conference were submitted to Parliament on 22 June 1987.

Somalia. The instruments adopted at the 68th to 72nd Sessions of the Conference were submitted to the People's National Assembly on 9 January 1988.

Sudan. The instruments adopted at the 72nd Session of the Conference were submitted to the Council of Ministers on 27 November 1986.

Sri Lanka. The instruments adopted at the 71st Session of the Conference were submitted to Parliament on 5 May 1987.

Sweden. The instruments adopted at the 72nd Session of the Conference were submitted to Parliament on 19 March 1987. Convention No. 162 has been ratified.

Switzerland. The instruments adopted at the 72nd Session of the Conference were submitted to Parliament on 15 June 1987.

Syrian Arab Republic. Recommendation No. 162, adopted at the 66th Session of the Conference, as well as Convention No. 161 and Recommendation No. 171 (71st Session) have been submitted to the Council of Ministers.

Thailand. The instruments adopted at the 69th, 70th and 71st Sessions of the Conference were submitted to Parliament in May 1987.

Togo. The instruments adopted at the 71st Session of the Conference were submitted to the National Assembly in December 1986. The instruments adopted at the 72nd Session were submitted in March 1987.

Tunisia. The instruments adopted at the 64th Session and the 66th to 68th Sessions of the Conference, and Recommendation No. 167

(69th Session) were submitted to the Chamber of Representatives on 4 September 1987. Ratification of Convention No. 150 was proposed.

Turkey. The instruments adopted at the 72nd Session of the Conference were submitted to the Grand National Assembly on 17 December 1986.

Uganda. The instruments adopted at the 66th to 72nd Sessions of the Conference were submitted to the Council of Ministers on 17 September 1987. Ratification of Conventions Nos. 154, 158, 159 and 162 was proposed.

Ukrainian SSR. The instruments adopted at the 72nd Session of the Conference have been submitted to the Supreme Soviet.

USSR. The instruments adopted at the 71st and 72nd Sessions of the Conference have been submitted to the Supreme Soviet.

United Arab Emirates. The instruments adopted at the 70th, 71st and 72nd Sessions of the Conference were submitted to the Council of Ministers on 26 August 1987.

United Kingdom. The instruments adopted at the 72nd Session of the Conference were submitted to Parliament in November 1986.

United States. The instruments adopted at the 72nd Session of the Conference were submitted to Congress in September 1987.

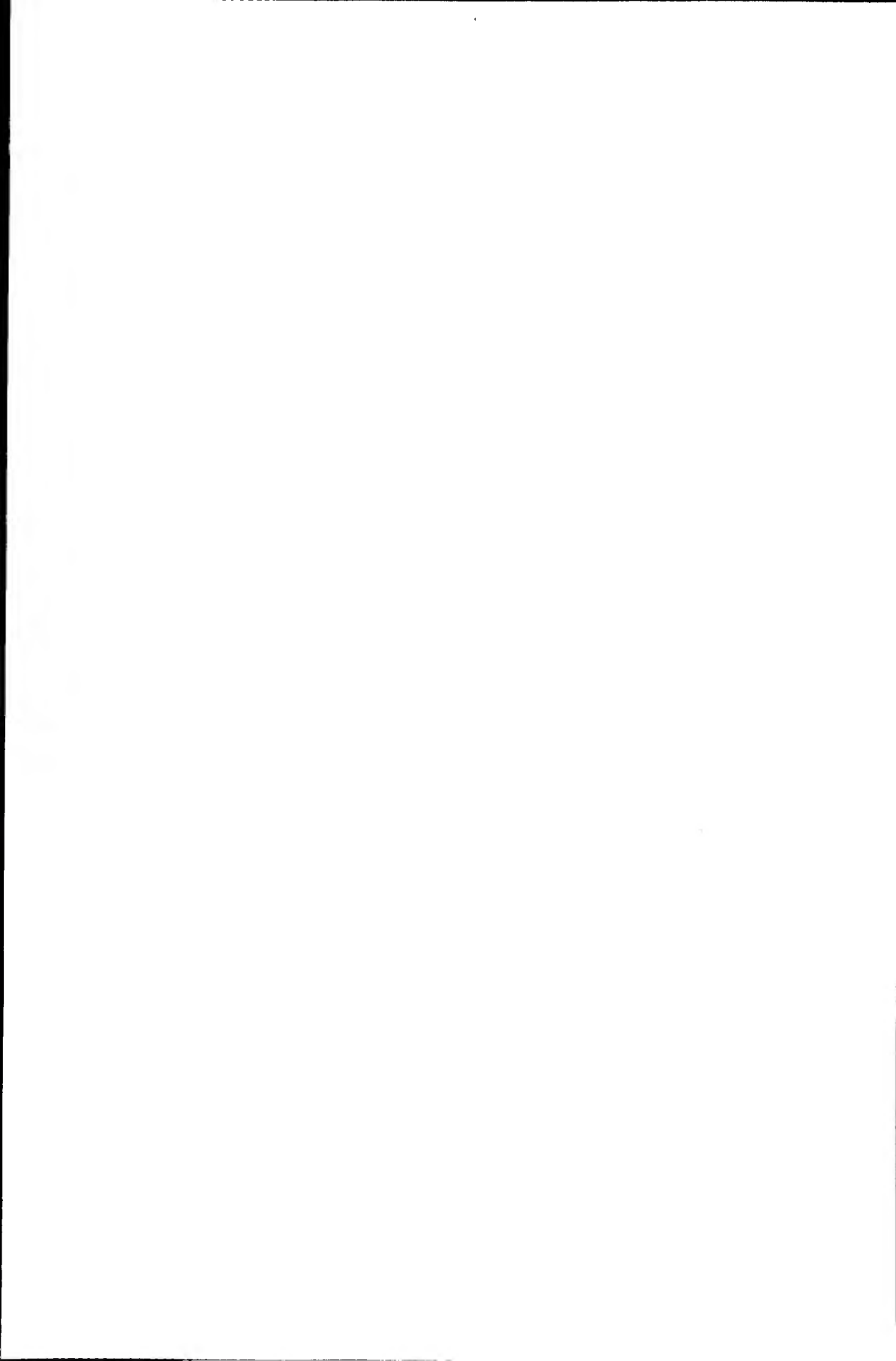
Uruguay. Convention No. 161, adopted at the 71st Session of the Conference, was submitted to the General Assembly in December 1986. Its ratification was proposed.

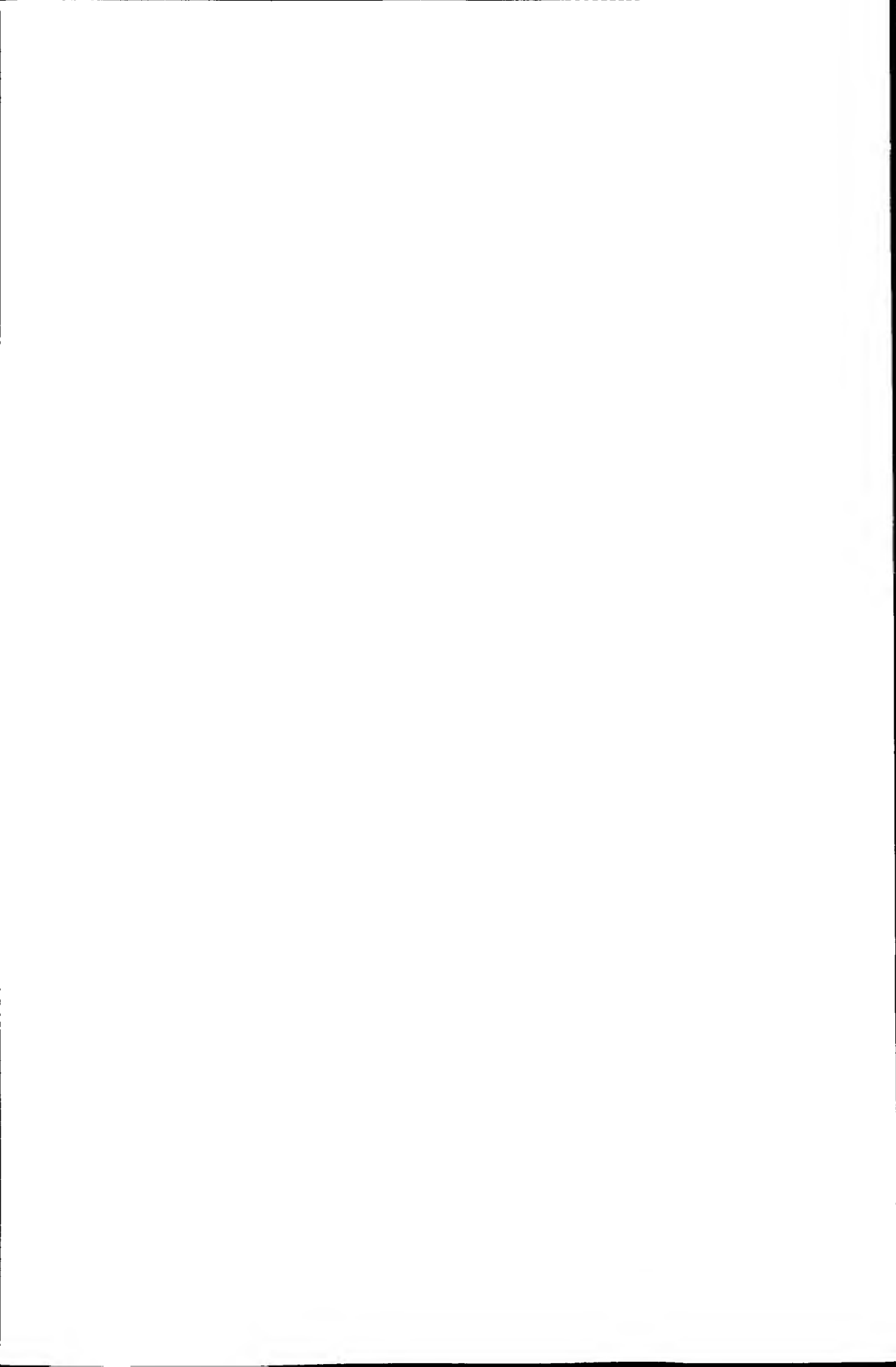
Yugoslavia. The instruments adopted at the 71st Session of the Conference were submitted to the Federal Assembly in February 1987. The instruments adopted at the 72nd Session were submitted on 11 August 1987. Ratification of Conventions Nos. 161 and 162 may be considered.

Zambia. The instruments adopted at the 71st Session of the Conference have been submitted to the National Assembly.

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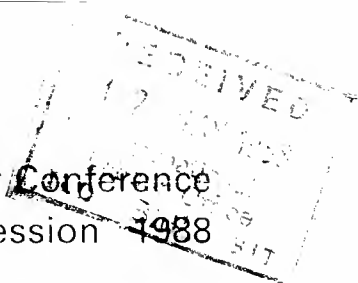




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International Labour Conference  
75th Session 1988



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Report III  
(Part 4A)

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

General report  
and observations concerning particular countries

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International Labour Office Geneva



International Labour Conference  
75th Session 1988

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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

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ISSN 0074-6681

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*First published 1988*

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

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

Country	Observations made by the Committee (published in the present report) <sup>1</sup>	Direct requests addressed by the Committee to the Governments (not reproduced in the present report) <sup>2</sup>
Afghanistan . . . . .	General Report, paras. 91, 98, 99. I A and B, Nos. 13, 95, 105, 140.	Art. 22, Nos. 100, 105, 137, 139, 140, 141, 142. Subm.
Albania . . . . .	I A.	
Algeria . . . . .	I A and B, Nos. 13, 32, 62, 63, 105, 119, 120, 127.	Art. 22, general. Art. 22, Nos. 19, 29, 56, 63, 81, 100, 105, 138, 142. Subm.
Angola . . . . .	I B, No. 105. III.	Art. 22, general. Art. 22, Nos. 27, 29, 81, 98, 105, 107.
Antigua and Barbuda . . .	III.	Art. 22, general. Art. 22, Nos. 29, 81, 138.
Argentina . . . . .	I B, Nos. 34, 68, 100, 107, 111.	Art. 22, Nos. 27, 32, 68, 81, 100, 105, 107, 111, 139, 142. Subm.
Australia . . . . .	I B, Nos. 81, 105, 122, 123.	Art. 22, Nos. 27, 29, 63, 81, 123. Art. 35, Nos. 11, 98, 122.
Austria . . . . .	I B, Nos. 100, 111.	Art. 22, Nos. 27, 29, 100, 111, 122, 142.
Bahamas . . . . .	General Report, paras. 98, 99.	Art. 22, Nos. 29, 81, 105. Subm.
Bahrein . . . . .		Art. 22, Nos. 29, 81, 89.
Bangladesh . . . . .	I B, Nos. 29, 81, 87, 105, 107.	Art. 22, Nos. 27, 29, 32, 81, 96, 105. Subm.
Barbados . . . . .		Art. 22, general. Art. 22, Nos. 63, 81, 87, 98, 115, 118, 122, 144.
Belgium . . . . .	I B, Nos. 87, 105, 111.	Art. 22, Nos. 13, 27, 29, 81, 96, 111, 123, 125, 147. 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)
Belize . . . . .		Art. 22, general. Art. 22, Nos. 5, 16, 81, 95, 105. Subm.
Benin . . . . .	I B, No. 33.	Art. 22, general. Art. 22, Nos. 29, 105, 111. Subm.
Bolivia . . . . .	I B, Nos. 5, 81, 107, 122. III.	Art. 22, Nos. 95, 96, 100, 107, 111, 118, 122, 123.
Brazil . . . . .	General Report, paras. 98, 99. I B, Nos. 5, 29, 91, 107, 122. III.	Art. 22, Nos. 19, 29, 53, 94, 97, 105, 107, 115, 117, 118, 125, 131, 142, 148.
Bulgaria . . . . .	I B, Nos. 79, 87.	Art. 22, Nos. 13, 27, 62.
Burkina Faso . . . . .	I B, No. 111. III.	Art. 22, Nos. 29, 33, 81, 100, 111, 129.
Burma . . . . .	I B, Nos. 17, 52, 87.	General Report, para. 77. Art. 22, general. Art. 22, Nos. 27, 29, 63. Subm.
Burundi . . . . .	I B, Nos. 29, 105.	Art. 22, Nos. 19, 27, 29, 81, 105.
Byelorussian SSR . . . . .	I B, No. 29.	Art. 22, Nos. 27, 29, 100, 142.
Cameroon . . . . .	I B, Nos. 29, 105.	Art. 22, general. Art. 22, Nos. 13, 29, 81, 100, 105, 108. Subm.
Canada . . . . .	I B, Nos. 100, 105, 111, 122.	Art. 22, Nos. 27, 63, 100, 111.
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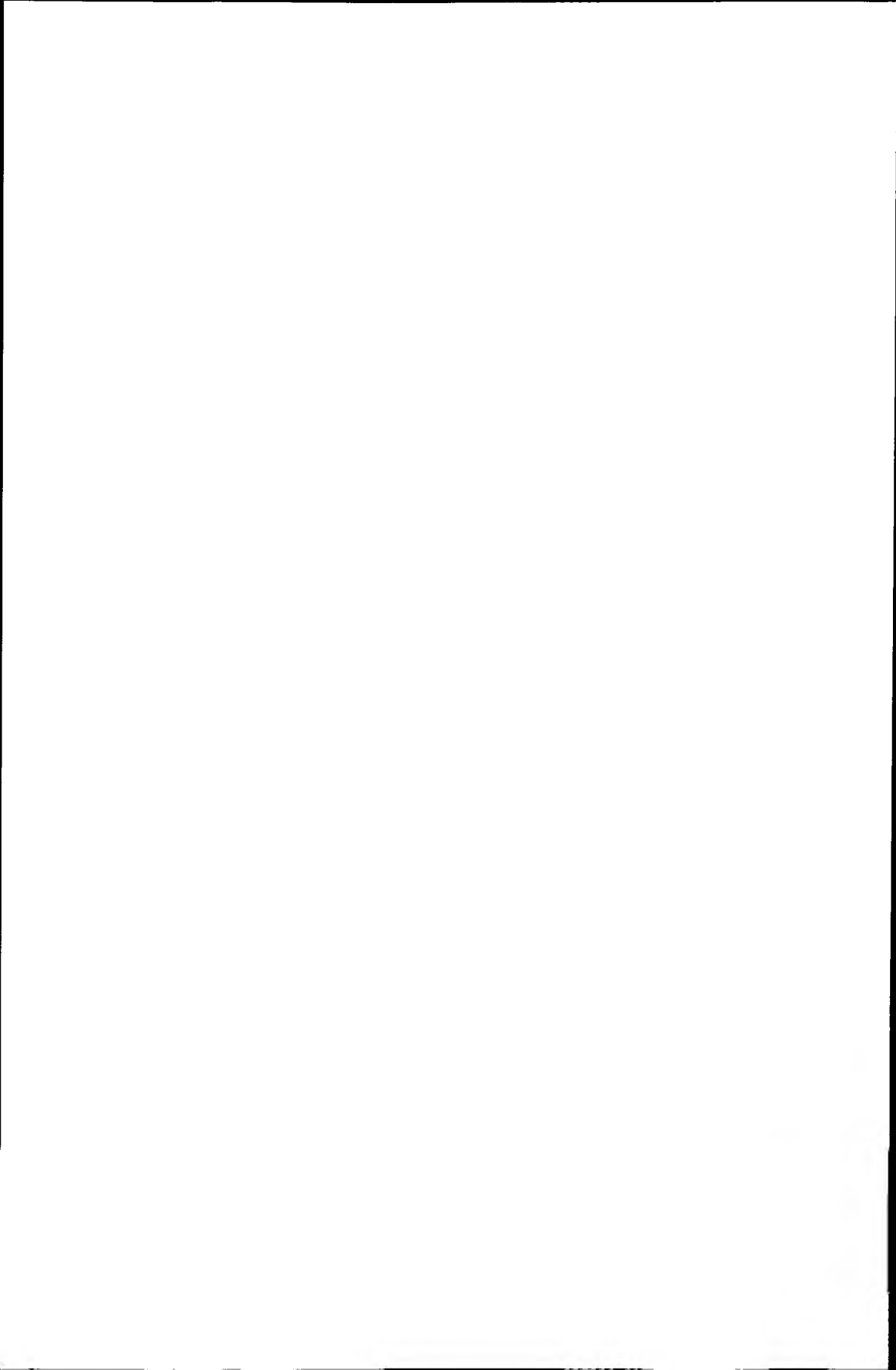
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PART ONE

**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 58th Session in Geneva from 10 to 23 March 1988. The Committee has the honour to present its report to the Governing Body.

2. The Committee noted with regret that Mr. A. SHIGEMITSU (Japan) had asked to be relieved of his duties as a member of the Committee. It paid tribute to the contribution that he had made to its work.

3. The Committee noted that, in order to fill the vacant seat, the Governing Body had appointed Mr. K. IKAWA (Japan), whom it was happy to welcome to the present session.

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

Mr. Benjamin AARON (United States),

Professor Emeritus of Law and former Director of the Institute of Industrial Relations, University of California, Los Angeles; former President, National Academy of Arbitrators; former President, Industrial Relations Research Association; former member of the Arbitration Services Advisory Committee of the Federal Mediation and Conciliation Service; member of the Public Review Board of the United Automobile, Aerospace and Agricultural Implement Workers' Union; President of the International Society of Labour Law and Social Security.

Mr. Roberto AGO (Italy),

Judge of the International Court of Justice; Emeritus 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 Committee of Experts on the Application of Arab Labour Conventions; 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; Vice-President of the International Academy of Human Rights (Paris); member of the Group of Experts of the International Red Cross on International Humanitarian Law (Geneva); member of the International Federation of Women Lawyers;
- Mr. Prafullachandra Natvarlal BHAGWATI (India),  
Former Chief Justice 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; former 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; member of the Editorial Committee of Reports of the Commonwealth;
- The Right Honourable Sir William DOUGLAS, PC, KCMG (Barbados),  
Ambassador; former Chief Justice of Barbados; former Chairman, Inter-American Juridical Committee; former Chairman, 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. Katsuichi IKAWA (Japan),  
Former Director-General of the Treaties Bureau, Ministry of Foreign Affairs; former Japanese Ambassador to Switzerland, Iran and France;
- 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;

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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; member of the Institute of International Law; Arbitrator of the International Centre for the Settlement of Disputes concerning Investments (ICSID); former 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; President, International Academy of Human Rights;

Mr. Benjamin Obi NWABUEZE (Nigeria),

LLD (London); Senior Advocate of Nigeria; 1980 Laureate of the Nigerian National Merit Award; former Professor of Law at the University of Nigeria; former Professor and Dean of the Faculty of Law at the University of Zambia; former member, Governing Council, Nigerian Institute of International Affairs; former member, Governing Council, Nigerian Institute of Advanced Legal Studies; member, Council of Legal Education;

Mr. Edilbert 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 International Chamber of Commerce; former Professor of Law at the University of Antananarivo; member of the United Nations International Law Commission;

Mr. José María RUDA (Argentina),

President of the International Court of Justice; member of the Institute of International Law; former representative of Argentina 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. 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; former member of the Executive Committee of the International Society for Labour Law and Social Security; member of the Finnish Academy of Science and Letters; President of the International Association of Supreme Administrative Jurisdictions; Chairman of the Finnish Section of the International Association of Legal Sciences;

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; President, Copyright Tribunal; Chairman, Income Tax Board of Review; Chairman, Valuation Review Board; Chairman, Hotels Licensing Board; Chairman, Tenants' Compensation Board; Vice-President (Asia) of the International Society of Labour Law and Social Security;

Mr. Fernando URIBE RESTREPO (Colombia),

Judge of the Court of Justice of the Cartagena Accord; former President of the Supreme Court of Colombia; former Professor of International Labour Law at the National University of Colombia, of Labour Law, Universities Externado de Colombia and Pontificia Javeriana, and of 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. Budislav VUKAS (Yugoslavia),

Professor of Public International Law and Director of the Institute of International Law and International Relations of the University of Zagreb Faculty of Law.

Sir John WOOD (United Kingdom),

CBE, LL.M.; Barrister; Edward Bramley Professor of Law at the University of Sheffield; Chairman of the Central Arbitration Committee since 1976.

5. The Committee noted with regret that Mr. SUSSEKIND was unable to take part in its work this session.

6. The Committee elected Mr. J.M. RUDA as Chairman and Mr. E. RAZAFINDRALAMBO as Reporter of the Committee.

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

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

8. The Committee, after an examination and evaluation of the above-mentioned reports and information, drew up its present report, consisting essentially of the following three parts: Part One is the General Report in which the Committee reviews 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 85 to 113 below), on the application of Conventions in non-metropolitan territories (see section II and paragraphs 85 to 113 below), and on the obligation to submit instruments to the competent authorities (see section III and paragraphs 114 to 125 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 Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and Recommendation, 1958 (No. 111) (see paragraphs 126 to 130 below).

9. In carrying out its task, which consists of indicating the extent to which the situation in each State appears to be in conformity with the terms of the Conventions and the obligations undertaken by that State by virtue of the ILO Constitution, the Committee has followed the principles of independence, objectivity and impartiality set forth in its previous reports. It has continued to apply the working methods recalled in its 1987 report.

10. The year 1988 is marked by anniversaries that are of particular importance for the International Labour Organisation. Forty years ago the United Nations proclaimed the Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations. It was also 40 years ago that the International Labour Organisation adopted one of its fundamental texts, the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). Thirty years ago it adopted another fundamental text, namely the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). By doing so it gave substance to two of the principles enshrined in the Universal Declaration of Human Rights: these principles it had itself set out in 1944 in the Declaration of Philadelphia, in the following terms: "freedom of expression and of association are essential to sustained progress" and "all human beings, irrespective of race, creed or sex, have the right to pursue

both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity". These instruments are a permanent source of inspiration for the Committee in its efforts to ensure that international labour standards are incorporated into national laws and practices.

## II. 40TH ANNIVERSARY OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

11. The Committee notes that by resolution A/RES/41/150 of 1987 the General Assembly of the United Nations decided to commemorate the 40th anniversary of the Universal Declaration of Human Rights in 1988 and invited, inter alia, the specialised agencies to take appropriate action and to support the activities intended to encourage in an appropriate manner the promotion of the universal observance and exercise of civil and political rights as well as economic, social and cultural rights. In response to the appeal by the General Assembly of the United Nations, the Director-General of the International Labour Office stated that the International Labour Organisation would associate itself as fully as possible with this commemoration.

12. The Committee welcomes the decision of the Director-General to select human rights as the central theme for his report to the International Labour Conference in 1988. It will give all due attention to this Report and to the discussion of it in the Conference and the action taken as a result in the ILO for the promotion and protection of human rights. The Committee itself is conscious of the fact that the principles and objectives set out in the Universal Declaration and reiterated in the International Covenants on Human Rights are incorporated, in relation to the areas of competence of the ILO, in the international labour standards for which, under its terms of reference, it is responsible for supervising the implementation. In this connection, the Committee considers it particularly appropriate that this year its general survey deals with the Discrimination (Employment and Occupation) Convention (No. 111) and Recommendation (No. 111) 1958, of which 1988 marks the 30th anniversary and which translate into the field of labour the principle of equality of dignity and rights set forth in the first Articles of the Universal Declaration.

## III. 40TH ANNIVERSARY OF THE FREEDOM OF ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANISE CONVENTION, 1948 (NO. 87)

13. On the occasion of the 40th anniversary of the adoption of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee wishes to emphasise the particular importance that it attaches to the application of this Convention, observance of which is necessary for the effective defence of the interest of workers and employers and their real participation in the economic and social life of their countries.

14. The importance and the universal value of the principles contained in Convention No. 87 have frequently been reaffirmed in resolutions adopted by the General Conference and the regional conferences of member States of the ILO and in the appeals made by the these Conferences to all countries for the full application of these principles. This universal value is also corroborated by the large number of ratifications (98 up to the present time).

15. The most recent resolution on freedom of association was adopted by the International Labour Conference at its 73rd Session in 1987. In this resolution, the Conference urges the governments of all those member States which have not yet ratified the Convention to do their utmost to do so in 1988. The resolution also calls upon governments to take all necessary steps for the full implementation of Convention No. 87, in particular by bringing their legislation into conformity with the principles enunciated in the Convention and to seek the assistance of the ILO as rapidly as possible when problems relating to the implementation of the principles of freedom of association are experienced or anticipated, with a view to resolving such problems.

16. In recent years, the Committee has been able to note with satisfaction that in certain countries trade union rights have been re-established in overall terms, particularly following far-reaching political changes, and that in others certain legislative amendments have ensured greater conformity between the national legislation and the principles set out in the Convention. These positive developments should not, however, conceal the fact that in certain countries the situation has hardly improved at all, or has even deteriorated, and that the laws and/or practice do not correspond to the requirements of the Convention.

17. These difficulties are linked in part to the acute economic problems facing States in the various parts of the world. However, the Committee is also bound to note with concern that restrictions on freedom of association are often the consequence of limitations of a general nature imposed on civil liberties. The Committee is therefore bound to emphasise once again that the fundamental guarantees of civil liberties, which should constitute the common ideal to be achieved for all peoples and all nations, condition the effective exercise of the principles of freedom of association. Therefore, it should never be forgotten that it is through the observance of these liberties that trade unions will be able to fulfil their vital function in society, namely of making a decisive contribution to social justice.

#### IV. GENERAL

##### Membership of the Organisation

18. Since the Committee's last session the number of member States of the ILO has remained at 150. The Committee has been informed that on 16 November 1987 the Government of the People's Republic of Poland informed the Director-General of the International Labour Office of its decision to rescind in notice of withdrawal from the International Labour Organisation. The Committee welcomes this decision.

New standards adopted by the Conference in 1987

19. The Committee has noted that at its 73rd Session (June 1987) the International Labour Conference did not adopt any new standards, but that the 74th (Maritime) Session of the Conference, which was held in Geneva from 24 September to 9 October 1987, adopted the Seafarers' Welfare Convention (No. 163) and Recommendation (No. 173) 1987; the Health Protection and Medical Care (Seafarers) Convention (No. 164) 1987; the Social Security (Seafarers) Convention (Revised) (No. 165) 1987; and the Repatriation of Seafarers Convention (Revised) (No. 166) and Recommendation (No. 174) 1987.

Obligations binding member States

20. The Occupational Health Services Convention, 1985 (No. 161) came into force on 17 February 1988. The Labour Statistics Convention, 1985 (No. 160) will come into force on 24 April 1988.

21. In 1987, 35 ratifications by 20 member States were registered. The total number of ratifications at 31 December 1987 was 5,308.

22. In 1987, the denunciation by New Zealand of the Underground Work (Women) Convention, 1935 (No. 45) was registered. On 9 February 1988, the denunciation by Luxembourg of the Protection against Accidents (Dockers) Convention, 1929 (No. 28) was registered. This brings the total number of denunciations not accompanied by the ratification of a revised Convention to 49.

23. The Committee notes that the Government of New Zealand stated that it had received the unreserved support of representative organisations of employers and workers and of the National Advisory Council on the Employment of Women. In support of its decision, the Government stressed that Convention No. 45 does not take into account the principles of equality laid down in international human rights instruments and embodied in New Zealand law. Dangerous and arduous working conditions are equally harmful to men and women, and improvements in working conditions and changes in attitudes have made many traditional views on women and work obsolete. Furthermore, women should no longer be denied access to the increasing job opportunities that have opened up in coalmining in recent years. In communicating to the Director-General the denunciation of Convention No. 28, the Government of Luxembourg indicated that it had consulted employers' and workers' organisations which had raised no objections to the denunciation, and it indicated its intention of proposing that Parliament approve the Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152).

24. In 1987, seven new declarations without modifications were registered concerning the application of Conventions to non-metropolitan territories by the Netherlands (1) and the United Kingdom (6). The number of declarations on 31 December 1987 stood at 1,099 without modifications and 69 with modifications. The number of non-metropolitan territories was 31.



Constitutional and other procedures

25. The Committee was informed of the following decisions taken by the Governing Body in cases involving recourse to the constitutional procedures of complaint and representation and other procedures.

26. At its 238th Session (November 1987), the Governing Body approved the report of the Committee set up under article 24 of the Constitution to examine the representation made by the State Federation of Associations of Employers and Workers of the State Administration, alleging non-observance by Spain of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117). As that Committee did not find that the Conventions in question had been violated, the Governing Body declared the initiated procedure closed.

27. At its 238th Session (November 1987), the Governing Body approved the recommendation of the Committee that it had set up to examine the representation made by the Hellenic Airline Pilots Association (HALPA) under article 24 of the Constitution alleging non-observance by the Government of Greece of the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105). In accordance with these recommendations, the Government should take the necessary steps to ensure that the national legislation, including in particular Legislative Decree No. 17 of 1974, is brought into line with the forced labour Conventions, as already requested by the Committee of Experts, and that any judicial or administrative action which might involve the imposition of the penalties provided for by Legislative Decree No. 17 is abandoned. Furthermore, the Government was invited to include in its reports supplied under article 22 of the Constitution on the application of Conventions Nos. 29 and 105 full information on the measures taken, in accordance with these recommendations, to secure observance of these two Conventions, so as to enable the Committee of Experts to follow the matter.

28. At its 238th Session (November 1987), the Governing Body approved the report of the Committee set up under article 24 of the Constitution to examine the representation made by several Japanese trade unions alleging non-observance by Japan of the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96). As the Committee concluded that the Convention had not been violated, the Governing Body declared the initiated procedure closed.

29. At its 232nd Session (February-March 1986), the Governing Body had before it a complaint submitted by the Government of Tunisia under article 24 of the Constitution concerning the observance by the Libyan Arab Jamahiriya of the Protection of Wages Convention, 1949 (No. 95), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Equality of Treatment (Social Security) Convention, 1962 (No. 118) and a representation made by the Egyptian Trade Unions Federation under article 24 of the Constitution alleging non-observance by the Libyan Arab Jamahiriya of Conventions Nos. 95 and 111 above. It decided to examine the two cases together. As a result of several meetings which took place in 1986 and 1987 under the auspices of the International Labour Office, between Libyan and Tunisian delegations, the two Governments arrived at a settlement of

the disputes between them concerning the expulsion of foreign workers by the Libyan Arab Jamahiriya. However, the International Labour Office did not succeed in instigating the meetings that it envisaged between the representatives of Egyptian and Libyan trade union organisations. In view of this lack of progress, the Egyptian Trade Unions Federation requested that the complaint be referred to a Committee of Inquiry. At its 238th Session (November 1987), after noting that the reasons which had led it to link the representation and the complaint no longer existed, the Governing Body decided that the representation procedure should resume its course, in accordance with article 24 of the Constitution and the Standing Orders concerning the procedure for the examination of representations, and appointed a tripartite committee to examine the representation made by the Egyptian Trade Unions Federation against the Libyan Arab Jamahiriya.

30. In a letter dated 10 March 1987, the Ontario Secondary School Teachers' Federation submitted a representation, under article 24 of the Constitution, alleging non-observance by the Government of the Union of Soviet Socialist Republics of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Employment Policy Convention, 1964 (No. 122). At its 238th Session (November 1987), the Governing Body decided to postpone consideration of this case to a later session.

31. During the 73rd Session (1987) of the International Labour Conference, several Employer delegates submitted a complaint under article 26 of the Constitution alleging that the Government of Nicaragua was not implementing in a satisfactory manner the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). At its 238th and 239th Sessions (November 1987 and February-March 1988), the Governing Body, taking into consideration the recommendations made by the Committee on Freedom of Association, decided to determine at a later session whether the complaint should be referred to a Commission of Inquiry.

32. At its 239th Session (February-March 1988) the Governing Body set up a tripartite committee of three members to examine a representation made under article 24 of the Constitution by the Trade Union Confederation of Workers' Committees alleging the non-observance by Spain of the Minimum Wage Fixing Convention, 1970 (No. 131).

33. The Committee also noted that the Committee on Freedom of Association of the Governing Body recommended that the present Committee's attention be drawn to certain aspects of the conclusions adopted in several of the cases examined by the Committee on Freedom of Association since March 1987 (248th to the 255th Reports). This applied in particular to the cases concerning Turkey (Cases Nos. 997, 999 and 1029), Liberia (Case No. 1219), Belgium (Case No. 1250), Paraguay (Cases Nos. 1275 and 1368), Guyana (Case No. 1330), Peru (Case No. 1369), Portugal (Case No. 1370), Fiji (Case No. 1379), Pakistan (Case No. 1383), the Dominican Republic (Case No. 1393), Burkina Faso (Case No. 1405), Argentina (Case No. 1409) and Denmark (Case No. 1418).

34. In its 252nd Report, the Committee on Freedom of Association submitted interim conclusions to the Governing Body concerning Turkey,

in respect of which the constitutional procedure had been invoked. This concerns a representation under article 24 of the Constitution submitted by the General Federation of Norwegian Trade Unions regarding the non-observance of Conventions Nos. 11 and 98 (Cases Nos. 997, 999 and 1029).

### Fourth European Regional Conference

35. The Fourth European Regional Conference of the ILO was held in Geneva from 15 to 22 September 1987. In addition to the discussion of the Report of the Director-General, which was devoted to examining the trends and problems in the fields of employment, labour relations, productivity and quality of working life, the Agenda of the Conference included two fundamental themes for the future of the region, namely: (i) "demographic development and social security" and (ii) "training and retraining - implications of technological change".

36. On the first subject, the Conference formulated guide-lines of a general nature concerning principally three major problems: the support and reinforcement of the family, maintenance of income for the elderly, ageing of the population and the increasing cost of medical care. On the second subject, the Conference adopted conclusions concerning training and retraining, which contain, inter alia, an appeal for the ratification of the Human Resources Development Convention, 1975 (No. 142). It also adopted a resolution concerning the strengthening of European dialogue on initial and continuous training and retraining, taking account of technological change.

37. Furthermore, the Conference adopted five resolutions on occupational safety and health, employment policy and environmental protection, migrant workers, co-operation between Europe and the developing countries (in particular Africa and the least developed countries), and the promotion of the spirit of enterprise.

### Functions in regard to other international and regional instruments

#### International Covenant on Economic, Social and Cultural Rights

38. 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 entrusted this task to the present Committee. Since 1978 the Committee has at each of its sessions examined the position in a number of States Parties to the Covenant and has presented to the Economic and Social Council nine reports on the progress made in the observance of the provisions of the Covenant.

39. By resolution 1985/17, the United Nations Economic and Social Council decided to set up a Committee on Economic, Social and Cultural Rights, composed of 18 experts sitting in a personal capacity with the responsibility for examining the reports on the application of the Covenant. As from 1987 this new Committee succeeds the Working Group of governmental experts that the Economic and Social Council had set up in order to assist it in its examination of the reports on the application of the International Covenant on Economic, Social and Cultural Rights. Following the creation of this new Committee, the present Committee re-examined last year the contribution that should be made by specialised agencies to the application of the Covenant, and in particular the most appropriate way for the ILO to report in accordance with Article 18 of the Covenant. It submitted a note on this question to the Governing Body.

40. In accordance with the recommendation of the Committee of Experts, the Governing Body decided at its 236th Session (May 1987), to entrust to the International Labour Office the task of communicating to the United Nations, for presentation to the Committee on Economic, Social and Cultural Rights, information on the results of the operation of the various ILO supervisory procedures, in so far as they bear on matters covered by the Covenant. However, it remains open to the Committee of Experts to report on particular situations, whenever it considers it to be desirable or when it is specifically requested to do so by the Committee on Economic, Social and Cultural Rights.

41. In accordance with this decision, by a communication dated 22 December 1987, the International Labour Office conveyed to the Secretary-General of the United Nations, for transmission to the Committee on Economic, Social and Cultural Rights, a report containing information concerning the situation in ten States whose reports were communicated to the Office by the United Nations. Four of these reports (Austria, Canada, Panama, Zaire) concerned the implementation of Articles 6 to 9 of the Covenant, which deal with the right to work, the right to just and favorable conditions of work, freedom of association, and the right to social security. For eight other reports (Bulgaria, Cameroon, Chile, Norway, Panama, Romania, Tunisia and Zaire) the information communicated concerned the implementation of Article 10 of the Covenant, as regards the protection of maternity, and the protection of children and young persons in employment and work.

42. The Committee notes with interest that the Committee on Economic, Social and Cultural Rights has stressed the importance of the specialised agencies extending to it their full support and co-operation. It also notes in this connection that the Committee, at its second session (8-26 February 1988), welcomed the regular attendance of the ILO representative and the pertinence of his observations.

#### European Code of Social Security and Protocol thereto

43. In accordance with the established supervisory procedure, copies of reports regarding the European Code of Social Security and the Protocol thereto, which had been submitted by 13 States having

ratified these instruments, were sent to the Office by the Secretary-General of the Council of Europe, including the first report from Portugal. The Committee has examined all these reports, as well as additional information, which enabled it to observe that the majority of the States Parties to the Code and the Protocol continue to apply them in full or nearly in full. At the sitting of the Committee in which it examined the report on the application of the European Code of Social Security and the Protocol thereto, the Council of Europe was represented by Mr. S.G. Nagel, Head of the Social Security Section of the Economic and Social Affairs Directorate. The conclusions of the Committee regarding these reports will be sent to the Council of Europe. The Committee also noted that two representatives of the ILO participated as technical advisers in the meeting of the Steering Committee for Social Security of the Council of Europe, held at Strasbourg in November 1987. As in previous years, the Steering Committee approved the conclusions of the Committee of Experts, thus expressing its confidence in the ILO's supervisory procedures.

### Convention on the Elimination of All Forms of Discrimination against Women

44. By virtue of Article 22 of the United Nations Convention on the Elimination of All Forms of Discrimination against Women, 1979, the specialised agencies are entitled to be represented at the consideration of the implementation of such provisions of the Convention as fall within the scope of their activities and the Committee for the Elimination of Discrimination against Women (CEDAW), which is responsible for examining reports of States which are parties to the Convention on its implementation, may invite the specialised agencies to submit reports on the implementation of the Convention in areas falling within the scope of their activities. The Committee of Experts has been informed that the International Labour Office has submitted to the seventh session of the CEDAW (February 1988) a report on the application of the Articles of the Convention in areas which are within the scope of its activities, following a request by the CEDAW at its sixth session (April 1987), and that a representative of the ILO attended the seventh session of the CEDAW.

### Collaboration with other international organisations

45. In the context of the collaboration established with other international organisations on questions concerning the supervision of the application of international instruments relating to subjects of common interest, copies of the reports received under article 22 of the Constitution were forwarded to the United Nations and to other specialised agencies and intergovernmental organisations with which the ILO has entered into special arrangements for this purpose.

46. Thus, in accordance with established practice, copies of the reports received on the Indigenous and Tribal Populations Convention, 1957 (No. 107) and the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) were forwarded for comments to the United Nations, the United Nations Food and Agriculture Organisation (FAO),

and the United Nations Educational, Scientific and Cultural Organisation (UNESCO). In addition, copies of reports received on Convention No. 107 were forwarded to the World Health Organisation (WHO) and the Inter-American Indian Institute of the Organisation of American States. Also, copies of reports on the Nursing Personnel Convention, 1977 (No. 149) were forwarded to the World Health Organisation and copies of reports on the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) were sent to the WHO, UNESCO and the United Nations. Copies of reports on the Human Resources Development Convention, 1975 (No. 142) were forwarded to UNESCO and copies of reports on the Rural Workers' Organisations Convention, 1975 (No. 141) were communicated to the FAO. Also, copies of reports on the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) were forwarded to the International Maritime Organisation (IMO). Representatives of these organisations were also invited to attend the sittings of the Committee of Experts when the Conventions in question were discussed. UNESCO was represented by Mr. A. Raffray, Representative of UNESCO to the United Nations Office and Specialised Institutions in Geneva.

47. In the context of the collaboration with the Council of Europe, an ILO representative attended, in an advisory capacity and in accordance with Article 26 of the European Social Charter, the 77th, 79th, 81st and 83rd sessions of the Committee of Independent Experts set up to supervise the application of the Charter, held in Strasbourg in May 1987 and in February 1988, and in Grenada in October 1987. The ILO was also represented at a round table discussion marking the 25th anniversary of the Social Charter which took place in October 1987 in Grenada.

#### Questions concerning the application of Conventions

##### Application of Conventions to offshore industrial installations

48. As the Committee indicated in its 1987 report, it proposes to examine these questions further when the preliminary study initiated by the Office on this subject has been completed.

##### Application of Conventions in export-processing zones and enterprises

49. As the Committee indicated in its 1987 report, it is continuing its examination of this question, where appropriate, within the framework of its regular supervision of the application of ratified Conventions, namely in the observations and direct requests addressed to the countries concerned.

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

50. This year the Committee has examined the application of the Convention in 44 countries. As usual, it has made observations and

direct requests addressed to the individual countries which have ratified the Convention, in some cases dealing with positive measures taken and developments noted in the implementation of the Convention's aims.

51. In carrying out its task of supervising the application of this Convention and determining how far a policy of full, productive and freely chosen employment has been pursued in the terms of Article 1, the Committee has often been greatly assisted by the serious efforts manifestly made by governments to provide as much of the detailed information requested in the report form adopted by the Governing Body and in the Committee's own comments as possible. The Committee has also relied in several cases on the very useful co-operation received from ILO regional employment teams (especially PREALC, in respect of Latin American countries) as well as the responsible services at ILO headquarters. The ability to collect and analyse information about the employment situation remains one of the prerequisites for a government's application of an employment policy in the terms of the Convention: it is also one of the areas where the expert services of the ILO are uniquely well-placed to provide assistance to developing countries which frequently have such difficulty in this respect. The Committee is therefore most grateful to the Office for all the cases where it is apparent that its advice and practical help have enabled governments to improve their employment data collection and analysis specifically with a view to the formulation and application of a policy along the lines advocated by the Convention. It would hope that this kind of Office activity can become more widespread, and that governments will include in their reports full information on the manner in which technical co-operation - particularly from the ILO - has assisted them.

52. It is clear that Convention No. 122 and the group of instruments on related subjects (e.g. human resources development, employment services) stand to gain most from the closer co-ordination of standard-setting activities and technical co-operation, which was the subject of a report by the Director-General to the 1987 Session of the Conference. The Committee has therefore noted with interest the arrangements made by the Director-General to ensure such co-ordination, and it is confident of the benefit for the implementation of this Convention in particular (see below paragraphs 73 to 75).

53. The Committee has had occasion in the past to refer to the difficulties experienced in particular by many developing countries in pursuing an employment policy in the terms of the Convention in an international environment marked by massive debt problems, contracting trade and depressed economic activity. The Committee noted the importance of closer co-ordination between the international agencies (including the International Monetary Fund and the World Bank) involved in advising and assisting governments on economic and employment policy. At this session, it has welcomed the endorsement by the Conference Committee on the Application of Conventions and Recommendations in 1987 of the view that the ILO has an essential contribution to make in ensuring that international commercial, financial and monetary policies take account of their social and human effects and especially their effects on employment. The Employers' members of that Committee stressed that the solution of employment

problems depends on coherent and balanced measures in all areas, including economic, fiscal and monetary policies. And the Workers' members welcomed the High-Level Meeting on Employment and Structural Adjustment organised later in 1987 by the ILO, and hoped that it would yield concrete proposals which would help to improve the employment situation and avoid the undesirable consequences of adjustment policies.

54. That Meeting assembled delegations both from governments, employers and workers of member States of the ILO and from concerned international agencies and financial institutions. It noted the serious consequences on employment of the heavy debt burden of developing countries, which must be dealt with through international co-operation in a climate of open world trading. Structural adjustment policies designed for developing countries must include measures to increase employment opportunities for vulnerable groups of the population and give direct attention to the rural sector, the Meeting concluded. It considered that ILO action could be intensified in co-operation with other agencies to assist countries in making structural adjustment, by, amongst other things, developing employment statistics, assisting the poorest people to increase their productive capacity, and studying successful cases of employment-generating structural adjustment programmes in developed as well as developing countries. It concluded that the ILO should promote tripartite consultation and co-operation on adjustment and remain vigilant in ensuring full respect for its standards on employment, human rights and tripartism. The Committee hopes to continue to make its own contribution to these actions through its supervision of Convention No. 122, a procedure which is certainly unique in the international system in facilitating a structured dialogue on the basis of the solemn obligations accepted by over 70 countries around the world in ratifying the Convention and one which it trusts the Organisation will take full advantage of. In this context, the Committee has noted the brief references to its work on Convention No. 122 in the documents of the Governing Body Committee on Employment meeting in November 1987 in its discussion of the employment situation in the world and ILO activities in the employment field.

55. Of the developing countries, many governments have referred in their reports to "stabilisation" or "structural adjustment" programmes - sometimes adopted as a result of consultations with international financial institutions, but in any event measures of austerity which have been regarded as at the same time necessary in order to deal with economic crisis yet involving negative effects on employment. It seems to the Committee that such cases are prime examples of where the conclusions adopted by the High-Level Meeting referred to in the previous paragraph might be directly applied. Whilst it is evident to the Committee that the technical co-operation and assistance offered by the ILO has had the potential to accomplish a great deal in such fields as special public works programmes and other employment generation projects, vocational training, labour administration and development planning in these countries, it is equally clear from the reports that when austerity programmes are imposed the effect of such assistance may be greatly diminished, to the point where unemployment and underemployment continue unchecked. It



is for this reason, namely that the implementation of the obligations flowing from ratification of the Convention is prevented in these circumstances, that the Committee feels able to express the hope that member States in this situation may soon begin to feel the benefit of the sort of co-operation called for by the High-Level Meeting, and that their next reports on the Convention may reflect the fact.

56. The Committee's examination of governments' reports this year has revealed several cases of industrialised countries where the level of unemployment has fallen. In some cases this seems to be at least partly due to demographic reasons (a slowing down in the growth of the labour force); but various governments have indicated that this positive development follows from a series of labour market policy measures (e.g. Sweden, where a situation of near full employment may be said to exist, and Canada) or from macro-economic policies which have favoured employment (e.g. Australia) and economic growth (e.g. Federal Republic of Germany). In other cases, however, it seems that unemployment rates have risen (e.g. Austria) or remained very high in spite of economic growth (e.g. Italy, Spain). In one or two other cases in particular circumstances, governments have indicated that there is no unemployment problem (e.g. Hong Kong). Concerning the structure of unemployment, a trend towards reduction of youth unemployment may be observed (e.g. Canada, Federal Republic of Germany, Sweden) brought about mainly by special training and employment programmes. These are increasingly becoming a feature of labour policies and even in countries of high employment are used to ensure a well-trained, flexible work force. However, long-term unemployment has in general continued to worsen with only one or two exceptions. The development of irregular forms of employment has played a part in reducing or curtailing unemployment (part-time work, temporary work, short contracts) but these are not always what workers would voluntarily choose and may be used to avoid what are otherwise regarded as basic minimum standards. The Committee welcomes the signs of some reversal of the continuous advance of unemployment, but must still monitor carefully the many worrying aspects. It therefore insists that governments should remain committed to the promotion of full productive and freely chosen employment as a principle of the Convention which should be a major goal of social policy, to be implemented through social dialogue.

57. The Committee once again welcomes the interest in the application of the Convention expressed by employers' and workers' organisations which have made observations concerning the situation in their respective countries. Whilst in most industrialised countries mechanisms for consultation at the national level on employment policies are well-established, in many developing countries this is less evident. The Committee has continued to try to elicit information from all States which have ratified the Convention as to steps taken to ensure consultations in conformity with Article 3 of the Convention. It has particularly pointed out to various developing countries where the rural sector and the informal sector make up the greater part of the national economy the need to ensure consultations also with persons in those sectors affected by the measures to be taken. As Article 3 indicates, such consultation is aimed at taking account of those people's experience and views and securing their co-operation in

such policies. It would thus be desirable for all governments of countries bound by the Convention to consider from time to time whether mechanisms need to be instituted or improved in order to ensure that this objective is as effectively achieved as possible.

Application of the Labour Inspection Convention,  
1947 (No. 81), and the Labour Inspection  
(Agriculture) Convention, 1969 (No. 129)

58. The Committee notes with concern that in many countries which have ratified the Labour Inspection Convention, 1947 (No. 81) and/or the Labour Inspection (Agriculture) Convention, 1969 (No. 129) some of the fundamental provisions of the two Conventions are not fully applied. The provisions in question are those laying down measures of a practical nature to ensure the effective functioning of the labour inspection services: the recruitment of sufficient numbers of inspectors capable of performing the various tasks entrusted to them, and to furnish the inspectors with the transport and other material resources that are indispensable for the performance of their duties. The Committee hopes that governments will recognise the very important role of the inspection services in the field of labour protection will endeavour to fulfil the obligations resulting from Convention No. 81 (Articles 10 and 11) and Convention No. 129 (Articles 14 and 15).

59. Furthermore, a very large number of countries continue to experience difficulties in applying the provisions concerning the publication and transmission to the International Labour Office of the annual inspection reports provided for in Convention No. 81 (Article 20) and Convention No. 129 (Article 26). The Committee recalls once again that it attaches very great importance to these reports which enable an assessment to be made, at both the national and international levels, of the practical results of labour inspection activities. It refers in this connection to Chapter VII of its General Survey of 1985 on Labour Inspection and its general observation of 1986 under Convention No. 81.

60. In drawing attention to the above problems, the Committee expresses the firm hope that the governments concerned will not fail to take the necessary measures, possibly with the assistance of the International Labour Office, to achieve progress in this regard.

Application of Conventions on the  
night work of women

61. In its 1986 report, the Committee, observing the growing difficulties encountered in the application of the Conventions on the night work of women and the high number of denunciations (13) of these Conventions, noted that the Governing Body would have a proposal of the Office before it to include in the agenda of the 1988 Session of the Conference an item concerning the revision of the Night Work (Women) Convention, (Revised), 1948 (No. 39) and it called the attention of the Governing Body to the importance of seeking a rapid solution to this problem. The Committee notes that the Governing Body decided to include an item in the agenda of the 1989 Conference

concerning "Night Work" which will cover: the partial revision of Convention No. 89 through the adoption of a Protocol and the formulation of new standards on night work in general.

Application of the White Lead (Painting)  
Convention, 1921 (No. 13)

62. During its examination of the application of the White Lead (Painting) Convention, 1921 (No. 13), for which detailed reports were due at its present session, the Committee noted increasing difficulties in the application of Article 3, paragraph 1, of the Convention. Under this provision, the employment of males under 18 years of age and of all females shall be prohibited in any painting work of an industrial character involving the use of white lead or sulfate of lead or other products containing these pigments. In a number of countries, the provisions of the national legislation which gave effect to this provision of the Convention in respect of women have been repealed or replaced by provisions prohibiting the employment in the above work only of pregnant women, women of reproductive capacity or women nursing children. In several countries, similar provisions are contemplated.

63. The Committee notes that in the countries where the prohibition on employing women in the work referred to in the Convention has been repealed, this has been done in pursuance of the principle of equality between men and women regarding access to employment. In the countries where the prohibition has been restricted, this decision was taken in pursuance of the principle that prohibitions covering workers of one sex are only justifiable when they are based on the specific risks to which workers of that sex are liable in that job. In the case of the work referred to in the Convention, a prohibition covering all women would not be scientifically justified, although it would be justified for women who are of reproductive age, due to the proven risks for the embryo and the foetus of exposure to products with a high lead content.

64. The Committee is aware that since the adoption of Convention No. 13 in 1921 there has been an evolution of attitudes and scientific knowledge which could justify a re-examination of the general prohibition on the employment of women set forth in Article 3, paragraph 1. It notes that in the resolution adopted in 1985 on equal opportunities and equal treatment for men and women in employment, the International Labour Conference set out, in paragraph 5, certain principles concerning protective legislation and called, in paragraph 15(a), for the future action of the International Labour Office to include periodical reviews of the protective instruments to determine whether their provisions are still adequate and appropriate in the light of experience acquired since their adoption, and of scientific and technical information and social progress.

65. Nevertheless, the Committee is bound to assess the application of the provisions of Conventions as they were adopted by the International Labour Conference. It can only note, therefore, that provisions which authorise the employment of women in the work covered by the Convention or which restrict the prohibition on employment to certain categories of women do not give effect to Article 3,

paragraph 1, of the Convention, the terms of which are unequivocal and cover all women.

66. The Committee believes it should call the attention of the Governing Body to the increasing difficulties encountered in the application of Article 3, paragraph 1, of the Convention so that it can examine the necessary measures to resolve these difficulties.

#### V. PROCEDURE OF DIRECT CONTACTS AND OTHER FORMS OF ASSISTANCE TO GOVERNMENTS

##### Direct contacts and assistance regarding standards

67. In 1987, direct contacts missions concerning freedom of association took place in the Dominican Republic and Turkey.

68. The Regional Advisers on international labour standards, whose tasks consist essentially of assisting governments to fulfil their obligations under the ILO Constitution and ratified Conventions, visited the following countries: Africa: Angola, Benin, Cameroon, Central African Republic, Congo, Ethiopia, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Senegal, Sierra Leone, Tanzania, Uganda, Zaire; America: Bolivia, Costa Rica, Cuba, Dominican Republic, Ecuador, Mexico, Panama, Peru, Uruguay; Asia and the Pacific: Fiji, India, Lao People's Democratic Republic, Malaysia, Nepal, Pakistan, Papua New Guinea, Philippines, Solomon Islands.

69. The Committee welcomed the continuation of the programme of courses and 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.

70. During 1987, ten officials from the following nine countries undertook training (normally of two weeks' duration) in the International Labour Standards Department: Burundi, Congo, Cuba, Gabon, Ghana, Guinea, Libyan Arab Jamahiriya, Niger, Yugoslavia.

71. In 1987, three regional seminars on international labour standards were held for officials directly responsible for questions related to international labour standards. The first, intended for the Arab countries of West Asia, in which officials from nine countries and the Arab Labour Organisation participate, was held in Geneva. The second, in which officials from 18 Latin American countries and Equatorial Guinea and representatives of employers' and workers' organisations participated, was held in Montevideo (Uruguay). A tripartite regional seminar for Latin American countries on freedom of association was held in Buenos Aires (Argentina). In addition, the Regional Advisers on standards participated in the work of a number of seminars organised by other ILO departments in various regions of the world.

72. Tripartite national seminars on international labour standards were held in the following countries: Costa Rica, Ghana, Jordan, Lao People's Democratic Republic, Malaysia, Papua New Guinea, Philippines, Solomon Islands, Sudan, Uganda. Seminars for employers were organised in Pakistan, and for workers in Malaysia and Pakistan.

Furthermore, a seminar for the trade union leaders of the West African Workers' Organisation was held in Benin on freedom of association, and a tripartite seminar organised by the Confederation of Trade Unions of Malta was held in Malta on the ILO Conventions relating to human rights.

### Standard-setting activities and technical co-operation

73. The Committee welcomed the recent administrative measures taken by the International Labour Office to strengthen the links between international labour standards and the technical co-operation activities of the ILO. These measures are based on the principle that the development and application of international labour standards and technical co-operation are the two principal channels of action available to the ILO in order to promote the objectives of social justice that were set for it by its constituent bodies. The complementary nature of these two activities derives from the text of article 10 of the ILO Constitution and the more detailed provisions set out in this connection in the Declaration of Philadelphia. These guide-lines have been unceasingly recalled by the Conference and the Governing Body over the past 25 years which have been marked by a constant extension of programmes of practical activities. Even if, in general, the primary objective of technical co-operation is not directly to promote the standard-setting provisions adopted by the International Labour Conference, these practical ILO activities cannot in any circumstances be in contradiction with the basic principles governing these standards. Activities should be undertaken in such a way that they contribute by every possible means to the development and application of standards, or at the very least to creating the conditions enabling governments to put them into practice and give them statutory effect, if they consider this desirable and possible.

74. The Committee notes with interest the measures that have already been taken to give the fullest possible information to the external services and the experts of the Office regarding developments in the field of standards which may concern their local projects and activities, including, where appropriate, the comments made by the Committee itself. These measures should assist the ILO services working in the field to be more effective in assisting they give to governments, employers' and workers' organisations in their efforts to give effect to ILO standards in law and in practice.

75. The Committee also notes the very special contribution made by certain regional and national technical co-operation projects to the achievement of the objectives set by international labour standards. As it has noted in paragraph 51 of its report, regional employment promotion teams contribute to a better application of the Employment Policy Convention, 1964 (No. 122) by assisting towards a greater understanding of the scope and nature of employment problems and in defining the policies to be applied. Similarly, regional labour administration centres contribute directly to improving the application of the labour inspection and administration Conventions and, indirectly, to improving the application in practice of other ratified Conventions. The Committee also notes that projects are

currently being carried out in a number of countries, in fields such as labour legislation, occupational safety and health, social security, maritime labour, training and labour administration. It can only encourage the continuance of such endeavours and it hopes that the organisations that finance international technical co-operation will be able to support them with adequate resources.

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

76. 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 consultation with employers' and workers' organisations, or their collaboration on a variety of matters.

77. 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 authorities of instruments adopted by the Conference<sup>2</sup> and the reports due under article 19 of the Constitution.<sup>3</sup>

78. 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 from 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

79. Since its last session, the Committee has received 182 observations, 59 of which were communicated by employers' organisations and 123 by workers' organisations. This figure, which increases unceasingly year after year is the highest on record and shows the ever-growing interest of employers' and workers' organisations in the

<sup>1</sup> Direct requests have been addressed to the following countries which have not provided such indications: Jamaica, Jordan and the United Arab Emirates (reports communicated only to employers).

<sup>2</sup> Direct requests have been addressed to the following countries: Congo, Democratic Yemen, Libyan Arab Jamahiriya, Mali, Peru and the United Arab Emirates.

<sup>3</sup> Direct requests have been addressed to the following countries: Burma, Comoros and the United Arab Emirates (reports communicated only to employers).

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.

80. The majority of observations received (164), relate to the application of ratified Conventions.<sup>1</sup> Eighteen observations relate

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<sup>1</sup> Australia (Norfolk Island): Norfolk Island Public Service Association on Conventions Nos. 11, 87, 98 and 122; Austria: Austrian Congress of Chambers of Labour on Conventions Nos. 100, 111, 122 and 135; Austrian Federation of Trade Unions on Convention No. 122; Bangladesh: Bangladesh Free Trade Union Congress on Convention No. 87; Brazil: National Confederation of Industrial Workers on Conventions Nos. 5, 12, 29, 94, 100, 107, 117, 122 and 131; National Confederation of Industry on Conventions Nos. 5, 16, 19, 29, 53, 94, 95, 98, 100, 105, 107, 111, 113, 115, 117, 118, 122, 124, 125, 131, 142 and 148; National Confederation of Land Transport on Conventions Nos. 5, 29, 98, 122, 131 and 148; Chile: Bakeries Workers' Union of Regions VI and VII on Convention No. 20; National Confederation of Seafarers, Dockers and Fishermen's Trade Union Federations on Convention No. 9; National Grouping of Workers (CNT) on Convention No. 111; Workers' Union of the Incasar Undertaking for the Making of Shirts on Conventions Nos. 3, 14, 26; Colombia: United Central Workers' Organisation (CUT) on Convention No. 3; Ecuador: Ecuador Central of Working Class Organisations on Conventions Nos. 87, 100, 113 and 123; Finland: Central Organisation of Finnish Trade Unions (SAK) on Conventions Nos. 62, 96, 100, 136, 139, 152, 156 and 159; Confederation of Salaried Employees (TVK) on Conventions Nos. 96, 100, 142, 155, 156 and 159; Employment Confederation of Service Industries (LTK) and Finnish Employers' Confederation (STK) on Conventions Nos. 136, 142 and 156; Finnish Seamen's Union on Convention No. 134; Teachers' Trade Union in Finland on Convention No. 122; France: CFDT Union of Social Action, Cultural and Re-education Services of Paris on Convention No. 118; General Confederation of Labour - "Force Ouvrière" on Convention No. 89; National Federation of Maritime Trade Unions on Conventions Nos. 22, 56, 111, 145, 146 and 147; Trade Union Sections of the CFDT, CGT and FO of the Gironde Labour and Employment Departmental Directorate on Convention No. 81; Gabon: Employers' Confederation of Gabon on Conventions Nos. 29, 81, 87, 95, 98, 100, 105, 123, 124 and 150; German Democratic Republic: Confederation of Free German Trade Unions on Convention No. 135; Federal Republic of Germany: General Federation of Trade Unions (DGB) on Convention No. 111; Greece: Panhellenic Association of Women Telephone Operators of Greece (OTE) on Convention No. 111; India: Bhartiya Mazdoor Sangh on Convention No. 100; Steel Workers' Federation of India on Convention No. 26; Japan: General Council of Trade Unions (SOHYO) on Convention No. 87; Japanese Confederation of Labour (DOMEI) on Conventions Nos. 81 and 100; Mexico: Chambers of Industry Confederation of the United States of Mexico on Convention No. 13; Netherlands: Federation of Christian Trade Unions (CNV) on Convention No. 29; New Zealand: New Zealand Employers Federation on Conventions Nos. 81, 100, 111 and 122; Peru: Maritime Trade Union of Crews in the Service of the Peruvian Steam (footnote continued on next page)



to the reports provided by governments under article 19 of the Constitution relating to the Discrimination (Employment and Occupation) Convention (No. 111) and Recommendation (No. 111), 1958.<sup>1</sup>

81. The Committee notes that, of the observations received this year, 118 were transmitted directly to the ILO, which, in accordance with established practice, referred them to the governments concerned for comment. In 64 cases the governments transmitted the observations

(footnote continued from previous page)

Ship Company on Conventions Nos. 56 and 68; Portugal: General Confederation of Portuguese Workers (CGTP-IN) on Conventions Nos. 19, 95, 100, 120, 131, 135, 148 and 155; Nursing Personnel Union of the Sul ER.A zone of the Azores on Convention No. 149; Spain: Co-ordinating Committee of Psychologists, Physiologists and Social Workers of Orientation, Educational and Professional Institutes on Convention No. 142; Democratic Confederation of Workers (Morocco) on Convention No. 97; Trade Union Confederation of Workers' Commissions on Conventions Nos. 29, 44, 81, 105, 122, 129, 154 and 158; Union of Textile Technicians (EL RADIUM) on Convention No. 132; Sri Lanka: Ceylon Workers' Congress on Conventions Nos. 29 and 135; Employers' Federation of Ceylon on Conventions Nos. 96 and 135; Estate Workers' Union/Lanka Jathika on Conventions Nos. 29 and 135; National Employees' Union/Jathika Sevaka Sangamaya on Convention No. 135; Turkey: Turkish Confederation of Employers (TISK) on Convention No. 96; United Kingdom: Trades Union Congress (TUC) on Conventions Nos. 69, 81, 100, 142 and 147.

In addition observations have been received from the International Confederation of Free Trade Unions on the application of Convention No. 107 in Bangladesh and Brazil, as well as on the application of Convention No. 122 in Costa Rica and Convention No. 111 in Czechoslovakia; from the World Federation of Teachers' Unions and the World Federation of Trade Unions on the application of Convention No. 111 as well as from the International Federation of Free Teachers' Unions on the application of Conventions Nos. 87 and 111 in the Federal Republic of Germany; from the International Federation of Plantation, Agricultural and Allied Workers on the application of Convention No. 107 in India; and finally from the International Confederation of Free Trade Unions and the World Confederation of Labour on the application of Convention No. 87 in Poland.

<sup>1</sup> Austria: Austrian Congress of Chambers of Labour; Bangladesh: Bangladesh Employers' Association, Bangladesh Sangjukta Sramik Federation; Chile: National Grouping of Workers (CNT); Finland: Finnish Employers' Confederation, Confederation of Salaried Employees; India: Bharatiya Mazdoor Sangh; Ireland: Irish Congress of Trade Unions; Japan: Japanese Confederation of Labour (DOMEI), General Council of Trade Unions (SOHYO); Netherlands: Netherlands Council of Employers' Federation; New Zealand: New Zealand Employers' Federation; Norway: Norwegian Employers' Federation (NAF), Confederation of Trade Unions in Norway; Portugal: Confederation of Portuguese Industry; Sweden: Swedish Central Organisation of Salaried Employees, Swedish Employers' Confederation, Swedish Trade Union Confederation.



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.

82. 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. It 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.

83. 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: the right to organise and the right to collective bargaining, employment policy, forced labour, protection of wages, discrimination, health and safety, maritime work, migrant workers, labour administration, labour inspection, weekly rest, indigenous and tribal populations, and so forth.

84. The Committee notes with interest that the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) has now received 43 ratifications. The Committee hopes 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.

## VII. REPORTS ON RATIFIED CONVENTIONS (Articles 22 and 35 of the Constitution)

### Supply of reports

85. The Committee's principal task consists of 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.

86. 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 1987, were due to be examined this year in respect of 41 Conventions.<sup>2</sup> In addition, detailed reports were also requested from certain governments on other Conventions, in

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

<sup>2</sup> Conventions Nos. 5, 10, 13, 16, 19, 27, 28, 29, 32, 33, 34, 48, 53, 59, 60, 62, 63, 69, 73, 74, 81, 85, 96, 100, 105, 113, 118, 123, 125, 129, 134, 135, 136, 138, 139, 141, 142, 147, 151, 152, 157.

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

87. A total of 1,793 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, 1,408 of these reports had been received by the Office. This figure corresponds to 78.4 per cent of the reports requested, compared with 79.2 per cent last year. The Committee regrets that, as indicated in paragraph 99 below, a number of reports received are incomplete and do not enable it to reach conclusions regarding the application of the Conventions concerned. A table showing reports received and reports 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 date, by the date of the meeting of the Committee and by the date of the Session of the International Labour Conference.

88. In addition, 378 reports were requested on Conventions which have been declared applicable with or without modifications to non-metropolitan territories (articles 22 and 35 of the Constitution). Of these, 288 reports, or 76.1 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.

89. Apart from the above-mentioned reports, 34 governments also supplied general reports on the Conventions for which detailed reports were not due for the period under review: Antigua and Barbuda, Barbados, Bahrain, Belgium, Burkina Faso, Burma, Burundi, Canada, Chad, Chile, Colombia, Cyprus, Equatorial Guinea, Ethiopia, Finland, Gabon, Ireland, Kenya, Mongolia, Mozambique, New Zealand, Philippines, Poland, Rwanda, Saudi Arabia, Singapore, South Africa, Sri Lanka, Suriname, Switzerland, Tunisia, Turkey, United States, Venezuela.

90. 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

91. 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, 30 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: Afghanistan, Cape Verde, Central African Republic, Congo, Democratic Yemen, Djibouti, El Salvador, Grenada, Islamic Republic of Iran, Democratic Kampuchea, Kuwait, Lao People's Democratic Republic, Lebanon, Libyan Arab Jamahiriya, Mauritania, Panama, Papua New Guinea, Seychelles, Sierra Leone, Sudan, United Arab Emirates, Venezuela, Yemen; Denmark (Greenland), Netherlands (Netherlands Antilles), New Zealand (Cook Islands, Nieu Islands). No reports have been received for the last two years from the following countries: Fiji, Haiti, Sao Tome and Principe; and for the last three years from Saint Lucia.

92. The Committee urges the governments of these countries, and also of 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, could enable the government to overcome its difficulties.

#### Late reports

93. 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. 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.

94. The Committee observes that on 15 October 1987 the proportion of reports received was 9.5 per cent. The great majority of the reports are thus received between the date 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 the 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 lack of time. It has thus had to examine a number of reports at its present session that have been held over from 1987.

95. 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 the time-limits laid down for the sending of their reports so that it may carry out its supervisory function adequately.

Supply of first reports

96. A total of 66 first reports on the application of ratified Conventions were received by the time the Committee's session opened. However, a number of countries have failed to supply first reports, 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 1986: Jamaica (Conventions Nos. 149, 150); Yugoslavia (Convention No. 158) and since 1985: Saint Lucia (Conventions Nos. 100, 111). 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

97. 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 20 governments contacted in this way, only nine have sent the information requested.

98. The Committee notes with concern that there are 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 no report or 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.

99. This represents a total of 224 cases,<sup>1</sup> in comparison with 185 last year and 127 the previous year. The Committee is concerned by the increase of these cases and is obliged to repeat the observations or direct requests already made on the Conventions in question.

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<sup>1</sup> Afghanistan (Conventions Nos. 13, 100, 105, 111, 139, 140, 141, 142); Bahamas (Conventions Nos. 29, 81, 105); Brazil (Conventions Nos. 53, 94, 98, 100, 105, 107, 117, 118, 122, 125, 131); Cape Verde (Conventions Nos. 29, 81, 100, 105); Central African Republic (Conventions Nos. 18, 19, 29, 33, 62, 81, 87, 100, 105, 118); Congo (Convention No. 87); Democratic Yemen (Conventions Nos. 29, 59, 105); Djibouti (Conventions Nos. 16, 19, 29, 53, 63, 73, 81, 96, 105, 123, 125); El Salvador (Convention No. 105); Fiji (Conventions Nos. 29, 59, 84, 98, 105); Ghana: (Conventions Nos. 29, 100, 105); Grenada (Conventions Nos. 14, 81, 94, 95, 98, 105); Guyana (Conventions Nos. 29, 42, 129, 136, 137, 139, 141, 149); Haiti (Conventions Nos. 14, 24, 25, 42, 81, 87, 98, 100, 105, 106, 111);

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## GENERAL REPORT

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100. The failure of the governments concerned to fulfil their obligations hinders the work of the Committee of Experts and that of the Conference Committee, and the Committee cannot over-emphasise the special importance of ensuring the dispatch of the reports and replies to its comments.

### Examination of reports

101. 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 submitted to the whole Committee his preliminary findings on the instruments concerned for discussion and approval.

### Observations and direct requests

102. In the majority of cases, the Committee has found that no comment is called for regarding the way in which a ratified Convention has 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 of either "observations", which are reproduced in the Report of the Committee, or of "direct requests", which are communicated to the governments concerned.

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(footnote continued from previous page)

Islamic Republic of Iran (Conventions Nos. 19, 29, 95, 100, 111, 122); Ireland (Conventions Nos. 29, 81, 100, 105); Kenya (Conventions Nos. 29, 105, 129, 138, 142); Kuwait (Conventions Nos. 29, 81, 105, 136); Lao People's Democratic Republic (Conventions Nos. 13, 29); Lebanon (Conventions Nos. 1, 15, 17, 19, 30, 52, 59, 77, 78, 81, 88, 89, 90, 95, 98, 100, 106, 111, 115, 120, 122, 127, 131); Libyan Arab Jamahiriya (Conventions Nos. 29, 53, 81, 98, 100, 105, 118, 138); Mauritania (Conventions Nos. 29, 53, 62, 81, 118); Netherlands: Netherlands Antilles (Conventions Nos. 33, 69, 81); New Zealand: Niue Islands (Convention No. 105); Niger (Conventions Nos. 81, 138); Panama (Conventions Nos. 16, 29, 32, 52, 53, 63, 69, 73, 74, 81, 96, 100, 105, 107, 114, 122, 125, 126); Papua New Guinea (Conventions Nos. 8, 29, 98, 105); Romania (Conventions Nos. 13, 29, 81, 129, 134, 136); Saint Lucia (Conventions Nos. 8, 14, 17, 19, 29, 87, 94, 95, 98, 105); Sao Tome and Principe (Conventions Nos. 19, 81, 100, 111); Seychelles (Convention No. 105); Sudan (Conventions Nos. 19, 81, 100); Yemen (Conventions Nos. 29, 81, 100, 132, 135); Yugoslavia (Conventions Nos. 74, 138, 142).

103. 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 a 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 government to supply full particulars to the Conference at its next session in June 1988.

104. 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.

#### Cases of progress

105. 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 comments by the Committee on the degree of conformity between national law or practice and the provisions of a ratified Convention. The Committee was glad to note that the number of cases of progress recorded this year - 67 cases, involving 36 States and four non-metropolitan territories - is the highest since 1982. Details concerning the cases in question are to be found in Part Two of this report. The full list is as follows:

<u>States</u>	<u>Conventions Nos.</u>
Argentina	107
Australia	81, 105, 123
Belgium	111
Benin	33
Byelorussian SSR	29
Bulgaria	79
Canada	100, 105, 111
Cuba	108, 152
Finland	100, 135, 152
Germany, Federal Republic of	139
Greece	103, 115, 136
Guatemala	87, 96
Guinea	87, 151
Guinea-Bissau	6, 27, 89, 98, 100, 111
India	81
Iraq	81
Italy	97, 111, 143
Jamaica	81
Liberia	53
Luxembourg	121, 130
Malaysia	123
Mauritius	63

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<u>States</u>	<u>Conventions Nos.</u>
Mexico	13
Mongolia	103
Mozambique	30, 100, 111
Norway	16
Peru	29, 32, 111
Portugal	95
Singapore	8, 32
Spain	73, 97, 119, 148
Sweden	111
Tunisia	119
Ukrainian SSR	29
USSR	29
Yugoslavia	132
Zaire	29
<u>Non-metropolitan territories</u>	
<u>France</u>	
French Polynesia	24
New Caledonia	100
<u>United Kingdom</u>	
Bermuda	105
St. Helena	105

106. 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 more than 1,730 since the Committee began listing them in its reports in 1964. In addition, there have been many cases in which the Committee has been able to note with interest various measures that have also been taken following its comments with a view to ensuring a fuller application of ratified Conventions. All these cases 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.

107. 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 has noted 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.

### Practical application

108. 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.

109. The Committee notes that this year some 46 per cent of the reports supplied on Conventions for which information on practical application was specifically requested contained such data. This percentage is lower than those of the preceding two years, 53 per cent and 52 per cent respectively. The Committee is bound to be concerned by 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 the information requested in their future reports. Direct requests on this matter have been addressed to certain countries which have not replied to the questions in the report forms on practical application. 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.

110. The following countries have provided information on practical application in more than half the reports concerned: Australia, Austria, Bangladesh, Belgium, Canada, Chile, Costa Rica, Côte d'Ivoire, Czechoslovakia, Djibouti, Egypt, Ethiopia, France, Federal Republic of Germany, Greece, Guatemala, India, Israel, Italy, Jamaica, Japan, Kenya, Libyan Arab Jamahiriya, Luxembourg, Malawi, Netherlands, Norway, Portugal, Rwanda, Singapore, Solomon Islands, South Africa, Spain, Sweden, Switzerland, Syrian Arab Republic, Turkey, Uganda, United Kingdom, Uruguay, Zambia.

111. The Committee wishes particularly to thank governments that have given information on practical application in their reports, as this information has greatly helped it in assessing more accurately the extent to which ratified Conventions are actually applied in these countries. It hopes that in future even more governments will include in their reports the information asked for in this connection.

112. 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. Thirty-seven 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.

113. The Committee recalls that, under the provisions of many international labour Conventions, measures must be taken to ensure their observance 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 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 requests governments to indicate in their reports the measures taken to examine the need to adapt monetary penalties from time to time in the light of inflation.

VIII. SUBMISSION OF CONVENTIONS AND RECOMMENDATIONS  
TO THE COMPETENT AUTHORITIES  
(Article 19 of the Constitution)

114. 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 72nd (1986) Session of the Conference: the Asbestos Convention (No. 162) and Recommendation (No. 172);
- (b) additional information on the steps taken to submit the instruments adopted by the Conference from its 31st (1948) to its 71st (1985) Sessions to the competent authorities (Conventions Nos. 87 to 161 and Recommendations Nos. 83 to 171);
- (c) replies to observations and direct requests made by the Committee in 1987.

72nd Session

115. The Committee notes with interest that the Governments of the following 60 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 72nd Session: Algeria, Australia, Bahamas, Bahrain, Barbados, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Byelorussian SSR, Canada, Chile, China, Côte D'Ivoire, Cuba, Czechoslovakia, Denmark, Djibouti, Egypt, Ethiopia, Finland, France, Honduras, Hungary, Iceland, Indonesia, Italy, Japan, Kuwait, Liberia, Libyan Arab Jamahiriya, Malaysia, Mali, Mexico, Morocco, Mozambique, Nicaragua, Niger, Nigeria, Norway, Poland, Portugal, Romania, Saudi

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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, 75th Session, Geneva (1988).

Arabia, Senegal, Singapore, Somalia, Sudan, Sweden, Switzerland, Togo, Turkey, Uganda, Ukrainian SSR, United Arab Emirates, United Kingdom, United States, USSR, Yugoslavia.

### 31st to 71st Sessions

116. The Committee notes with interest that considerable efforts have been made by several countries to submit instruments adopted by the Conference since its 31st Session to the competent authorities, particularly in the following cases: Brazil (instruments adopted at the 50th, 54th, 62nd, 69th, 71st and 72nd Sessions), Burkina Faso (59th, 60th, 65th and 68th to 71st Sessions), Equatorial Guinea (68th to 71st Sessions), Indonesia (66th to 71st Sessions), Qatar (65th, 66th and 69th to 71st Sessions), Somalia (68th to 71st Sessions), Tunisia (64th and 66th to 68th Sessions), Uganda (66th to 71st Sessions).

117. The table in Appendix I to section III of Part Two of the report of the Committee shows the position of each member State, as it emerges from the information supplied by the governments, with regard to the discharge of the obligation to submit the Conventions and Recommendations adopted by the Conference to the competent authorities. Appendix II shows the overall position in this respect for the instruments adopted from the 31st to the 72nd Sessions of the Conference.

### General aspects

118. 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.

119. The Committee wishes to stress that the 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 made 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 of the Committee and replies from governments

120. 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.

121. 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.

122. The Committee wishes once more to point out 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

123. 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 (66th to 72nd) have in fact been submitted to the competent authorities: Ghana, Grenada, Islamic Republic of Iran, Mauritius, Papua New Guinea, Saint Lucia, Seychelles, Sierra Leone, Suriname, Trinidad and Tobago, United Republic of Tanzania.

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

124. 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 previous sessions the Committee was informed of the results of certain of these consultations and of the fact that in some cases these results have already been brought to the attention of the Commission of the European Communities. In a number of other cases such consultation has not yet taken place. More recent information in this respect concerns the adoption by the Council of a new Regulation on the harmonisation of certain social legislation relating to road transport. The question of the ratification of the Convention is therefore undergoing re-examination in view of the fact that the new Regulation differs considerably from the proposals of the

Commission of the European Communities, particularly with regard to breaks and daily rest periods. The Committee hopes that the governments concerned will provide information on the implementation of this procedure and any decisions which may have been made on this subject.

125. A new instrument has also been submitted by Italy to the competent authorities of the Communities; this is the Asbestos Convention, 1986 (No. 162), which the Italian Government has also submitted to the national Parliament. The Government indicated that it considered this procedure necessary since, for the purposes of introducing these standards into Italian legislation, it must take into account the obligations resulting from the application of community directives concerning asbestos at the workplace and the sale of asbestos.

#### IX. INSTRUMENTS CHOSEN FOR REPORTS UNDER ARTICLE 19 OF THE CONSTITUTION

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

127. Of a total of 191 reports requested, 139 have been received.<sup>1</sup> This represents 72.7 per cent of the reports requested.

128. More particularly, the Committee notes with regret that Saint Lucia, Trinidad and Tobago and Yemen have not, for the past five years, supplied any of the reports on unratified Conventions and Recommendations requested under article 19 of the ILO Constitution.

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

#### General Survey

130. 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 four members of the Committee, appointed by it.

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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, 75th Session, 1988.

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131. 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, 23 March 1988.

(Signed)

J.M. Ruda,  
Chairman.

E. Razafindralambo,  
Reporter.



PART TWO

**OBSERVATIONS CONCERNING PARTICULAR  
COUNTRIES**





## **OBSERVATIONS CONCERNING PARTICULAR COUNTRIES**

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

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

##### Afghanistan

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

##### Albania

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

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

##### Algeria

Referring to its previous observations concerning the application of Conventions Nos. 13, 32, 62, 119, 120 and 127, the Committee notes with interest, from the information supplied by the Government to the Conference Committee in June 1987 and in its last report received on January 1988, that a draft legislation on health, safety and occupational health services aimed at defining the general framework for the prevention of occupational hazards and making uniform the measures of prevention, was approved by the Council of Ministers and submitted to the National Popular Assembly for adoption before the end of 1987. The Committee also notes that, at the same time, about a dozen implementing texts have already been prepared and are awaiting

to be adapted to the final provisions of the above-mentioned draft legislation.

The Committee hopes that the draft legislation and its implementing orders will soon be adopted and that they will give full effect to the Conventions referred to above, which have been the subject of comments for a number of years. It requests the Government to supply the texts of the adopted provisions with its next report.

[The Government is asked to report in detail on the above Conventions for the period ending 30 June 1988.]

#### Cape Verde

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 supply the reports due 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 supply the reports due on the application of ratified Conventions.

#### Congo

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 supply the reports due on the application of ratified Conventions.

#### 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 supply the reports due on the application of ratified Conventions.

#### Djibouti

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 supply the reports due on the application of ratified Conventions.

## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

### El Salvador

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 supply the reports due on the application of ratified Conventions.

### Fiji

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

### France

1. In its observation of 1987, the Committee noted that, in a communication dated 9 July 1986, the National Federation of Maritime Trade Unions (FNSM) had sent comments to the International Labour Office concerning the application by France of a number of ratified Conventions. These comments were transmitted to the Government in August 1986 in order to enable it to make any observations it considered appropriate.

In its comments, the FNSM pointed out that on 17 June 1986, the Government issued an Order prescribing that on board trading, fishing or pleasure vessels registered in the French Southern Antarctic Territories, the proportion of crew members of French nationality may not be less than 25 per cent of the seafarers registered on the crew list; in its opinion this meant that 75 per cent of the crews of vessels registered under these conditions would be made up of foreign seafarers engaged under discriminatory conditions, while French seafarers would be left unemployed. According to the FNSM, one vessel had already been commissioned under these conditions, six others were about to be so commissioned and the practice could be extended to 75 vessels according to the Shipowners Committee. In the opinion of the FNSM, as a consequence several of the Conventions ratified by France, and particularly Conventions Nos. 8, 9, 22, 53, 55, 58, 69, 71, 74, 87, 98, 108, 111, 145 and 146, would not be applied.

The Committee noted that the Government had not submitted any observations on this subject. It expressed the hope that the Government would not fail to transmit its observations on the questions raised by the FNSM in order to enable the Committee to examine them at its next session in 1988 and it requested the Government to indicate the extent to which the Order of 17 June 1986 affects the implementation of the various Conventions ratified by France and to specify the manner in which the above Conventions are applied on vessels registered under that Order.

2. The Committee notes with regret that up to the present time the Government has not replied to its observation of 1987 although, in the meantime, the Office has sent it a copy of another communication from the FNSM, dated 4 September 1987, maintaining its previous

allegations and indicating that 24 vessels have now been commissioned under the conditions authorised by the Order of 17 June 1986. A new communication was received on 7 March 1988 in which the FNSM states that it is in a hurry to know the action taken following its previous communications.

3. The Committee notes that the Order of 17 June 1986 was issued to implement section 10 of Decree No. 60-600 of 22 June 1960 respecting vessels registered in the Overseas Territories of the Republic of France, which provides that: "The crew of a vessel shall be composed of nationals of the Republic of France and the Community in a proportion to be determined by Order jointly of the Minister responsible for the Overseas Territories and the Minister responsible for the Merchant Navy." Section 1 of the Order of 17 June provides that "on board trading, fishing and pleasure boats registered in the French Southern Antarctic Territories, the proportion of crew members of French nationality may not be less than 25 per cent of the seafarers registered on the crew list".

4. The Committee trusts that the Government will not fail to reply to the comments made by the FNSM and that in the very near future it will supply the information requested by the Committee in its observation of 1987, which is recalled above.

[The Government is asked to supply full particulars to the Conference at its 75th Session and to report in detail on the above-mentioned Conventions for the period ending 30 June 1988.]

#### Grenada

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 supply the reports due on the application of ratified Conventions.

#### Haiti

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

#### Jamaica

The Committee notes with regret that most of the reports due including the first reports on Conventions Nos. 149 and 150, due since 1986, 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.

## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

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### Democratic Kampuchea

In the absence of any report, once again the Committee has not been able to examine the current position as regards the application of ratified Conventions.

### Kuwait

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 supply the reports due on the application of ratified Conventions.

### Lao People's Democratic 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 supply the reports due on the application of ratified Conventions.

### Lebanon

The Committee refers to the comments that it made in previous years concerning the application of ratified Conventions. It hopes that appropriate measures can be taken to ensure the full application of these Conventions as soon as national circumstances make it possible and that the Government will supply with its reports information on any developments in this respect.

### 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 supply the reports due on the application of ratified Conventions.

### Mauritania

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 supply the reports due on the application of ratified Conventions.

Panama

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 supply the reports due on the application of ratified Conventions.

Papua New 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 supply the reports due on the application of ratified Conventions.

Saint Lucia

The Committee notes with regret that, for the third consecutive year, the reports due including the first reports on Conventions Nos. 100 and 111, due since 1985, have not been received. It trusts that the Government will not fail to take the necessary measures to discharge its obligation to supply in future the reports due on the application of ratified Conventions.

Sao Tome and Principe

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

Seychelles

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 supply the reports due on the application of ratified Conventions.

South Africa

1. The Committee refers to its general observations made since 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

## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

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existing ILO procedures be used to attain the objectives assigned to the ILO under its Programme for the Elimination of Apartheid.

2. 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, where the Government has included any information on them in its reports, it has referred to them as separate from the rest of the country. As the Committee has pointed out previously, all of these areas were covered by the ratifications of each of these Conventions, which still apply to them.

3. The Committee recalls the indications in the Special Report of the Director-General to the 71st Session of the Conference (1985) on the Application of the Declaration concerning the Policy of Apartheid in South Africa, that whilst racial connotations have been removed from certain labour laws and regulations, control over the Black labour force and its trade unions is now applied through security legislation, influx control and the "homelands" system. It also recalls the statement in that report that constitutional alienation which prevents access to social and economic improvement, and control through the division of the Black population, backed by security legislation, are just as incompatible with international labour standards as were the overt racial features of the old legislation. The practical application of these standards is the measure of their fulfilment rather than superficial change and official assurances. The corresponding Report for the 73rd Session of the Conference (1987), notes that there have been attempts to mislead by introducing change in legislation but not in practice, for example in connection with labour standards and Black mobility in South Africa. It observes that international labour standards can only function in practice alongside other basic rights, when apartheid is ended and political power is shared by all population groups.

4. In these circumstances, the Committee insists once again, that the Government should give full effect to the obligations undertaken when the Conventions were ratified; that in all future reports on ratified Conventions, it should indicate the position throughout the entire national territory as defined in paragraph 2 above; and that it should provide full information on all other implications of the policy of apartheid relevant to the application of these Conventions, both in the so-called "homelands" and in other areas of the country.

### 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 supply the reports due on the application of ratified Conventions.

Yugoslavia

The Committee notes with regret that the first report on Convention No. 158, due since 1986, has not been received. It trusts that the Government will not fail to provide this report in the very near future and that it will not fail in future to supply the first reports at the prescribed date.

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In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Angola, Antigua and Barbuda, Barbados, Belize, Benin, Burma, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Congo, Cyprus, Democratic Yemen, Dominica, Dominican Republic, Ecuador, Equatorial Guinea, France, Ghana, Guinea, Guinea-Bissau, Guyana, Honduras, Islamic Republic of Iran, Iraq, Jamaica, Jordan, Liberia, Libyan Arab Jamahiriya, Madagascar, Mali, Malta, Nepal, Niger, Nigeria, Panama, Peru, Qatar, Romania, Saudi Arabia, Sierra Leone, Sri Lanka, Sudan, Togo, Trinidad and Tobago, Tunisia, Ukrainian SSR, USSR, United Arab Emirates, Venezuela, Zaire.

#### B. INDIVIDUAL OBSERVATIONS

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

##### Syrian Arab Republic (ratification: 1960)

The Committee notes the information supplied by the Government in its report. In particular, it notes with interest the adoption of Decision No. 1582 of 17 May 1986 and Order No. 1503 of 25 November 1985 to issue regulations concerning rest intervals during the period of work and exceptions to normal working hours in the public service, respectively.

As regard to the private sector, the Committee recalls that the Government communicated with its 1984 report a draft legislative decree to amend section 117 of the Labour Code which allows the worker to be present at the workplace for up to 11 hours daily. As the Committee noted in its previous comments, this situation is liable to result in abuses since any worker may in practice be subject to employment conditions that should only be applicable to workers whose work is intermittent in accordance with the provisions of Article 6, paragraph 1(a), of the Convention.

The Committee once again expresses the hope that the above draft will be adopted in the very near future and that it will amend section 117 of the Labour Code in such a way that, with the exception of cases of intermittent work, the presence of the worker shall not be required at the workplace outside the authorised hours of work.



**Convention No. 2: Unemployment, 1919**Chile (ratification: 1933)

Article 2, paragraph 1, of the Convention. With reference to its previous comments, the Committee notes the information supplied in the Government's detailed report on the constitution and appointment of the regional committees composed of employers' and workers' representatives which must be consulted with regard to the operation of free public employment agencies. The Government has supplied copies of the decisions of regional administrators setting up committees in the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth and Metropolitan Regions.

The Committee requests the Government to continue supplying the general information on the operation of free employment agencies required by the report form, in particular concerning the constitution of committees in those regions where they have not yet been set up.

**Convention No. 3: Maternity Protection, 1919**Chile (ratification: 1925)

The Committee has taken note of the observations of the "Sindicato de trabajadores de empresa Industria Camisera Incazar Limitada" dated 29 May 1987 concerning the application of the Convention. According to this communication, the enterprise Incazar regularly violates the rights of pregnant women workers, by reducing their earnings and transferring them to jobs which are less well paid.

In the information supplied in reply to these observations the Government recalls various provisions of the Labour Code assuring maternity protection, and in particular those concerning the prohibition of dismissal and maintenance of the employment of the pregnant woman workers. It adds that during an inspection visit in September 1987 it was established that the trade union mentioned above and the employer agreed that pregnant women workers who had been transferred to other jobs for health reasons should retain their remuneration; as for those who return to their job after their maternity leave, they will be given the same position which they previously occupied and will receive the same remuneration. The Committee has noted this information.

Colombia (ratification: 1933)

The Committee notes the communication made by the Workers' Central Organisation of Colombia (CUT), dated 26 January 1988 concerning the duration of maternity leave. This communication was transmitted to the Government on 5 February 1988 in order to enable it to make any comments it considers appropriate.

The question raised by the CUT has been the subject of the Committee's comment for a number of years. In this respect, the

Committee wishes to recall the following points in its previous observation:

1. Article 3, clauses (a), (b) and (c), of the Convention. In response to the Committee's previous comments, the Government indicates that one of the priority tasks of the Ministry of Labour and Social Security consists in the reform of the Labour Code in the context of the Government's general philosophy in social matters, which is to eliminate poverty and to improve substantially the conditions of life and work of the most vulnerable sectors of the population. It adds that, while being conscious of the necessity to align the national legal provisions with the requirements of the Convention, post-natal leave of six weeks is in practice guaranteed to women workers, for they take their leave from the day of confinement and not from the approximate date indicated by the doctor. The Committee takes note of this information. It also notes the Government's statement that Act No. 24 of 1986 extended the benefits under section 236 of the Labour Code to mothers who adopt a child.

The Committee must however observe that no measures have yet been taken to bring section 236 of the Labour Code and section 33 of Decree No. 1848 of 1969 (applicable to workers of the public sector) into conformity with Article 3, clauses (a), (b) and (c), of the Convention. This legislation provides for maternity leave of eight weeks in all, while, according to clauses (a) and (b) of Article 3, a woman may not be permitted to work during a period of six weeks after confinement and must have the right to leave her work on production of a medical certificate stating that her confinement will probably take place within six weeks. Moreover, it follows from clause (c) of Article 3, that pre-natal leave should be extended when confinement takes place after the estimated date. Taking into account the importance of the question, which has been the subject of observations for a number of years, the Committee trusts that the Government will in the near future take the necessary measures to amend section 236 of the Labour Code and section 33 of Decree No. 1848 of 1969 in the manner indicated above. It also hopes that the Government will make every effort to amend section 16(b) of Decree No. 770 of 1975 relating to health and maternity insurance so as to align the length of maternity benefits with that of leave.

2. The Committee has taken note of the information submitted by the Government as to the territorial extension of the social security scheme. It requests information on any new extension taking effect during the period covered by the report.

The Committee hopes that the Government's next report will contain full particulars in this respect.

\* \* \*

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

**Convention No. 5: Minimum Age (Industry), 1919****Bolivia (ratification: 1954)**

1. Since 1963, the Committee has been drawing the Government's attention to the discrepancy between section 58 of the General Labour Act, which authorises the employment of children under 14 years of age as apprentices, and Article 2 of the Convention, which does not provide for such an exception to the minimum age of 14. In its reply to the Committee's previous observation, the Government states that the new Labour Bill to be submitted by the Executive to the National Congress will rectify this discrepancy. Since, in its previous reports, the Government made several references to a new Labour Bill, the Committee trusts that, in its next report, the Government will be able to indicate that the necessary measures have been adopted to give full effect to this Convention which Bolivia ratified in 1954.

2. The Committee notes the Government's statement that section 1 of the Presidential Decree of 21 September 1929, which authorises the employment of children under the age of 14 in certain cases, was tacitly repealed by the General Labour Act of 1942 and the 1973 Minor's Code. Since the Government referred to this provision in its first report on Convention No. 123 submitted in 1980, the Committee hopes that in its current revision of labour legislation, the Government will formally repeal the above section, as well as any provisions conflicting with the relevant standards in force, and that it will be able to ensure that future publications of labour legislation contain only those provisions currently in force, so that there can be no possible doubt as to which provisions are applicable.

[The Government is asked to provide full particulars to the Conference at its 75th Session and to report in detail for the period ending 30 June 1989.]

**Brazil (ratification: 1934)**

In its previous direct request the Committee referred to the report submitted by the Anti-Slavery Society for the Protection of Human Rights to the United Nations Working Paper on Slavery (ECOSOC, document No. E/CN.4/Sub.2/AC.2/1982/Add.1 of 20 July 1982) alleging that a very high percentage of children between 6 and 14 years are employed, inter alia, in industrial work in Brazil, in violation of the relevant national provisions in this respect. According to that report, in Sao Paulo, for instance, children are employed, often unregistered and hence without any legal protection and social welfare benefits, in such industries as textiles, electronics, steel, clothing and food. The textile industry, in particular, employs 17 per cent of all children working in Brazilian industry, most of these children are under 14 years of age.

In its reply, the Government states that the above allegations are unfounded, as the national legislation prohibits such employment of children, and it quotes the relevant provisions. The Committee recalls that in its earlier direct request, it requested the Government to take the necessary steps to ensure the effective

application of the national legislation regarding child labour, especially by strengthening the inspection services and other supervisory methods. A similar concern has been expressed by the National Confederation of Industrial Workers (CNTI) in its comments on the application of the Convention, which were sent by the ILO to the Government in December 1987. In these comments the CNTI recognised the existence of the problem and called for an intensification of the activities of the labour inspectorate, in particular by increasing the number of labour inspectors to ensure the supervision of a growing number of undertakings employing more and more workers.

The Committee hopes that the Government will re-examine the situation in light of the above comments and that it will provide full information on the measures taken or envisaged to ensure the full observance in practice of the national legislation giving effect to the Convention. It hopes that the next report will contain the statistical information called for under Point V of the report form on the inspections made, the violations noted and the sanctions imposed.

[The Government is asked to supply full particulars to the Conference at its 75th Session and to report in detail for the period ending 30 June 1988.]

#### India (ratification: 1955)

Article 6 of the Convention. Further to its previous observations concerning the observance of the statutory provisions on the employment of children, the Committee has noted with interest the enactment of the Child Labour (Prohibition and Regulation) Act, 1986, which prohibits the employment of children below 14 years of age in certain occupations and processes, and regulates the employment of children in others, and the adoption of the Mines (Amendment) Act, 1983, which raises from 16 to 18, the minimum age for employment in mines. It has also noted with interest the Government's National Policy on Child Labour, which aims in particular at strict and effective enforcement of the statutory provisions on child labour in India. The Committee requests the Government to keep it informed of its continued efforts to improve the protection of children and in particular of the measures taken to enforce strictly and effectively the relevant statutory provisions.

#### Singapore (ratification: 1965)

In its earlier comments, the Committee has pointed out that the national legislation relating to the employment of children contains certain provisions which are not in conformity with Article 2 of the Convention. Thus, section 4 of the Employment of Children and Young Persons Regulations, 1976, authorises the employment of children above 12 years of age in industrial undertakings with the written permission of the Commissioner for Labour, and the Employment (Amendment) Act, 1975 authorises the engagement of children below 14 as apprentices, whereas the Convention prohibits any employment of children under 14 years of age in industrial undertakings. The Committee notes, from

the explanations supplied to the Conference Committee in 1987, that existing legislation provides adequate safeguards to prevent abuses and that in practice no authorisation has been given to children under the age of 14 years to work in industrial undertakings. The Government has stated that all children are encouraged to complete their basic education better than seek gainful employment at such a young age and that financial assistance is available to this effect. The Government has also stated that it will continue to monitor the situation in order to amend the corresponding provisions, if the need arises.

The Committee reiterates the hope that the Government will be able in the near future to take the necessary steps to harmonise the legislation with the requirements of the Convention, as it appears from the information supplied since the adoption of section 4 of the above-mentioned regulations, in 1976, that no use has ever been made of this provision. It requests the Government to indicate the progress made in this direction and to continue to provide information on the number of children employed under section 4 of the 1976 regulations and section 75(1)(b) of the Employment Act, as amended.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Belize, Colombia, Greece, Sri Lanka, Venezuela.

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

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

Guinea-Bissau (ratification: 1977)

With reference to its previous comments, the Committee takes note with satisfaction of the General Labour Act which came into force on 1 May 1986, section 152 of which, in conjunction with section 60, prohibits the night work of young persons, in accordance with the provisions of the Convention.

\* \* \*

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

**Convention No. 8: Unemployment Indemnity (Shipwreck), 1920**Jamaica (ratification: 1963)

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

In reply to the Committee's previous comments concerning section 157 of the United Kingdom Merchant Shipping Act 1894 (applicable to Jamaica), which, unlike the Convention, provides that "in all cases of wreck or loss of the ship, proof that the seaman has not exerted himself to the utmost to save the ship, cargo and stores shall bar his claim to wages", the Government states that the final draft of the Jamaican Bill on Merchant Shipping has now been circulated by the Chief Parliamentary Counsel to the relevant bodies for comments before being submitted to Parliament. The Committee hopes that this Bill will become law shortly and that the Government will supply the text of the new Act.

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

Mauritius (ratification: 1969)

Article 2 of the Convention. The Committee notes with interest the adoption of the Merchant Shipping Act on 22 July 1986, section 62, subsection 2, of which provides for entitlement to an indemnity against unemployment in the event of loss or foundering of a vessel in accordance with this provision of the Convention by abolishing the possibility of depriving a seaman of the right to unemployment indemnity in cases of shipwreck if he has not exerted himself to the utmost to save the ship, cargo and stores (section 157 of the United Kingdom Merchant Shipping Act 1894, in conjunction with section 1 of the United Kingdom Merchant Shipping (International Labour Conventions) Act 1925, whose application has been extended to Mauritius).

The Committee requests the Government to state whether the new Merchant Shipping Act has come into force. Furthermore, it draws the Government's attention to a point raised in a direct request.

Seychelles (ratification: 1978)

The Committee notes from the Government's reply to its earlier comments that the competent authority will amend the draft Seychelles Merchant Shipping Act, 1983 in conformity with the Convention. The Committee therefore hopes that the draft will soon be adopted so as to 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. Such a 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 draft Act and to forward a copy once it has been adopted.

Sierra Leone (ratification: 1978)

The Committee notes from the reply of the Government to its earlier comments that the necessary amendments to the Merchant Shipping legislation have not yet been adopted so as to abolish, in accordance with the Convention, the bar to the right of a seaman to unemployment indemnity in case of shipwreck where it is proved that he has not exerted himself to the utmost to save the ship, cargo and stores. The Government states, however, that contacts with the Law Officers' Department have been renewed, following important changes of personnel, and it is hoped that the amending legislation can be enacted soon. The Committee therefore hopes that the necessary changes will be made in the near future and requests the Government to report on any progress made on this respect.

Singapore (ratification: 1964)

Article 1, paragraph 1, of the Convention. Further to its previous comments, the Committee notes with satisfaction that the Merchant Shipping (Amendment) Act, 1984, which extends to shipmasters' unemployment indemnity in case of shipwreck in conformity with this Article of the Convention, came into operation on 1 August 1986.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Mauritius, Papua New Guinea, Saint Lucia, Singapore, Solomon Islands.

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

**Convention No. 9: Placing of Seamen, 1920**

Chile (ratification: 1935)

With reference to its previous comments, the Committee takes note of the further observations submitted by the National Confederation of Federations of Trade Unions of Seafarers, Portworkers and Fishermen of Chile (CONGEMAR), dated 22 December 1987, concerning the manner in which practical effect is given to the provisions of Articles 4 and 5 of the Convention.

The Committee also takes note of the comments made by the Government on these matters, which were received by the Office on 10 March 1988.

1. Article 4. The CONGEMAR alleges that Chilean legislation has neither established nor promoted the organisation and maintenance of an efficient and adequate system of public employment offices for seamen. It adds that the functions of municipal employment offices are limited to keeping a register of persons seeking jobs, irrespective of the sector of activity. The Government, for its part, indicates that the system of employment offices is made up, in Chile, of two types of institutions: municipal employment offices and private non-profit-making employment offices. It adds that the State has had to organise "municipal employment offices" itself and that there are no employment policies with differentiated and discriminatory provisions applicable to specific categories of workers, nor are such policies contemplated.

The Committee notes that there is a general system of free employment offices organised and maintained by the State itself in accordance with Article 4, paragraph 1(b).

The Committee notes that paragraph 1 of Article 4 of the Convention requires that offices for finding employment without charge be efficient and respond to the needs of seamen. The work of such employment offices shall be administered by persons having practical maritime experience (Article 4, paragraph 2). The Committee would therefore be grateful if the Government would indicate how effect is given to paragraph 2 of Article 4 and if it would supply the information on the placing of seamen that is required by the report form of the Convention, including the number of applications for employment received from seamen, the number of vacancies notified and the number of persons placed in employment by seamen's employment offices.

2. Article 5. The CONGEMAR alleges that the advisory committees as laid down in this provision do not exist. The Government, for its part, refers to the provisions of Legislative Decree No. 1446, as amended by Act No. 18391 of 1985, which establish committees made up of representatives of employers and workers. The Government refers in particular to the specific case of Region V where the largest port in the country, Valparaíso, is located, and it supplies the names of the members of the joint committee which include two representatives of employers' organisations and two representatives of workers' organisations.

The Committee notes that the provision referred to requires that committees shall be constituted that consist of "an equal number of representatives of shipowners and seamen". It requests the Government to supply the information that is necessary for it to ensure that the type of committees laid down in the Convention exist, *inter alia*, by providing details on the selection of their chairmen, the degree of state supervision and the assistance received from persons interested in the welfare of seamen, as required by the report form for this Article of the Convention.

3. Finally, the Committee would be grateful if the Government would supply all available information, statistical or otherwise,



concerning unemployment among seamen and concerning the work of its seamen's employment agencies (Article 10, paragraph 1).

\* \* \*

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

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

A request regarding certain points is being addressed directly to the United Kingdom (Jersey).

#### **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.

#### **Convention No. 13: White Lead (Painting), 1921**

Afghanistan (ratification: 1939)

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

The Committee notes from the Government's reply to its previous observation that specific regulations covering the provisions of the Convention have been drafted in the framework of the new draft Labour Code and submitted to the Ministry of Justice. The Committee recalls that it has drawn attention since 1950 to the need to adopt legislative provisions or regulations to give effect to the Convention and that following direct contacts which took place in 1974 between the national competent service and a representative of the Director-General of the ILO, a draft decree was drawn up with a view to implementing the Convention. The Committee can only express once again the hope that the Government will make every effort to ensure the early adoption of the laws or regulations required to give full effect to the Convention.

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

Algeria (ratification: 1962)

See under General observations.

Mexico (ratification: 1938)

Further to its previous observations the Committee notes with satisfaction the adoption in 1984 of Instructions Nos. 9, 17, 18, 19 and 21, pursuant to the General Regulations on Occupational Safety and Health, which give effect to Articles 2, 5, 6 and 7 of the Convention by regulating the use of white lead, sulphate of lead and all products containing these pigments in operations for which their use is not prohibited by setting up mechanisms to ensure the observance of the regulations and by requiring the collection of statistics with regard to occupational risks. The Committee also notes that the above-mentioned Instructions were adopted after consultations with the employers' and workers' organisations concerned, in accordance with Article 6 of the Convention.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Belgium, Bulgaria, Cameroon, Chad, Cuba, Czechoslovakia, Gabon, Hungary, Iraq, Italy, Lao People's Democratic Republic, Norway, Romania, Senegal, Sweden, Togo, Tunisia, Yugoslavia.

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

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

Requests regarding certain points are being addressed directly to the following States: Chile, Grenada, Haiti, Mauritius, Saint Lucia.

**Convention No. 16: Medical Examination of Young Persons (Sea), 1921**Norway (ratification: 1980)

Article 1 of the Convention. Further to its previous comments, the Committee notes with satisfaction that, by virtue of section 1 of the new Regulations of 1986 for the medical examination of employees on board ships, the exceptions provided for under the Regulations for vessels of a certain tonnage no longer apply to persons of less than 18 years of age.

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In addition, requests regarding certain points are being addressed directly to the following States: Belize, China, Djibouti, Dominica, Panama, Solomon Islands.

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

#### Burma (ratification: 1956)

With reference to its earlier comments, the Committee regrets to note that the draft amendments to the Workmen's Compensation Act, 1923, to which the Government has been referring since 1967, has not yet been adopted. The Government states that, on the suggestion of the Council of People's Attorneys, it is currently engaged in a general revision of legislation, including labour law, in order to harmonise it with the changing needs of the country. The resulting amendments will be submitted to the competent authorities to be revised and approved, and subsequently to the Pyithu Hluttaw (Parliament). Given the time that has now elapsed since the ratification of this Convention, the Committee can only express yet again the hope that the above amendments will be made as soon as possible and that the national legislation will provide:

- (a) in accordance with Article 5 of the Convention, that the compensation payable to the injured workman or his dependants, where permanent incapacity or death results from the injury, shall 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 this will be properly utilised;
- (b) in conformity with Article 10, that no maximum amount shall be fixed for the supply and normal renewal of such artificial limbs and surgical appliances as are recognised to be necessary.

The Committee requests the Government to report any progress made in the adoption of these draft regulations.

#### Kenya (ratification: 1964)

The Committee notes from the Government's reports that there has been no progress in the adoption of the Social Security Bill which proposes to transform the current National Social Security Fund into a pension scheme. The Committee can therefore only express the hope that the Bill in question will soon be adopted and that it will take into account the earlier comments of the Committee, which were to the following effect:

Article 5 of the Convention. The Social Security Bill provides that permanent incapacity benefits may be paid in the form of periodical payments or of a lump sum. The Committee hopes that the regulations provided for in the Bill will conform to this Article of the Convention, under which compensation in the event of permanent incapacity or death shall 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 this will be properly used.

Articles 9 and 10. The Committee notes that the Social Security Bill provides, like the Convention, for entitlement to medical, surgical and pharmaceutical aid, and also for the supply of such artificial limbs and surgical appliances as are recognised to be necessary. The Committee hopes that the regulations to be issued under the Bill will lay down no maximum in respect of these benefits, as does the 1962 Workmen's Compensation Act (section 32), on which the Committee has been commenting for several years.

Article 11. The Committee asks the Government to state whether the Social Security Bill will introduce a social security scheme ensuring, in all circumstances, in the event of the insolvency of the employer or insurer, the payment of compensation to the victims of employment accidents or to their dependants, as provided for by the Convention.

[The Government is asked to report in detail for the period ending 30 June 1988.]

#### Philippines (ratification: 1960)

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

1. Article 5 of the Convention. The Committee notes that there has been no significant change in the Government's position on the applicability of this Article of the Convention. According to the Government's statements, the payment of a lifetime pension for permanent partial disabilities would only entail administrative difficulties on the part of the agency implementing the programme because of the insignificant amount involved, aside from the fact that beneficiaries prefer to receive the benefits in a lump sum to be able to fully utilise the amount to their advantage. There have been, however, constant upgrading of benefits intended to alleviate the economic conditions of the beneficiaries; for instance, the monthly income benefit for permanent disabilities was increased by 20 per cent effective 1 January 1987, pursuant to Executive Order No. 102 dated 27 December 1986. Likewise, the monthly salary base for purposes of computing the monthly income benefit has been increased from P1,000 to P3,000 effective 1 June 1987, pursuant to Executive Order No. 179. This upgrading will considerably increase the monthly income benefit for permanent partial disabilities though for a shorter period. The Government also states that it has not abandoned the idea of paying a lifetime pension for permanent partial disabilities and will adopt the necessary measures as soon as the financial condition of the State Insurance Fund so warrants. There is an ongoing actuarial study towards this direction. The Committee notes this statement. It requests 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 partial incapacity, are supplied to the competent authorities.

2. Article 7. The Committee notes that the Government feels that there is still no urgent need to provide for additional compensation in cases where the injury results in incapacity of such a nature that the injured workman must have the constant help of another

person. The Government believes that the nursing services provided for in our programme, satisfy the requirement of constant help. Moreover, the increase in the monthly pension of the injured worker as stated earlier, will replace the required additional compensation. The Committee notes this information, but would like to point out again that such nursing attendance is not sufficient to apply this Article of the Convention since, according to this provision of the Convention, additional compensation is a benefit to be added to the compensation provided for in Article 5 of the Convention. The Committee therefore again expresses the hope that the Government will take the necessary measures to give effect to this provision of the Convention.

Saint Lucia (ratification: 1980)

The Committee notes with regret that, for the third time in succession, the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its previous direct request, which reads as follows:

The Committee has taken note of the passing of the new National Insurance Act, which came into force in November 1978 and repealed the provisions of the Workmen's Compensation Ordinance 1964 and of Acts of 1967 and 1973 amending it.

The Committee has noted that the new Act is applicable to all types of employment and that it establishes a system of insurance against injury, disablement or death arising out of and in the course of employment or resulting from disease or sickness due to the nature of employment. The Committee has also noted that statutory instruments will have to be made under sections 61(1) and (2) and 62(2), while regulations will have to be adopted in order to implement other sections of the Act (e.g. 86(1)(b) and (c)).

The Committee hopes that in drafting the new regulations the Government will bear in mind the provisions of Article 5 of the Convention (payment of compensation in the form of periodical payments throughout the contingency, or in a lump sum if the competent authority is satisfied that it will be properly utilised), Article 7 (additional compensation for injured workmen requiring the constant help of another person), Article 9 (entitlement to medical aid and to such surgical and pharmaceutical aid as is recognised to be necessary) and Article 10 (supply, repair and renewal of artificial limbs and surgical appliances free of charge in all cases). The Committee requests the Government to supply the text of these regulations as soon as they are adopted.

United Republic of Tanzania (ratification: 1962)

Article 5 of the Convention. The Committee notes that according to the provisions of the Workmen's Compensation Ordinance, Chap. 263,

compensation due to an injured workman or his dependants, where permanent incapacity or death results from the injury, is wholly payable in a lump sum in order to give financial capability to the person concerned so that he may commence any viable and recommended project. The Government advises these persons on proper utilisation of the payment. The Committee also notes with interest that the Government is still considering the recommendations of the ILO Regional Adviser on Social Security, which, if implemented, would meet the shortcomings cited by the Committee, providing for periodical payments. The Committee therefore again expresses the hope that the Government will do everything possible to ensure, in accordance with this Article of the Convention, that the compensation payable to the injured workman, or his dependants, where permanent incapacity or death results from the injury, shall 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.

Articles 9 and 10 of the Convention. With reference to its earlier comments, the Committee notes that the term "reasonable expenses" appearing in section 31 of Chap. 263, as amended by Act No. 17 of 1983, includes expenses in respect of surgical and hospital treatment, nursing treatment, supply of medicine and supply of maintenance and repair of artificial appliances and transport charges. It also notes that employers are required to insure themselves against the above-mentioned liabilities which they might incur in respect of their employees under the provisions of the Workmen's Compensation Ordinance wherein the insurers pay compensation.

#### Uganda (ratification: 1963)

Article 5 of the Convention. Referring to its previous comments, the Committee regrets to note that there has been no progress in the adoption of the draft amendments to the Workmen's Compensation Act, on which the Committee has been commenting since 1966, to bring it into conformity with the requirements of the Convention. The Committee can therefore only express the hope that the necessary amendments will be made to the Workmen's Compensation Act to ensure the full application of the above-mentioned provision of the Convention, which provides that compensation payable in the event of permanent injury or death shall 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 hopes that the Government will be able, in its next report, to indicate progress in this connection either through the amendment of the above-mentioned Act or through the introduction of a workmen's compensation insurance system.

[The Government is asked to report in detail for the period ending 30 June 1988.]

\* \* \*

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

### Convention No. 18: Workmen's Compensation (Occupational Diseases), 1925

Central African Republic (ratification: 1960)

In reply to the Committee's previous comments, the Government indicates in its report that following the profound institutional changes that have occurred in the country, the draft Decree drawn up as a result of the 1978 direct contacts, has again been submitted to the competent authorities; the draft brings the list of occupational diseases appended to Order No. 59-60 of 1959, into conformity with the schedule to Article 2 of the Convention, by deleting the limitative nature of the list of pathological symptoms which may be caused by lead poisoning and mercury poisoning and adding, among the kinds of work which may lead to anthrax infection, the operations of "loading and unloading, or transport of merchandise" in general.

The Committee takes note of the Government's statement; however it can only express its concern at the delay in the adoption of the above Decree. It therefore expresses the hope that the draft Decree will be adopted at an early date and again requests the Government to keep it informed of any progress made in this respect.

[The Government is asked to report in detail for the period ending 30 June 1988.]

Guinea-Bissau (ratification: 1977)

The Committee notes that the previous legislation on compensation for industrial accidents and occupational diseases, including the Rural Labour Code (Decree No. 44309 of 27 April 1962), and the list of occupational diseases in section 242 of the above Code and that of the activities likely to cause them, are no longer in force. The Committee also notes that the legislation currently in force, namely Decree No. 43-189 of 23 September 1960, Decrees Nos. 4/80, 5/80 and 6/80 of 6 February 1980, and the General Labour Act of 2 April 1986 do not contain the list of occupational diseases required by Article 2 of the Convention. The Committee therefore requests the Government to take the necessary measures to complete the national legislation in this respect, and to inform it of any progress made in this connection.

[The Government is asked to report in detail for the period ending 30 June 1988.]

\* \* \*

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

**Convention No. 19: Equality of Treatment (Accident Compensation), 1925**Portugal (ratification: 1929)

1. In its earlier comments, the Committee drew the Government's attention to the fact that Act No. 21/27 of 3 August 1965 on industrial accidents is not fully in conformity with the Convention. In the first place, section III of this law does not treat Portuguese workers and foreign workers employed in Portugal on the same basis unless the legislation of the country in question grants equal treatment to Portuguese workers, whereas, according Article 1 of the Convention, equality of treatment shall be granted to the nationals of any other Member which has ratified the Convention regardless of whether the legislation of that other country, in fact, grants equality of treatment pursuant to the Convention. Secondly, paragraph 3 of section III of Act No. 21/27 of 1965, which does not cover foreign workers who are employed on behalf of a foreign undertaking and whose right to compensation is recognised under the legislation of their own country, is not fully in conformity with Article 2 which does not authorise such exclusion unless the employment of the foreign workers concerned is of a temporary or intermittent nature and such exclusion is provided for in a special agreement between the Members concerned.

2. The Government states in its report that it has been unable to include industrial accident compensation in the social security system, as provided for under Bill No. 63/1 concerning employment injury insurance. However, it states that section 72, subsection 2, of Act No. 28/84 of 14 August 1984 establishes procedures for such inclusion. The Committee takes note of this information. It also notes the comments made by the General Confederation of Portuguese Workers (CGTP-Intersindical Nacional), to the effect that Portugal is in a position to give full effect to the principles of the Convention but that the Government has not issued regulations to give effect to Act No. 28/84 and lacks the political will to do so. The Committee therefore once again expresses the hope that the Government will adopt the necessary measures to include industrial accident compensation in the social security system thereby giving full effect to the Convention. The Committee requests the Government to state whether the consultations provided for in section 72, subsection 2, of Act No. 28/84 have taken place, in particular, consultations with workers' and employers' organisations, as an initial step towards including industrial accident compensation in the social security system.

[The Government is asked to report in detail for the period ending 30 June 1989.]

Syrian Arab Republic (ratification: 1960)

Article 1, paragraph 2, of the Convention. The Committee refers in this connection to its observation on Convention No. 118, Article 5.

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In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Brazil, Burundi, Central African Republic, Comoros, Djibouti, Guinea-Bissau, Mauritius, Saint Lucia, Sao Tome and Principe, Senegal, South Africa, Sudan, Zimbabwe.

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

Chile (ratification: 1933)

1. The Committee takes note of the communications dated 11 October and 30 November 1987 from the unions of workers in bakeries and similar establishments of the VIth and VIIth regions, which were transmitted to the Government for possible comment by letters dated 23 November and 18 December 1987. It notes that these communications allege that for several years, there have been no regulatory measures to establish and regulate the prohibition of night work in the bakeries sector, in accordance with the Convention.

2. The Committee recalls that, under Article 1, paragraph 1, of the Convention, the making of bread, pastry or other flour confectionery during the night is forbidden. According to Article 2, the term "night" signifies a period of at least seven consecutive hours, the beginning and end of which shall be fixed by the competent authority after consultations with the organisations of employers and workers concerned, but it must include the interval between 11 o' clock in the evening and 5 o' clock in the morning or, in certain cases, between 10 o' clock in the evening and 4 o' clock in the morning.

3. The Committee requests the Government to indicate in its next report the measures which give effect to the above provisions of the Convention.

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

Pakistan (ratification: 1932)

The Committee refers to its previous comments concerning the application of Article 1 of the Convention (extension of the scope of the Convention to seafarers engaged on Pakistani ships in ports outside Pakistan). The Committee notes with interest that the Merchant Shipping Bill, of which the Government transmitted relevant extracts with its report, is to give effect to the Convention on this point and is to be enacted in 1988. The Committee hopes that in its next report the Government will be able to state that the above legislation has been enacted.

Panama (ratification: 1970)

Further to its previous observation, the Committee notes the information supplied by the Government to the Conference Committee in 1987 to the effect that the Tripartite Maritime Labour Committee, responsible, inter alia, for settling any discrepancies brought to its attention in the application of the present Convention, has been reactivated. The Committee hopes that any measures adopted as a result of the work of the Tripartite Committee will take account of the provisions of Article 9, paragraph 1 (possibility for either party of terminating an agreement for an indefinite period in any port where the vessel loads or unloads, provided that notice of not less than 24 hours has been given), and of Article 3, paragraph 4 (provision to ensure that the seafarer has understood the agreement), of the Convention.

Peru (ratification: 1962)

Article 5, paragraph 2; Article 6, paragraph 3(8) and (11); Articles 7 and 9, paragraphs 1 and 2, of the Convention. With reference to its previous comments, the Committee regrets to note that, according to the information contained in the Government's report, the situation remains the same with regard to the application of the above Articles of the Convention. It notes the Government's statement that the special committee, entrusted with the application of ILO maritime Conventions, has once again been asked to ensure that the information supplied to the ILO is directly relevant to the observations made by the Committee of Experts. The Committee trusts that the Government will be able to indicate in its next report the measures that have been taken to bring the legislation and practice into conformity with the Convention.

[The Government is invited to report in detail for the period ending 30 June 1988.]

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

**Convention No. 23: Repatriation of Seamen, 1926**

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

**Convention No. 24: Sickness Insurance (Industry), 1927**Haiti (ratification: 1955)

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 has taken note of the information furnished by the Government to the effect that the recommendations contained in the reports of the technical missions carried out by the ILO in 1980 and 1984, with a view to launching a technical co-operation project in the field of social security, have not yet been put into effect by reason of the important restrictions mentioned in these reports, but that the recommendations have received the attention of the Government and will be considered as soon as the necessary provisions can be adopted to institute a sickness insurance scheme. The Committee hopes that the Government, with the technical assistance of the ILO, will be able in the near future to give effect to the recommendations made in the above-mentioned reports, so that a general sickness insurance scheme complying with this Convention may be instituted gradually. It requests the Government to indicate any progress made in this connection.

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

Peru (ratification: 1945)

The Committee takes note of the information supplied by the Government in its report.

1. Article 2, paragraph 1, of the Convention. The Committee notes that the Government refers once again to the functional integration of the Ministry of Health and the Peruvian Institute of Social Security, in accordance with Presidential Decree No. 022-86-SA, which will make it possible to provide care for the whole population, whether it is insured or not, through the co-ordination and rational use of the resources of both organisations. The Committee once again expresses the hope that the above integration will make it possible to provide medical assistance throughout the national territory in order to protect all the workers covered by the Convention. It therefore requests the Government to continue supplying information on any progress achieved in this respect.

2. Article 4, paragraph 1 (medical care). In its previous comments, the Committee drew the Government's attention to the fact that the Convention does not authorise the provision of medical assistance to be subject to any qualifying conditions. In its reply, the Government points out that section 18 of Legislative Decree No. 22482 of 27 March 1979, under which the prerequisite of three consecutive monthly contributions or four non-consecutive monthly contributions, has been substituted by Act No. 24620 of 24 December 1986. It adds that, since this latter Act empowers the Peruvian Institute of Social Security to determine the qualifying periods for

insured persons to be entitled to the provision of medical care, in accordance with the characteristics of their work, it is possible to provide for the participation of the insured in the costs of the care, in accordance with Article 4, paragraph 2.

The Committee notes this information. It points out that, although Article 4, paragraph 2, of the Convention authorises the participation by the insured in paying the cost of medical care, it does not authorise any qualifying conditions. It therefore hopes that the Government will take the necessary measures in order to abolish, in accordance with the Convention, any qualifying condition with regard to medical care. It once again requests the Government to supply copies of any regulations, rulings or any other text adopted by the Peruvian Institute of Social Security under Act No. 24620 referred to above.

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

#### Haiti (ratification: 1955)

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:

See under Convention No. 24.

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

#### Peru (ratification: 1945)

1. Article 2, paragraph 1, of the Convention. (See under Convention No. 24.)

2. Article 4, paragraph 1. (See under Convention No. 24.)

3. With reference to its previous comments, the Committee requests the Government to report on the mission of the ILO expert referred to by the Government in its previous report.

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

#### India (ratification: 1955)

1. The Committee recalls that in its previous observations it has considered allegations that cinema workers in West Bengal were not receiving the minimum wages applicable to them, because when the minimum wages were revised in 1970 the employers concerned obtained an injunction from the Calcutta High Court against implementation. According to the information contained in the previous report, most of these workers were by then receiving at least the minimum wage, and some were receiving higher wages.

The Committee notes with interest that the Government has indicated in its most recent report (which was received too late to be examined at the Committee's previous session), that the Government of West Bengal had forwarded information received from the Bengal Motion Picture Employees Union, according to which there is now no permanent cinema hall or regular distributor which does not pay the prevailing minimum wages. This information also indicated that the union concerned had been asked, but had cited no defaulters.

2. The Committee recalls also that it had previously dealt, in requests addressed directly to the Government, with a communication received from the Steel Workers' Federation of India. In view of the lengthy nature of the comments and analysis it feels called upon to make, the Committee is dealing with the substance of these questions in a request addressed directly to the Government. It will note briefly here that the question concerns whether labourers working for contractors on the premises of the stockyards and dockyards of the Steel Authority of India Limited are covered by minimum wages, and whether they are receiving these minimum wages.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Chile, Dominica, India.

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

##### Guinea-Bissau (ratification: 1977)

Further to its previous comments, the Committee notes with satisfaction the adoption of the Ministerial Decree of 14 October 1987 approving the new regulations on commercial operations in ports, section 108 of which gives effect to Article 1, paragraphs 1 and 4, of the Convention (marking of weight of any package or object of 1,000 kg or more by the consigning party).

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Angola, Argentina, Australia, Austria, Bangladesh, Belgium, Bulgaria, Burma, Burundi, Byelorussian SSR, Canada, Chile, China, Cuba, Czechoslovakia, Denmark, Finland, France, German Democratic Republic, Federal Republic of Germany, Greece, Guinea-Bissau, Honduras, Hungary, India, Indonesia, Iraq, Ireland, Italy, Japan, Kenya, Luxembourg, Mexico, Morocco, Netherlands, Nicaragua, Norway, Pakistan, Panama, Papua New Guinea, Peru, Poland, Portugal, Romania, Spain, Suriname, Sweden, Switzerland, Ukrainian SSR, USSR, Uruguay, Venezuela, Yugoslavia, Zaire.

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

Luxembourg (ratification: 1931)

Further to its previous observations, the Committee notes that the Convention was denounced on 9 February 1988, but that the Government plans to submit the Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152), to Parliament for its approval. The Committee hopes that it will be possible to ratify this Convention in the near future.

**Convention No. 29: Forced Labour, 1930**

A member of the Committee, Mr. S. Ivanov, expressed his disagreement with certain observations made by the Committee regarding the application of Convention No. 29 (Forced Labour) in the socialist countries. In his view, these observations were not justified by the situation and the industrial relations existing in these countries. Another member of the Committee, Mr. A. Gubinski, associated himself with the position of Mr. Ivanov.

Bangladesh (ratification: 1972)

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 noted the Government's indication to the Conference Committee in 1985 that the Essential Services (Maintenance) Act, No. LIII of 1952, had not been adopted by the present Government and was not in operation and that powers under the Essential Services (Second) Ordinance, No. XLI of 1958, were sparingly used to ensure the supply of community services allowed under Article 9 of the Convention. It also noted the Government's indication in its report supplied in 1985 that the restrictions were imposed on two establishments during the year 1985. The Committee notes the Government's statement in its latest report that the temporary restriction on termination of employment under essential services provisions cannot be construed as forced or compulsory labour.

The Committee is bound to refer again to the explanations provided 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 circumstance that would endanger the existence or the well-being of the whole or part of the population. Restrictions under the essential services legislation referred to are not limited to such circumstances. The Committee has also pointed out in paragraph 116 of the same General Survey of 1979 that, even regarding employment in essential services whose interruption would endanger the existence or the well-being of the whole or part of the population, there is no basis in the Convention for depriving workers of the right to terminate their employment by giving notice of reasonable length. The Government has referred to Article 9 of the Convention, which specifies conditions and guarantees under which forced labour could, in certain exceptional circumstances, be exacted during the transitional period allowed for in Article 1, paragraph 2, of the Convention; aimed at phasing out certain colonial practices, these provisions provide no basis for turning a contractual relationship based on the will of the parties into service by compulsion of law.

In view of the Government's earlier indication that the Essential Services (Maintenance) Act, No. LIII of 1952 was not in operation and that voluntary termination of employment by giving notice has in actual practice never been restricted, the Committee once more expresses the hope that the necessary measures will soon be adopted to repeal the Essential Services (Maintenance) Act, No. LIII of 1952, and to bring the Essential Services (Second) Ordinance, No. XLI of 1958, into conformity with the Convention, and that the Government will indicate the action taken or contemplated. Pending the legislative action, the Committee requests the Government to indicate the practical application of the above-mentioned provisions, including information on any restrictions imposed under section 3 of the 1952 Act.

[The Government is asked to report in detail for the period ending 30 June 1988.]

#### Brazil (ratification: 1957)

The Committee notes the Government's report.

In its previous observation the Committee took note of the comments submitted in August 1986 by the International Confederation of Free Trades Unions (ICFTU) and of the comments made by the Latin American Central of Workers made in December 1986, in which the above organisations alleged the existence of forced labour and debt bondage in certain regions of Brazil. These comments also referred to deceptive methods of recruitment and to inhuman conditions of work.

The Committee takes note of the comments of the National Confederation of Industrial Workers, concerning the application of Convention No. 29, transmitted in December 1987, which state that the

situation described in the Committee's observation still persists, owing largely to the lack of adequate labour inspection.

The Committee takes note of the comments made by the National Land Transport Confederation, to the effect that, although the problem of deceptive methods of recruitment does not arise in the land transport enterprises, it is considered necessary to strengthen labour inspection and the enforcement of penalties for violations of criminal laws.

The Committee notes the Government's statement concerning the difficulties encountered in detecting, preventing and repressing labour law violations, due to the vast dimensions of the national territory and the difficulty of reaching certain regions. The Committee notes that the Government is making every effort to fight against all forms of labour that are incompatible with the country's labour laws.

The Committee notes with interest the agreement (Termo de Compromisso) signed on 9 July 1986 by the Ministry of Labour, the Ministry of Reform and Agricultural Development, the National Confederation of Agriculture (CNA) and the National Confederation of Agricultural Workers (CONTAG), transmitted by the Government.

The objective of the above agreement is to suppress all kinds of slave labour ("trabalho escravo") through co-operation between the signatories to the agreement particularly with regard to inspection in the regions where cases of slave labour have been denounced. The same agreement provides that where labour legislation is violated and where forms of slave labour in rural enterprises are noted, such enterprises shall be declassified and official subsidies suspended.

The Committee requests the Government to supply information on the results obtained by the labour inspectorate and on the penalties enforced in any cases of forced labour noted.

#### Burundi (ratification: 1963)

1. In its previous comments, the Committee referred to the provisions of Ordinance No. 710/275 of 25 October 1979 laying down certain obligations concerning the conservation and utilisation of soils and Ordinance No. 710/276 of 25 October 1979 providing for the obligation to create and maintain minimum areas of food crops, as amended by Presidential Decrees No. 100/143 and 100/144 of 30 May 1983. The Committee noted the Government's statement to the effect that the abolition in 1983 of the penalties which were provided for in section 4 of Ordinance No. 710/275 and section 3 of Ordinance No. 710/276 (laying down that infringements of these Ordinances could be punished by sentences of imprisonment) was merely intended to make incite to the observance of these Ordinances and had had this effect. The Committee recalled the information supplied previously by the Government to the effect that all the work covered by the above texts was, in practice, voluntary and it expressed the hope that the necessary measures would be adopted to make the voluntary nature of the provisions statutory.

The Committee notes that the Government envisages holding consultations with a view to repealing the texts in question. It hopes



that these steps will rapidly ensure that the Convention is observed in law and in practice and that the Government will report the measures that have been adopted in this connection.

2. In its previous comments, the Committee requested the Government to indicate the measures taken to make the public aware of the repeal of the texts on compulsory cultivation, portorage and public works (Decree of 4 July 1952; Ordinance No. 21/86 of 10 July 1953; Decree of 10 May 1957). The Committee notes that copies of the texts in question have been transmitted to the Government, following the request it made in its last report, in order to enable it to take the appropriate measures. The Committee therefore hopes that the necessary measures will be taken to repeal the texts that are contrary to the Convention and that the Government will report the provisions adopted to this effect.

#### Byelorussian SSR (ratification: 1956)

The Committee notes the information supplied by the Government in reply to its previous observation.

1. Resignation of members of collective farms. In its previous comments, the Committee raised the question of how members of collective farms are informed of their right to leave the farm, recognised in an explanation which concerns the application of clause 7 of the Model Collective Farm Rules, and which was adopted by the Presidium of the Union Council of Collective Farms, in an annex to its Decree No. 139 of 8 February 1984. The Committee notes with satisfaction that the substance of the explanation recognising the right of members to leave collective farms has been published in the daily newspaper "Trud" of 28 May 1987 (an organ of the All-Union Central Council of Trade Unions) and was also reported in the newspaper "Selskaïa Zhizn" and other mass information media. The Government also has indicated in its report that new draft model collective farm rules are currently being prepared which will include the above explanation and will be submitted for approval to the Fourth Congress of Collective Farms in 1988; the Committee looks forward to the publication of the new model rules.

2. Legislation concerning persons "leading a parasitic way of life". In its previous observations, the Committee had referred to section 204 of the Penal Code of the Byelorussian SSR, concerning persons "leading a parasitic way of life".

The Committee notes with interest that the Government has sent with its report a copy of an Order adopted on 30 January 1985 by the Supreme Soviet of the Byelorussian SSR on the manner of applying section 204 of the Penal Code. The Committee has also noted with interest that in a recent decision given on an appeal by the Deputy Attorney-General of the USSR, the Plenary of the Supreme Court of the Byelorussian SSR, referring to section 204 of the Penal Code, overturned the conviction for leading a parasitic way of life of a 19-year old graduate from a technical school, who had refused various jobs offered to her and lived at her parents' expense. The Committee hopes that the Government will supply a copy of that decision and of

any further decisions defining the scope of section 204 of the Penal Code.

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. The Committee notes the Government's indication in its report that the Administrative Code has been modified on a number of points and that a new edition is being prepared. The Committee hopes that a copy of the new edition and of the other documents requested will be supplied soon.

Cameroon (ratification: 1960)

1. In its previous observations the Committee has noted that the provisions of Act No. 73-4 of 9 July 1973 to set up the National Civic Service for Participation in Development are contrary to the provisions of the Convention since they provide that work in the general interest throughout the public and private sectors can be imposed on citizens aged between 16 and 55 years for a period of 24 months subject to penalties of between two and three years' imprisonment in cases of refusal.

The Committee notes that the Government reaffirms in its last report its earlier statements that in practice enrolment in the National Civic Service is voluntary and that the amendment of the Act of 9 July 1973 in order to bring it into conformity with practice and the provisions of Convention No. 29 is still under study. Since it has been commenting on this matter for a number of years, the Committee trusts that the necessary measures to amend the Act will be taken and that the Government will very shortly be in a position to transmit the new texts that have been adopted in this field.

2. In its previous comments the Committee also drew the Government's attention to the need to adopt legislative measures or issue regulations, in accordance with Article 2, paragraph 2(e), of the Convention, in order to restrict the scope of communal work that may be imposed under section 2, paragraph 5(e), of the Labour Code. Moreover, it expressed the hope that legislation respecting prisons would be brought into conformity with Article 2, paragraph 2(c) of the Convention, which prohibits convicted labour being placed at the disposal of private individuals, companies or associations. On these points too, the Government states that the necessary amendments are being processed or under study. The Committee hopes that the Government will soon be able to report actual progress made in the light of the more detailed explanations given in a request that is addressed directly to the Government.

[The Government is requested to report in detail for the period ending 30 June 1988.]

Central African Republic (ratification: 1960)

The Committee notes the information supplied by the Government to the Conference Committee in 1987 and the discussions that took place there.

1. In previous comments, the Committee noted that draft ordinances had been drawn up with a view to repealing 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 that the Government repeats its statement that, by reason of the economic and social effect of these texts, the select committee on legislation has decided to submit the drafts to an expanded committee bringing together all the social partners with a view to assessing more accurately the effects of these repeals at the social and economic level. It also notes the statement to the effect that the Government undertakes to submit the matter for examination as requested by the ILO. The Committee trusts that the necessary measures will be adopted shortly to repeal the provisions incompatible with the Convention.

2. In its previous observations, the Committee referred to section 28 of Act No. 60/109 respecting the development of the rural economy, which provides that minimum surfaces for cultivation should be fixed for each rural community. The Committee noted the statement by the Government that these provisions were intended to encourage the population to expand the areas under cultivation and increase its efforts in agricultural activities, without introducing any kind of forced or compulsory labour; despite their apparent severity, these provisions have never been put into effect, since government action has always consisted of providing better guidance and support to rural workers and encouraging them to work on their own account.

The Committee notes the Government's statement that the role of the Government, which is the principal promoter of development, is to provide a technical support structure for agricultural workers and supply them with basic services in order to increase their production and improve their living conditions; furthermore, the freedom to work must not mean the freedom or the right to do nothing.

With reference to these statements, the Committee observes that the Convention only authorises recourse to compulsory cultivation for preventing famine or a deficiency of food products, and always under the condition that the food or produce shall remain the property of the producers. The Committee also recalls that any work or service exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily is incompatible with the Convention.

The Committee trusts that measures will be taken very shortly, in accordance with the intention expressed earlier by the Government, to ensure the observance of the Convention both in law and in practice.

[The Government is asked to report in detail for the period ending 30 June 1988.]

Chad (ratification: 1960)

The Committee notes the information supplied by the Government in its reports.

1. The Committee notes the Government's statement that a number of legal provisions that are contrary to the Convention, and to section 5 of the Labour Code as currently in force, are going to be repealed. These include:

- section 260 bis of the General Code of Direct Taxes (Act No. 28-62 of 28 December 1962), empowering the authorities to exact labour for the recovery of taxes;
- section 2 of Act No. 14 of 13 November 1959, empowering the authorities to exact forced labour for work of public interest from persons subjected to residence restrictions following completion of a sentence;
- section 7, paragraph 4, of Ordinance No. 2 of 27 May 1961 on the organisation and recruitment of the armed forces and sections 3 and 4 of Decree No. 9 of 6 January 1962 on the recruitment of the army, providing for the assignment of conscripts to work of general interest.

The Committee hopes that the Government will soon be able to supply the texts that repeal these provisions.

2. With regard to the freedom of workers in the service of the State to terminate their employment, the Committee notes the indication supplied by the Government that, subject to observance of the normal period of notice, resignations of public servants are always accepted.

Czechoslovakia (ratification: 1957)

In its previous comments, the Committee noted that under section 203 of the Penal Code any person who systematically avoids honest work and allows himself to be maintained by somebody else or obtains his means of livelihood in some dishonest manner is liable to detention for up to three years. The Committee pointed out in this connection that legislative provisions on vagrancy and similar offences drafted in very general terms can be used as a means of direct or indirect compulsion to perform labour. The Government indicated that under the current provisions of section 203 of the Penal Code the offence of parasitism comprises two essential features, namely, the systematic avoidance of honest work and recourse to a dubious way of obtaining a livelihood, such as prostitution, gambling, etc. It specified that charges of parasitism are not brought against persons who, although they do not earn their living by their own gainful activities, live by means legitimately acquired, such as inheritances, savings, lottery winnings, etc. Since the Government referred to preparatory work for the amendment of the Code and the revision of section 203, the Committee suggested that, in so far as the cases really aimed at by this provision are limited to offences such as prostitution, procuring, begging or illegal gambling, the possibility might be considered of wording section 203 of the Penal Code more precisely, so as to exclude clearly from its scope those who have no gainful

activity and who are supported by the freely given help of their family or friends.

The Committee notes the information supplied by the Government in its report to the effect that the draft principles of the Penal Code are under examination by the Government but have not yet been approved by it. The Committee also notes the statistics supplied by the Government concerning convictions for the offence of parasitism: 2,262 persons in the Czech Socialist Republic and 1,987 in the Slovak Socialist Republic were convicted of parasitism in 1986. In the case of around two-fifths of the persons convicted of parasitism, the offence is combined with another criminal activity, such as theft, swindling and the misappropriation of social property.

The Committee also takes note of the three rulings supplied by the Government with its report. The Committee notes that the persons in question were convicted under section 203 of the Penal Code of having acquired their means of subsistence through prostitution or begging. Inasmuch as the rulings in question appear only to concern persons who have acquired their income through unlawful activities, the Committee once again expresses the hope that when preparing the new Penal Code the necessary measures will be taken for any provision corresponding to the present section 203 to be drafted so as to exclude clearly from its scope those who have no gainful activity but who live on resources acquired legally, such as the freely given assistance of their family or friends.

The Committee hopes that the amendments that are necessary to bring the legislation into conformity with the Convention will be adopted as soon as possible and that, while awaiting their adoption, the Government will continue to supply information on the application of the provisions that are currently in force.

#### Greece (ratification: 1952)

For several years, the Committee has been drawing the Government's attention to the provisions of section 2, subsection 5, of Legislative Decree No. 17 of 1974 respecting the civilian planning for a state of emergency. By virtue of this section, a state of emergency includes any situation arising suddenly and resulting in a disturbance of the economic and social life of the country, in which circumstances, the Prime Minister may proclaim the full or partial mobilisation of civilians even in peacetime. All citizens may then be called upon to take part in work or the performance of any kind of services, on pain of imprisonment (section 20, subsections 2 and 3, and section 35, subsection 1). In such cases, the application of labour legislation is suspended.

The Committee has taken note of the conclusions of the Committee set up by the Governing Body to examine the application of Conventions Nos. 29 and 105, following the representation made by the Hellenic Airline Pilots Association (HALPA) under article 24 of the ILO Constitution.

In response to a notice of strike action given by the pilots and flight engineers of Olympic Airways in June 1986, the Government proclaimed a national state of emergency and the civil mobilisation of

pilots and flight engineers. Several of them, who had not responded to the individual call-up made to them, were imprisoned or dismissed while penal, administrative and civil action was taken against them.

The Committee set up by the Governing Body observed that the position of the pilots and engineers that had been called up met the two criteria embodied in the definition of forced or compulsory labour given in Article 2, paragraph 1, of the Convention and that the service required of them was not covered by the exception provided for cases of emergency as defined by the Convention (Article 2, paragraph 2(d)). The concepts referred to in Legislative Decree No. 17/1974 respecting civil planning in cases of danger to "the economic and social life of the country" or of "prejudice to the national interest" go beyond the strict limits of an emergency for the purposes of the Convention.

The Committee set up by the Governing Body also observed that the call-up of pilots and flight engineers appeared to be a means of labour discipline and a punishment for having participated in a strike that was punishable with sentences of imprisonment involving compulsory prison labour, contrary to Article 1(c) and (d) of Convention No. 105.

The Committee set up by the Governing Body noted that under the decision made by the Council of State on 22 May 1987 the mobilisation order and, consequently, the call-up of those concerned was not to have effect beyond the period of the strike. It recommended that the Government be invited to ensure that the legislation, and particularly Legislative Decree No. 17 of 1974, be brought into conformity with the forced labour Conventions and that any judicial or administrative action that may lead to the imposition of the sanctions laid down in the above Legislative Decree on those concerned should be abandoned.

The Committee notes the Government's statement that the responsible Ministry has initiated revision of Legislative Decree No. 17 of 1974. It requests the Government to supply information on the measures adopted in order to ensure observance of the forced labour Conventions.

[The Government is asked to report in detail for the period ending 30 June 1988.]

#### Guinea (ratification: 1959)

The Committee refers to its observation under Convention No. 105.

#### Honduras (ratification: 1957)

The Committee notes the Government's report.

Article 2, paragraph 2(a), of the Convention. In the comments that it has been making for some years, the Committee has referred to the situation concerning the non-military work that conscripts can be required to perform. Article 274 of the Constitution of the Republic (formerly article 320) provides that the armed forces shall co-operate with the executive branch in the fields of literacy campaigns, education, agriculture, conservation of natural resources, road

construction, communications, health, land reform and in emergency activities. The Committee asked the Government to adopt the necessary measures to ensure that conscripts may be called upon to perform only work or services of a purely military character, except in cases of emergency, in conformity with Article 2, paragraph 2(a), of the Convention.

The Committee notes that the Secretariat of Labour and Social Insurance has submitted in 1981 to the Permanent Committee of the sovereign Congress of Deputies draft amendments to the Labour Code with the aim of rectifying a number of incompatibilities between the national legislation and the Conventions that have been ratified by the Honduras.

The Committee notes that in May 1987 the comments of the Committee of Experts were transmitted to the Congress of Deputies so that they could be taken into account in the discussions of the draft amendments to the Labour Code.

The Committee observes that the provision that has been the subject of its comments with regard to Convention No. 29 is section 274 of the National Constitution.

Recalling also the indications supplied by the Government to the effect that in practice the co-operation of the armed forces is sought only in exceptional cases, the Committee hopes that, in order to bring the legislation into conformity with the provisions of the Convention and with practice, the necessary measures will be adopted to explicitly provide that only in emergency situations may non-military work be required of persons performing their compulsory military service.

#### Kenya (ratification: 1964)

In previous comments the Committee has noted that, under sections 13 to 18 of the Chiefs' Authority Act (Cap. 128), able-bodied male persons between 18 and 45 years of age may be required to perform any work or service in connection with the conservation of natural resources for up to 60 days in any year. It has expressed the hope that these sections would be either repealed or amended so as to meet the criteria for "minor communal services" which are exempted from the scope of the Convention under its Article 2(2)(e). The Committee has noted that a proposed amendment which was intended to be included in the Employment Act had been rejected and that fresh discussions were reopened on the earlier proposal of amending the Chiefs' Authority Act. The Committee has also noted from the Government's reports that its comments together with the Government's proposals for solution have been forwarded to the Law Reform Commission for action.

In its most recent report the Government indicates that there has been no change in the relevant legislation and that discussions are still continuing between the Ministry of Labour and the relevant authorities, including the Reform Commission and the Attorney General's Office, regarding the proposals intended to be introduced to bring the Chiefs' Authority Act into conformity with Conventions Nos. 29 and 105. Since this matter has been the subject of comments for a number of years, the Committee expresses once again the hope that the

necessary action will soon be completed and that the Government will indicate the measures taken to bring the Chiefs' Authority Act into conformity with the Convention.

Liberia (ratification: 1931)

The Committee notes the information supplied by the Government to the Conference Committee in 1987 and in its report.

1. Constitutional guarantees against forced labour. Referring to its previous comments, the Committee takes note of the text provided by the Government of the Constitution which entered into force on 6 January 1986. The Committee notes that according to Article 12 no person shall be held in slavery or forced labour and no one might subject any other person to forced labour, debt bondage or peonage.

2. Penal sanctions for illegal exaction of forced labour. The Committee notes the Government's statement that the Draft Revised Labour Code has been submitted to the National Legislature which has listed its passage into law as a priority and that the draft provides for penal sanctions in case of illegal exaction of forced or compulsory labour. Referring to its previous comments the Committee recalls that under Article 25 of the Convention, the illegal exaction of forced labour shall be punishable as a penal offence with penalties which should be really adequate and strictly enforced. The Committee trusts that the necessary legislation will be enacted at an early date and that it will provide for adequate sanctions.

3. Local public works. In previous observations, the Committee had noted that, notwithstanding the purported repeal in 1962 of provisions for the exaction of forced labour for public works contained in the Revised Laws and Administrative Regulations for Governing the Hinterland, 1949, continued use had been made of such powers for carrying out local development works through self-help projects. The Committee noted that according to the annual report of the Ministry of Local Government, Rural Development and Urban Reconstruction for 1981, 75 per cent of rural development projects visited during a nation-wide inspection tour were funded through self-help and it requested the Government to provide a copy of the report on the inspection tour and any similar report.

The Committee notes that no such report has been forwarded. It notes however the Government's statement as to the funding of local projects and the preparation of a report on self-help projects. The Committee again requests the Government to provide a copy of the report on the inspection tour and of any other relevant report, including the aforementioned report on self-help projects, as well as information on measures taken to eliminate the exaction of labour in connection with public works.

The Committee hopes that the legislative provisions to be adopted with a view to giving effect to the requirements of Article 25 of the Convention will ensure that any exaction of labour in connection with local development works can be the subject of effective penalties.

4. Enforcement of the prohibition of forced or compulsory labour. In previous observations, the Committee pointed out that,



under Articles 24 and 25 of the Convention, the Government was under an obligation to ensure the strict observance of the prohibition of forced or compulsory labour. It stressed the importance, in this connection, of measures to ensure adequate labour inspection, particularly in non-concessionary agricultural undertakings and in relation to Chiefs. The Committee noted that, according to the last available annual report of the Ministry of Labour (for 1983), inspection visits were made exclusively to industrial undertakings and commercial establishments and it emphasised the importance for the observance of the Convention, of adequate inspection arrangements in the agricultural sector. The Committee notes the Government's statement in the Conference Committee that Labour Inspectorates exist in all the counties and that labour inspections are carried out in the entire agricultural sector periodically. It also notes that by Act of 20 October 1986 Labour Courts have been established in all the counties.

The Committee requests the Government to provide a copy of the reports on the labour inspections carried out in the agricultural sector and on any measures taken or envisaged to ensure that those inspections are adequate and effective.

[The Government is asked to report in detail for the period ending 30 June 1988.]

Libyan Arab Jamahiriya (ratification: 1961)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation on the following matters:

In comments that it has been making for many years, the Committee has referred to the provisions of section 1 of Act No. 20 of 1962, under which, among other things, certain women seriously suspected or accused of certain offences against morality, may be interned for a period of from six months to three years. The Committee has also referred to section 6 of the Royal Decree of 5 October 1955 concerning vagabonds and suspects, under which any person who has already been sentenced for certain offences or been the subject of repeated investigations for the same offences and is again suspected of such offences is liable to detention of from one to five years by decision of a judge. The Committee understands that in both cases the persons concerned, who are merely suspected or accused and detained by decision of a judge, are obliged to work.

Referring to the provisions of Article 2, paragraph 2(c), of the Convention, the Committee has stated in paragraphs 89 to 96 of its General Survey of 1979 on the abolition of forced labour, that, in the absence of a finding of guilt, compulsory labour should not be imposed, even as a result of a decision in a court of law providing for detention.

The Committee asks the Government to indicate the measures taken to bring the legislation into conformity with the Convention by clearly laying down that no work may be imposed on detainees who are merely accused or suspected.

Madagascar (ratification: 1960)

The Committee notes the information supplied by the Government in its report to the effect that no new provision has yet been adopted in connection with the implementation of the Convention.

Article 2, paragraph 2(c), of the Convention. In its previous comments, the Committee referred to the provisions of Decree No. 59-121 of 27 October 1959 to establish the general organisation of the 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 detained pending trial. The Committee noted the Government's statements to the effect that, following comments by the Committee of Experts, the hiring of prison labour to private individuals had been abolished by repeated circulars and persons awaiting trial were no longer forced to perform prison work.

Referring to the Government's previous statements that the revision of Decree No. 59-121 was under study, the Committee trusts that this text will be amended in the near future to bring the law into conformity with the Convention on these essential points.

Article 2, paragraph 2(a). In earlier comments, the Committee referred to various provisions imposing the performance of economic and social development work within the context of compulsory national service. The Committee hopes that the necessary measures will be taken to ensure observance of the Convention on this point, which is also the subject of a more detailed request addressed directly to the Government.

Morocco (ratification: 1957)

The Committee notes the information supplied by the Government.

1. Article 25 of the Convention. In its previous comments, the Committee referred to the absence of penal sanctions for the illegal exaction of forced labour. The Committee pointed out that, since its report for 1967-69, the Government has referred to the draft Labour Code which is to provide for the prohibition of forced or compulsory labour enforceable by penal sanctions. The Committee notes the Government's statement in its last report that the draft Labour Code adopted by the Government lays down a formal prohibition of forced labour that is enforceable by penal sanctions. It hopes that this draft will be submitted to Parliament in the very near future and that the Government will be in a position to transmit the definitive text that has been adopted very soon.

2. Article 2, paragraph 2(d). With regard to the power to call up persons in exceptional circumstances, the Committee has for several years been drawing the Government's attention to the continuation in force of the provisions of 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, authorising the calling up of persons and the requisitioning of goods in order to satisfy national needs. It has taken note of a draft law respecting the right to call up persons.

Referring to the explanations provided in paragraphs 63 to 66 of its 1979 General Survey on Forced Labour, the Committee observed that it should be clearly laid down in the legislation that the power to exact labour is limited to what is strictly required in order to cope with circumstances endangering the existence or well-being of the whole or part of the population. The Committee therefore reiterates its previous observations regarding the Government's draft law. Although some of the situations which according to the draft law are to give rise to the right to call up persons would endanger the life, personal safety or health of the population, this is not necessarily the case, for example, 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 draft law).

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, which are incompatible with Article 2, paragraph 2(d) of the Convention, and also to indicate the measures taken or contemplated with respect to the draft bill and the draft implementing decree to be issued thereunder, in order to ensure that under the legislation the conditions conferring the right to call up persons are expressly limited to situations endangering the life, personal safety or health of the whole or part of the population.

3. Article 2, paragraph 2(c). The Committee notes the Government's statement in its report for the period 1983-85 that the Dahir of 26 June 1930 concerning the employment of prisoners by private enterprises has not been applied since Morocco gained independence and that it is planned to repeal it in the draft legislation respecting the reform of the prison system. The Committee recalls that the Convention forbids prison labour being placed at the disposal of private enterprises but does not prevent prisoners being able to take employment in such enterprises under the conditions of a free employment relationship. It hopes that the Government will be able in the near future to transmit a text that ensures observance of Article 2, paragraph 2(c).

4. Article 2, paragraph 2(a). In its previous comments, the Committee also referred to texts providing for the assignment of military recruits to work in the general interest.

The Committee notes that the Government's last reports contain no new information on this subject. It is once again addressing a direct request to the Government on this point and hopes that the Government will take measures necessary to ensure that any national service which does not lie within the framework of services of a strictly military nature (or work undertaken in cases of emergency) are organised on a voluntary basis.

#### Netherlands (ratification: 1933)

In previous comments the Committee referred to section 6 of the Extraordinary (Employment Relations) Decree, 1945 under which a worker is required to obtain approval for the termination of his employment and requested the Government, pending the necessary action to bring

the legislation into conformity with the Convention, to find ways and means of ensuring that the requisite permits are issued to the workers in all cases where they apply for them.

The Committee notes the statement of the Government in its report that it is awaiting the advisory report of the Social and Economic Council which deals with the overall revision of the Dutch Law on dismissal, and which will also involve a review of the requirement under section 6 of the 1945 Decree. The Committee also notes the Government's repeated indication that the continued performance of work can no longer be enforced by a penalty of imprisonment or a fine and that workers can request the courts to terminate the contract of employment for serious reasons under section 1639w of the Civil Code.

The Committee also notes the comments made by the Federation of Christian Trade Unions in the Netherlands (CNV), suggesting that this matter could be solved by a relatively minor piece of draft legislation. Pending the introduction of the required legislative action, the Committee again expresses the hope that the Government will use its administrative powers to ensure that the regional employment offices issue the requisite permits in all cases where workers want to leave their employment upon the expiration of the appropriate notice. The Committee trusts that the Government will thus soon be able to indicate that the necessary action has been taken to ensure the observance of the Convention at least in practice.

[The Government is asked to report in detail for the period ending 30 June 1988.]

#### Pakistan (ratification: 1957)

The Committee notes the report supplied by the Government, as well as the discussion which took place at the Conference Committee in 1987.

1. Restrictions on termination of employment. The Pakistan Essential Services (Maintenance) Act 1952 and the West Pakistan Essential Services (Maintenance) Act 1958 have been the subject of comments by the Committee and of discussions at the Conference Committee for a great number of years. Under sections 2, 3(1)(b) and explanation 2 and section 7(1) of the Pakistan Essential Services (Maintenance) Act, 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. Pursuant to section 3 of the same Act, these provisions may be extended to other classes of employment. Similar provisions are contained in the West Pakistan Act as regards persons in employment under the West Pakistan Government or any agency set up by it or a local authority or any service relating to transport or civil defence.

The Committee notes the Government's statement at the Conference Committee in 1987 and in its latest report that it is strictly following a policy of minimum reliance on the essential service law, that the law applies to a very small minority of workers and that it is invoked under dire circumstances. The Government further indicates

that it has retained the texts as enabling provisions to be applied in the case of an emergency threatening essential services, i.e. those whose interruption jeopardises the security and well-being of the greater part of the population and directly or indirectly threatens national security.

As to the extension of the Pakistan Essential Services (Maintenance) Act to other classes of employment, the Government stated at the Conference Committee that some of the industrial units which had been operating under the Act had recently been removed from its purview and that this removal was going to be a continuous process so that, when the application of the Act was no longer considered necessary, action would be taken to eliminate the remaining units from its scope. The Government further states in its report that it is reviewing this question and that it hopes to curtail its application further.

The Committee has taken due note of these indications. It has also taken note of the Report to the Government of Pakistan submitted by the ILO's Sectoral Review Mission (July-August 1986) which indicates that a number of public enterprises have been placed under this Act, the notification sometimes being renewed every six months for an extended period of time, that one such case is the Water and Power Development Authority (WAPDA) and that a recent notification has been given to the Karachi Transport Corporation.

With reference to the Government's statement that the Essential Services Acts are being retained by way of enabling provisions to be applied in cases of emergency to essential services only, the Committee notes that under the two Acts all persons in government employment, of whatever nature, are under a prohibition from leaving their employment by giving notice and that this prohibition was not brought into force under enabling provisions for a specific emergency, but is directly laid down in the Essential Services (Maintenance) Acts and thus in force since 1952 and 1958. Whether government employees can legally leave their employment depends in each case on the consent of the employer. In addition, the Government's power to extend these restrictions to other classes of employment under section 3 of the Pakistan Essential Services Act is not limited to emergencies as defined in Article 2(2)(d) of the Convention.

The Committee further notes that - whether or not specific categories of employment referred to by the Government are essential services whose interruption would endanger the existence or the well-being of the whole or part of the population - there is no basis in the Convention for depriving workers, even in such essential services, of the right to terminate their employment by giving notice of reasonable length. In particular, the concept of emergency in Article 2, paragraph 2(d), of the Convention involves, as indicated by the Committee in paragraph 36 of its 1979 General Survey on the Abolition of Forced Labour, a sudden, unforeseen happening calling for instant countermeasures. In the absence of such an emergency, the need to maintain the functioning of essential services cannot justify turning a contractual relation based on the will of the parties into service by compulsion of law.

In view of the Government's repeated indications that voluntary termination of employment by three months' notice has in actual

practice never been restricted, the Committee firmly hopes that the necessary measures will soon be adopted to bring the Pakistan Essential Services (Maintenance) Act 1952, and the West Pakistan Essential Services (Maintenance) Act 1958, into conformity with the Convention, and that the Government will indicate the action taken or contemplated.

2. In its previous comments, the Committee referred to the alleged use of bonded labour by contractors known as "Kharkars" in the construction of dams and irrigation canals and asked the Government to supply information on the measures taken to enforce the prohibition of forced labour in the field of contract labour. The Committee notes the Government's statement at the Conference and in its report that no labour camps are allowed to operate where forced labour is exacted from workers and that any attempt to employ forced labour results in prosecution.

The Committee has noted a reference in the above-mentioned Report of the ILO's Sectoral Review Mission to the employment of illegally bonded children in "Kharkar" camps working at night in irrigation tunnels in remote rural areas.

Recalling the Government's indication at the Conference Committee that the Prime Minister's Five-point Programme is committed to the complete elimination of all types of exploitation of labour, such as forced labour, the Committee requests the Government to supply detailed information on the actual measures undertaken or envisaged in this regard.

#### Panama (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:

The Committee has for some years been referring to section 873 of the Administrative Code, under which chiefs of police, as administrative authorities, can impose the penalties listed in section 878, including labour on public works and detention, which are provided for in sections 882 and 884, respectively, of this Code.

With regard to detention, section 887 provides that those sentenced to detention and living on public funds shall be required to work on public works as many hours per day as the chief of police considers reasonable, subject to a maximum of eight, to compensate the treasury for the value of the rations furnished, and that in this case each day of labour on public works shall account as two days of detention. The Committee has also referred to sections 1708 to 1720 of the Administrative Code relating to police court proceedings.

The Committee has also referred to Act No. 112 of 1974, sections 1 to 3 of which empower the administrative authorities to impose sentences of detention for certain offences listed in section 2 of this Act.

The Committee had taken note of Bill No. 25, furnished by the Government, which was intended to introduce the necessary



provisions to give effect to the Convention. The Committee notes that this Bill has not been approved by the authorities and that the Ministry of Labour and Social Welfare is at present considering the possibility of preparing another draft Bill, taking into consideration the observations of the Committee of Experts.

The Committee points out that, as was indicated in paragraphs 94 to 96 of its General Survey of 1979 on the Abolition of Forced Labour, "compulsory labour imposed by administrative or other non-judicial bodies or authorities is not compatible with the Convention". Furthermore, the possibility of appeal to a higher authority is not enough to ensure the observance of the Convention on this point.

Since this matter has been the subject of comments for many years, the Committee hopes that the legislation will be brought into conformity with the Convention as rapidly as possible and that the Government will indicate progress made to this end.

#### Peru (ratification: 1960)

The Committee notes with satisfaction that Act No. 24506 of 12 May 1986 has repealed the Vagrancy Act No. 4981 of 18 January 1924, under which it was a punishable offence, *inter alia*, for persons to live in a house belonging to another person as if it were their own and live of the tolerance and complaisance of the other party, and Legislative Decree No. 11004 which laid down the procedure for applying the Act and the penalties thereunder.

#### Romania (ratification: 1957)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation on the following matters:

In its earlier comments the Committee has referred to the provisions of Act No. 24 of 5 November 1976 respecting the recruitment and placement of labour and Act No. 25 of 5 November 1976 respecting the assignment of able-bodied persons to useful work. By virtue of these Acts, all able-bodied persons of 16 years or more 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 must 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. When, 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 section 9 of Act No. 25, to work in an

undertaking determined by a court order, or, if a minor, to be placed in a labour and re-education centre. The court order is final and enforceable under section 10, subsection 4, and section 11 of the Act provides that the police authorities shall ensure its implementation. By virtue of section 12, subsection 2, no person placed in employment as the result of a court order may change his workplace before a year has passed.

The Committee has also noted 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, he is obliged, in conformity with Act No. 24 of 1976, to register a request for placement in employment, which results in his compulsory allocation to a workplace under section 7, subsection 1, of Act No. 25 of 1976.

The Government stated in its report supplied in 1986 that Acts Nos. 24 and 25 of 5 November 1976 respecting the recruitment and placement of labour and the assignment of able-bodied persons to useful work cannot be considered to be legislation imposing on all able-bodied citizens the obligation to work, under the menace of penalties, an obligation incompatible with the Convention, since, under the provisions of the International Covenant on Civil and Political Rights (Article 8, paragraph 3(c)(iv)) and Convention No. 29 (Article 2(b)), any work or service which forms part of the normal civic obligations of a fully self-governing country cannot be considered to be forced or compulsory labour. In Romania, the right to work and the general duty of working are basic constitutional principles of the State and therefore the provisions of the above-mentioned Acts cannot be considered as having forced labour as their purpose, but are a means of helping certain able-bodied persons to carry out their elementary civic duties. With regard to the provisions of these Acts, the Government has stated that Act No. 25/1976 governs in a general way the recruitment of elements that live at the expense of other persons and includes messages of education and prevention for those who find themselves in such situations. The Government has stated that the refusal to report at the workplace indicated by the court is never followed by sanctions and that no coercive measure is taken against persons placed in a socialist unit who refuse to start work there despite all the persuasive measures taken under Act No. 25/1976. With regard to the formalities that must be carried out by a person wishing to change his job, the Government has stated that the role of the placement offices is to help the workers if they do not find work that suits them.

The Committee has noted these statements. With regard to the question whether assignment to useful employment on the basis of obligations that lead to the performance of a job can be covered by the exception laid down in Article 2, paragraph 2(b) for normal civil obligations, the Committee thinks it appropriate to refer to certain explanations in its 1979 General Survey on the Abolition of Forced Labour. In paragraph 34 of the General Survey, the Committee has indicated that the exception laid down for normal civic obligations, must be read in the light of other provisions of the Convention and cannot be invoked to justify



recourse to forms of compulsory service which are contrary to such other provisions. It emphasised in paragraph 45 of the General Survey that provisions obliging able-bodied citizens who are not receiving some kind of instruction to engage in gainful occupation under the threat of being compulsorily directed to specific work or being liable to penal sanctions are incompatible with the Convention.

Noting that a refusal to report at the workplace indicated by the court is never followed by sanctions and recalling that the Government has earlier stated that it would examine the possibility of amending the legislation in question, the Committee hopes that the Government will indicate measures taken to bring the legislation into conformity with the Convention on this point.

Sierra Leone (ratification: 1961)

In comments made since 1964, the Committee has asked the Government to repeal or amend section 8(h) of the Chiefdom Councils Act (Cap. 61) under which compulsory cultivation may be imposed on natives. The Committee notes the information provided by the Government to the International Labour Office in June 1987, and in particular, the Government's statement that in so far as section 8(h) of the Chiefdom Councils Act may not be in conformity with article 9 of the Constitution, it is not enforceable, since the Constitution takes precedence. Pending adoption of the measures to bring section 8(h) of the Act into conformity with the Convention, the Committee asks the Government whether this section has been declared not to be enforceable, and in the affirmative, to supply a copy of the official publication of such declaration. The Committee trusts that measures will soon be adopted to bring section 8(h) of the Act into conformity with the Convention and that the Government will indicate the action taken.

Singapore (ratification: 1965)

Article 2, paragraph (2)(c), of the Convention. In its earlier comments the Committee noted that, under section 15 of the Singapore Corporation of Rehabilitative Enterprises (SCORE) Act, the functions of the Corporation relate both to the vocational training of prisoners and to the imposition of prison labour pursuant to section 50 of the Prisons Act and that for these purposes, the Corporation may, under section 16(k) of the SCORE Act, enter into joint ventures with any person or organisation. In paragraphs 97 and 98 of its 1979 General Survey on the Abolition of Forced Labour, the Committee pointed out that the use of the labour of convicted persons in workshops operated by private undertakings outside or inside prisons would be compatible with the Convention only if it were subject to the consent of the prisoners and to safeguards in the field of remuneration, social security, consent of trade unions, etc. Being fully appreciative of the Government's repeated indications that the vocational

rehabilitation of prisoners is designed to enable them to play a useful role in society when they leave the prison, the Committee felt it appropriate to request the Government to supply further information in so far as compulsory prison labour is performed in prison industries set up by SCORE with the participation of private firms. In the absence of any information in this regard, the Committee once again requests the Government to supply details on the relationship between SCORE and the private undertakings concerned, including specimen copies of any agreements or other documents regulating this relationship, so as to enable the Committee to examine the observance of the Convention.

[The Government is asked to report in detail for the period ending 30 June 1988.]

Spain (ratification: 1932)

The Committee notes the information supplied by the Government in its report and the comments submitted by the Trade Union Confederation of Workers' Committees.

In its previous direct request, the Committee referred to the draft Royal Decree intended to govern the labour relations of convicts in prisons.

The Committee notes from the Government's statement in its report that the above draft was not given statutory effect, since the General Organic Prison Act and the Prison Regulations contained sufficiently broad and systematic regulations to give prison labour an adequate legal framework. The Government adds that prison labour should not be seen in isolation from the general treatment of prison issues.

The Committee recalls that section 188 of the Prison Regulations that are in force provides for an ordinary system of contracting labour to private enterprises.

The Committee recalls that, as it indicated in paragraphs 97 to 99 of its 1979 General Survey on the Abolition of Forced Labour, the work of prisoners in the service of private employers is not compatible with the Convention, unless it is in the circumstances of a free employment relationship, namely, based on the explicit consent of the persons concerned and subject to certain guarantees, particularly regarding wages and social security, and the consent of the trade unions.

The Committee also notes that in its comments on the application of the Convention, the Trade Union Confederation of Workers' Committees considers that in accordance with the provisions of the Workers' Charter, the Government should issue special regulations respecting the free and remunerated labour of prisoners in order to improve the observance of the Convention.

The Committee hopes that the Government will reconsider the question and will indicate any measure that has been taken or is contemplated in order to ensure the observance of the Convention on this point.

United Republic of Tanzania (ratification: 1962)Tanganyika

1. Compulsory cultivation. In comments made for a number of years, the Committee has noted that the Local Government Ordinance and, following its repeal, the Local Government (District Authorities) Act, 1982, and section 121(e) of the Employment Ordinance (as amended by Act No. 82 of 1962) empower local authorities to impose compulsory cultivation, and that by-laws which impose compulsory cultivation on resident landholders have indeed been made by district councils and approved by the national Government. While reference was made during the discussion which took place at the Conference Committee in 1984 concerning the application of the Convention in the United Republic of Tanzania to the impending threat of famine, the Committee in its last observation noted that a number of by-laws adopted in 1984 and 1985 specifically restrict the production of food crops, since they oblige resident landholders to cultivate and maintain a fixed area of cash crops, any contravention being punishable with a fine and imprisonment.

For a number of years also, the Government has indicated its intention to have the legislation revised so as to ensure the observance of the Convention; in its report for 1980-81 it asked for concrete proposals from the ILO to this effect which were forwarded in May 1982; in its report for 1981-82, the Government indicated that measures would be taken in the near future in light of the specific proposals; in the discussion which took place at the Conference Committee in 1987, the Government again stated that it intended to review all laws relating to labour and make amendments, if necessary, to provisions inconsistent with international obligations.

In its latest report, the Government indicates that no action has been taken to bring legislation into conformity with the Convention. The Government reports that cases of compulsory cultivation for commodities of national importance are numerous; that farmers are directed by local authorities and central government to cultivate crops which are likely to generate more income to them; and that the proceeds derived from cultivation are personally owned by the respective individual farmers or are communally controlled by those who have voluntarily organised themselves to undertake co-operative cultivation. The Government also indicates that it can decide to direct its pressure to the jobless to ensure that they work independently for their own benefit. The Government further points out that in order to ensure a healthy development of the economy and to deal with the threats of food shortages which are endemic in much of Africa, it is necessary to plan agricultural activities at the national level, and that crops are indeed a necessary feature of the action to earn foreign currency in order to buy essentials to deal with the threat of emergency. It states that in practice, such cultivation takes place as the result of advice, rather than compulsion, farmers welcome such advice as to crops which can be profitably grown, no punishment is given to farmers who disagree (none do), and in one case where farmers preferred to grow tomatoes rather than coffee, the Government responded by raising the price of coffee.

The Committee takes due note of these indications. It refers to the explanations provided in paragraph 36 of the 1979 General Survey on the Abolition of Forced Labour, wherein the Committee indicates that the term "emergency" as used in the Convention envisages a "sudden, unforeseen happening" calling for instant counter-measures. Long-term and foreseen food shortages, while necessarily a cause for long-term concern and efforts at elimination, cannot be viewed as an "emergency" as defined in Article 2(2)(d) of the Convention, nor justify the use of compulsory labour in order to earn foreign currency. Noting the Government's indications as to the voluntary nature of measures taken in actual practice and recalling its repeated undertaking that the legislation referred to would be revised so as to ensure the observance of the Convention, the Committee trusts that the necessary measures will be taken without further delay to bring the Local Government (District Authorities) Act, 1982 and section 121 (e) of the Employment Ordinance, as well as any by-laws made and approved thereunder into conformity with both the Convention and the practice described, and that the Government will indicate the provisions adopted to this end. Further, it requests the Government to explain the types of pressure put on the jobless to ensure that they work.

2. General obligation to work. In previous comments the Committee had referred to the Human Resources Deployment Act, 1983, which makes provision for the establishment of machinery designed to regulate and facilitate the engagement of all able-bodied persons in productive work. Under section 3 of this Act, every local government authority shall make arrangements to ensure that every able-bodied person over 15 years of age and resident within its area of jurisdiction engages in productive or other lawful employment; for this purpose, the local authority shall establish and maintain registers of employers and of all residents capable of working (sections 13 and 14), and work out a system which will enable the registered employer to utilise the available registered unemployed residents within its area of jurisdiction (section 20). Under section 17 of the Act, arrangements made by the Minister of Labour and Manpower Development are to provide for the transfer to other districts and subsequent employment of unemployed residents, and under section 24, failure to comply with any provision of the Act is punishable with a fine and imprisonment. The Committee pointed out that any Act which provides for the exaction of work from persons who have not offered themselves voluntarily but under the menace of a penalty is incompatible with the Convention unless limited to the circumstances specified in Article 2, paragraph 2 of the Convention.

In reply, the Government indicates that under the Human Resources Deployment Act, advice rather than compulsion is used in practice. The Government has provided land and equipment to encourage agriculture in underdeveloped areas, as well as loans, and those participating in such projects do so voluntarily and not under threat. Furthermore, the Government considers that the conditions of Article 2, paragraph (2) of the Convention apply since the work concerned is manifestly for the benefit of those performing it and is regarded as a normal civic obligation in Tanzania; and it is considered necessary to deal with the constant economic emergency which threatens the existence and well-being of people in Tanzania.

The Committee takes due note of these indications. Referring to the explanations provided in paragraphs 34 to 37 and 45 to 48 of its 1979 General Survey on the Abolition of Forced Labour it must again point out that legislation obliging all able-bodied citizens to engage in a gainful occupation subject to penal sanctions is incompatible with the Convention, inasmuch as it is neither limited to cases of emergency or minor communal services as defined in Article 2, paragraph 2, nor to any other work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country. Having regard to the Government's indications as to the voluntary nature of participation by those concerned, the Committee hopes that the necessary measures will soon be taken to amend the Human Resources Deployment Act so as to ensure the observance of the Convention both in law and in practice.

3. Compulsory labour for public purposes and development schemes. In comments made for a number of years, the Committee observed that, contrary to the Convention, Part X of the Employment Ordinance permits forced labour to be exacted for public purposes, and section 6 of the Ward Development Committees Act, 1969, gives ward development committees the power to make orders requiring all adult citizens resident in the area of the ward to participate in the implementation of any scheme for agricultural or pastoral development, the construction of works or buildings for the social welfare of residents, the establishment of any industry or the construction of any public utility. In 1984, the Committee noted the Government's statement that proposals for the revision of these provisions had been submitted to the competent authority for decision. In its latest report the Government indicates that in practice the local government legislation is used only for communal works for the benefit of the community and that decisions are made by the community.

The Committee notes these indications. Referring to the explanations provided in paragraph 37 of its above-mentioned General Survey, the Committee must point out that neither the powers granted to ward development committees under section 6 of the Ward Development Committees Act nor those of the Government under Part X of the Employment Ordinance meet the criteria of Article 2, paragraph (2)(e), of the Convention, since the exaction of compulsory labour is not limited to "minor services", and the members of the community which are to perform the services or their direct representatives have no right to be consulted in regard to the need for such services.

In view of the Government's earlier indications that amending legislation had been proposed for adoption, the Committee hopes that the necessary action will soon be taken to bring Part X of the Employment Ordinance and section 6 of the Ward Development Committees Act into conformity with the Convention and that the Government will indicate the provisions adopted to this end.

4. Article 2, paragraph (2)(c), of the Convention. In previous comments, the Committee noted that sections 4 to 8 of the Resettlement of Offenders Act, 1969, and sections 4 and 17 of the Resettlement of Offenders Regulations, 1969, permit resettlement orders, with an obligation to perform compulsory labour, to be made by administrative decision. In addition, under sections 26 and 27 of the Human Resources Deployment Act, the Minister shall make such arrangements as

will provide for a smooth and co-ordinated transfer or any other measure which will provide for the rehabilitation and full deployment of persons chargeable with, or previously convicted under, sections 176 and 177 of the Penal Code. While in 1984, the Committee noted the Government's statement that proposals for the revision of the provisions of the Resettlement of Offenders Act and Regulations had been submitted to the competent authority for decision, the Government in its latest report merely states that no cases are known where compulsory labour has been applied contrary to Article 2, paragraph (2)(c), of the Convention. The Committee again expresses the hope that the necessary measures will soon be taken to ensure in law that no compulsory labour may be imposed on offenders otherwise than as a consequence of a conviction in a court of law, and that the Government will indicate the action taken to this end.

[The Government is asked to report in detail for the period ending 30 June 1988.]

#### Tunisia (ratification: 1962)

In its previous comments the Committee referred to:

- the provisions of Legislative Decree No. 62-17 of 15 August 1962, under which any male person who without just cause refuses to work may be directed to rehabilitation through work on State worksites;
- the provisions of Act No. 78-22 of 8 March 1978 to establish civic service, under which any Tunisian 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 one year or longer, 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 noted that an interdepartmental committee was due to meet in order to draw up proposals for the amendment of the above texts in order to bring certain of their provisions into conformity with the Convention.

In the absence of information on this subject in the Government's last report and noting that the texts in question have been the subject of its comments for many years, the Committee trusts that the Government will be able to report in the near future on the amendments made to bring the texts in question into conformity with the Convention.

[The Government is requested to report in detail for the period ending 30 June 1988.]

#### Ukrainian SSR (ratification: 1956)

The Committee notes the information supplied by the Government in reply to its previous observation.

1. Resignation of members of collective farms. In its previous comments, the Committee raised the question of how members of collective farms are informed of their right to leave the farm,

recognised in an explanation which concerns the application of clause 7 of the Model Collective Farm Rules, and which was adopted by the Presidium of the Union Council of Collective Farms, in an annex to its Decree No. 139 of 8 February 1984. The Committee notes with satisfaction that the substance of the explanation recognising the right of members to leave collective farms has been published in the daily newspaper "Trud" of 28 May 1987 (an organ of the All-Union Central Council of Trade Unions) and was also reported in the newspaper "Selskaïa Zhizn" and other mass information media. The Government also has indicated in its report that new draft model collective farm rules are currently being prepared which will include the above explanation and will be submitted for approval to the Fourth Congress of Collective Farms in 1988; the Committee looks forward to the publication of the new model rules.

2. Legislation concerning persons "leading a parasitic way of life". In its previous observation, the Committee referred to the provisions of section 214 of the Penal Code of the Ukrainian SSR concerning persons "leading a parasitic way of life", and to the Order of 3 January 1985 of the Presidium of the Supreme Soviet of the Ukrainian SSR on the manner of applying this section.

The Committee notes with interest that according to the Government's report, another Order, adopted on 28 December 1984 by the Plenum of the Supreme Court of the Ukrainian SSR, concerning court practice on the matter, has qualified "unearned income" as means obtained through unlawful methods. The Committee hopes that the Government will supply a copy of this Order, as well as of any further decision defining the scope of section 214 of the Penal Code.

3. Supply of legislation. In its first report on the Convention, presented in 1958, the Government provided certain extracts from the Administrative Code of the Ukrainian SSR relating to compulsory service in cases of emergency. Since 1959 the Committee has requested the Government to supply a copy of the full text of this Code. In its report for the period 1979-81 the Government stated that work on the preparation of a new Administrative Code was under way, and that after the New Code had come into force a copy would be made available. In 1986, the Committee took note of the official text of the Code of Administrative Offences of the Ukrainian SSR adopted on 7 December 1984, which was supplied by the Government with its report, and expressed the hope that the Government would also be able to supply a copy of the Administrative Code in force. In its latest report, the Government again refers to the Code of Administrative Offences, announcing a completed edition thereof which is to be sent to the ILO. The Government adds that no statutory instrument in the Republic makes provision for compulsory labour, and that the Administrative Code of 1927 is no more in force according to a Decree of the Presidium of the Supreme Soviet of the Ukrainian SSR of 21 August 1987. The Committee takes due note of these indications and hopes that a copy of the Decree of 21 August 1987 will be supplied by the Government.

USSR (ratification: 1956)

The Committee notes the information supplied by the Government in reply to its previous observation.

1. Resignation of members of collective farms. In its previous comments, the Committee raised the question of how members of collective farms are informed of their right to leave the farm, recognised in an explanation which concerns the application of clause 7 of the Model Collective Farm Rules, and which was adopted by the Presidium of the Union Council of Collective Farms, in an annex to its Decree No. 139 of 8 February 1984. The Committee notes with satisfaction that the substance of the explanation recognising the right of members to leave collective farms has been published in the daily newspaper "Trud" of 28 May 1987 (an organ of the All-Union Central Council of Trade Unions) and was also reported in the newspaper "Selskaïa Zhizn" and other mass information media. The Government also has indicated in its report that new draft model collective farm rules are currently being prepared which will include the above explanation and will be submitted for approval to the Fourth Congress of Collective Farms in 1988; the Committee looks forward to the publication of the new model rules.

2. Legislation concerning persons "leading a parasitic way of life". In its previous observations, the Committee referred to the provisions of section 209 of the Penal Code of the RSFSR and the corresponding provisions in force in other Union Republics concerning persons "leading a parasitic way of life".

The Committee noted that on 13 December 1984, the Presidium of the Supreme Soviet of the RSFSR adopted an Order on the manner of applying section 209 of the Penal Code of the RSFSR. The Committee also noted with interest that in a recent decision given on an appeal by the Deputy Attorney-General of the USSR, the Plenary of the Supreme Court of the Byelorussian SSR, referring to section 204 of the Penal Code of the Byelorussian SSR which corresponds to section 209 of the Penal Code of the RSFSR, overturned the conviction for leading a parasitic way of life of a 19-year-old graduate from a technical school, who had refused various jobs offered to her and lived at her parents' expense. The Committee requested the Government to supply full information on any further decisions of the courts showing the manner in which the relevant legislative provisions are applied.

The Committee notes the Government's indication that up to the present no further similar judicial decisions have been handed down, since, in view of the decision on appeal mentioned above, similar cases are settled in the public prosecutor's office at the stage of the preliminary inquiry. On this matter, a request is being addressed directly to the Government by the Committee.

3. With regard to the comments submitted by the International Confederation of Free Trade Unions, mentioned in the previous observation, the Government has supplied detailed indications to which the Committee refers in its direct request.



Zaire (ratification: 1960)

1. With reference to its previous comments concerning compulsory civic service, the Committee notes with satisfaction the enactment of Legislative Ordinance No. 87-009 of 21 March 1987 to repeal Legislative Ordinances Nos. 68-071 of 1 March 1968 (amended in 1982) and 72-058 of 22 September 1972 (completed in 1978) on the calling up of physicians and graduates who are nationals of Zaire. The Government indicates in its report that the compulsory civic service to which students were subject after completing their courses in higher education establishments and universities, has been repealed, and that all young graduates who are nationals of Zaire may henceforth, without exception, freely apply for employment of their choosing in the public or private sector.

Furthermore, the Government indicates in its report that it is unceasingly continuing its endeavours to bring other relevant provisions of its legislation into conformity with the Convention. The Committee therefore, also hopes that the Government's endeavours will be completed in the near future regarding the following matters, with have been raised in its previous comments.

2. The Committee noted previously the draft repeal of sections 18-21 of Legislative Ordinance No. 71-087 of 14 September 1971 on minimum personal contributions (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 tax payers to choose the performance of work selected by the competent local authority and remunerated in accordance with the legislation on minimum wages. This draft 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 trusts that this draft, which is intended to ensure observance of the Convention, will be adopted in the near future and that a copy of the enacted text will be transmitted.

3. The Committee previously drew attention on several occasions to the provisions of Act No. 76-011 of 21 May 1976 concerning national development efforts, which oblige, under penalty of penal sanctions, every able-bodied adult person who is a national of Zaire and 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 the liberal professions, the clergy, students and pupils), to carry out agricultural work and other development work laid down by the Government. It also noted the measures taken under Act No. 76-011 as laid down in Departmental Order No. 00748/BCE/ACRI/76 of 11 June 1976. The Committee hopes that the amendments that are currently being prepared, will be adopted in the near future, in order to bring all the texts under consideration into conformity with the provisions of the Convention, and that the Government will report the amendments that are adopted.

4. The Committee noted that, as part of the work of revising the Labour Code that is currently under way, it is planned that those infringing the provisions prohibiting the exaction of work or services from any person, for which the person has not offered himself voluntarily, under the menace of any penalty, shall be punished by a

fine. It hopes that, in accordance with Article 25 of the Convention, the planned penalties will be really adequate, and that the Government will be able to transmit the text of the new Code in the near future.

Zambia (ratification: 1964)

In previous comments the Committee has observed that regulations 40 and 41 of the Public Security Regulations, under which public officers and employees in certain services may be prohibited from leaving their employment, should be repealed or modified to ensure the observance of the Convention. The Committee notes the Government's statement in its report that repeal of these provisions is being pursued. Since this matter has been under consideration for several years, the Committee hopes that the Government will soon be able to indicate that the necessary measures have been taken.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Angola, Antigua and Barbuda, Australia, Austria, Bahamas, Bahrain, Bangladesh, Belgium, Benin, Brazil, Burkina Faso, Burma, Burundi, Byelorussian SSR, Cameroon, Cape Verde, Central African Republic, Democratic Yemen, Denmark, Djibouti, Ecuador, Egypt, Fiji, Gabon, Ghana, Greece, Grenada, Guinea, Guyana, Honduras, Islamic Republic of Iran, Iraq, Ireland, Israel, Italy, Jamaica, Japan, Kenya, Kuwait, Lao People's Democratic Republic, Liberia, Libyan Arab Jamahiriya, Madagascar, Malaysia, Malta, Mauritania, Morocco, Niger, Nigeria, Norway, Pakistan, Panama, Papua New Guinea, Peru, Romania, Saint Lucia, Saudi Arabia, Senegal, Solomon Islands, Somalia, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, United Republic of Tanzania, Togo, Trinidad and Tobago, Tunisia, Ukrainian SSR, USSR, Yemen, Zambia.

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

Morocco (ratification: 1974)

The Committee notes with regret that the Government's report contains no new information in reply to the previous direct requests, and is therefore obliged to raise the question again in a further direct request. It hopes that the Government will not fail to take the necessary measures and to supply the information requested.

Mozambique (ratification: 1977)

Further to its earlier comments, the Committee notes with satisfaction the adoption of Act No. 8 of 14 December 1985 to approve the Labour Act which establishes the exceptions and the maximum number

of additional hours of work per day and per year, thereby giving effect to Article 7 of the Convention.

Syrian Arab Republic (ratification: 1960)

See the comments made under Convention No. 1.

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

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

Algeria (ratification: 1962)

See General observations.

Italy (ratification: 1933)

In reply to the Committee's previous observations concerning the adoption of general regulations on safety measures in dock work, which would give full effect to the Convention in all the ports of the country and replace the local regulations currently in force which apply the Convention in certain ports only, the Government stated in its report, received in March 1987, that a new law to give effect to the Convention throughout the national territory was being drafted. However, in the report received in October 1987, the Government states that there has been no change in the legislation in this regard.

The Committee can therefore only raise the question again in the hope that the Government will make every effort to ensure that provisions applying to all the ports in the country and regulating consistently health and safety measures in dock work can be adopted in the near future in order to give full effect to the Convention, in accordance with the intention stated by the Government for a number of years.

The Committee requests the Government to indicate any progress made in this connection in its next report.

Mauritius (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:

For a number of years, the Committee has pointed out that no measures exist to apply fully Article 3, paragraphs 2 to 4 (safety of means of access to vessels), Article 5, paragraph 5

(provision of ladders in holds) and Article 17, paragraph 3 (posting of copies of regulations) of the Convention, and the Government has indicated its intention to amend the Dock Regulations of 1937 in order to give full effect to these provisions. The Committee notes from the Government's latest report that the draft amendments to the Dock Regulations have still not been adopted. The Committee trusts that the above draft amendments will be approved at an early date so as to ensure the full application of the Convention.

The Committee trusts that the Government will indicate in its next report the measures taken and the progress achieved to this effect.

#### Panama (ratification: 1971)

The Committee notes that the Government's report has not been received and that it therefore possesses no information on the progress made in the adoption of the draft regulations concerning the prevention of risks in dockwork, the text of which was supplied by the Government in its report received in 1985. The Committee examined this draft and noted that its provisions gave effect to the Convention to a large extent. It therefore expressed the hope that the Government would make every possible effort to ensure that the text was adopted in the very near future, since the national legislation or regulations do not contain a set of specific provisions giving effect to all the provisions of the Convention, as the Committee has been pointing out for a number of years. The Committee none the less notes the information supplied by the Government to the Conference Committee (at its meeting of June 1987) to the effect that the Tripartite Maritime Labour Committee has resumed its activities and that one of its subcommittees has been made responsible for safety and social protection matters.

The Committee trusts that the necessary measures will be taken very shortly for the adoption of regulations ensuring that full effect is given to the Convention. The Committee hopes that the next report will indicate the progress made in this respect and that it will also contain information on the practical operation of the Occupational Safety Services which were established within the different port authorities with a view to inspecting safety and health conditions in these ports, as the Government stated in its previous report.

#### Peru (ratification: 1962)

With reference to its earlier comments, the Committee takes note of the adoption of Supreme Decree No. 002-87-MA of 9 April 1987 approving the regulations on port authorities and maritime, river and lake activities. It notes with satisfaction that these regulations contain provisions concerning the special precautions to be taken for the protection of dockers during the loading and unloading of dangerous goods and during work involving a proximity to such goods, in accordance with Article 12 of the Convention.

With regard to certain other points which have also been the subject of comments, the Committee requests the Government to refer to the request being addressed to it directly.

Singapore (ratification: 1965)

The Committee takes note of the information supplied by the Government in reply to its earlier comments and has examined the legislation appended to the report. Following its examination, the Committee notes with satisfaction that Regulations 58 and 59 of the Singapore Port Regulations, 1977, have been amended under the 1985 Regulations (amendment) in order to extend the scope of the application of the safety measures concerning the loading and unloading of vessels and to give effect to Article 9, paragraph 2 (subparagraphs (1) to (5)), of the Convention (examination of hoisting machines and accessory gear before and during use and certification of their safe working order).

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In addition, requests regarding certain points are being addressed directly to the following States: Argentina, Bangladesh, Chile, Denmark, India, Netherlands, Nigeria, Peru.

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

Benin (ratification: 1960)

Further to its previous comments, the Committee notes with satisfaction the adoption of Order No. 371/MTAS/DGM/DT/SR of 26 August 1987 establishing exceptions to the minimum age for admission to employment in the People's Republic of Benin, which lays down, in accordance with Article 3, paragraphs 2(b) and 4(b), of the Convention, the conditions for the employment of children over 12 years of age on light work.

Central African Republic (ratification: 1962)

The Committee notes that the Government's report has not been received and that no information is therefore available on the progress made in adopting the draft Decree which, according to the information supplied by the Government to the Conference Committee in June 1984, had been prepared to bring the national legislation into conformity with the Convention.

The Committee earnestly hopes that the above-mentioned Decree will be adopted in the very near future and that it will give effect to the following provisions of the Convention:

- (a) Article 3, paragraph 1(c) and 4(b): (the duration of light work authorised for children over 12 years of age and attending school

must not exceed two hours per day, the total number of hours spent at school and on work in no case exceeding seven per day; in countries where no provision exists relating to compulsory school attendance, the time spent on light work must not exceed four and half hours per day);

- (b) Article 3, paragraph 2(b): (children between 12 and 14 years of age must not be employed on light work during the night, that is to say, during a period of at least 12 consecutive hours including the interval between 8 p.m. and 8 a.m.).

The Committee requests the Government to indicate the progress made in this connection.

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

\* \* \*

In addition a request regarding certain points is being addressed directly to Burkina Faso.

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

Argentina (ratification: 1950)

With reference to its previous comments sent directly to the Government, concerning certain problems arising in the application of the Convention, the Committee notes that a new Bill has been drafted which is in the process of being examined by the National Congress, to ratify the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96). The Committee requests the Government to report on any decision taken regarding this ratification which would automatically entail the denunciation of the present Convention.

[The Government is asked to report in detail for the period ending 30 June 1989.]

\* \* \*

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

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

Guyana (ratification: 1966)

The Committee notes that the Government's report contains no reply to its previous comments. It must therefore repeat its previous observation (1986), which read as follows:

The Committee notes that the Government is not in a position to submit the amended list of occupational diseases, appended to

Regulations No. 34 of 1969, as it has not yet been finalised by the drafting officers. The Committee hopes that the draft schedule will soon be finalised taking into account the following points:

- (a) replacing items Nos. 1(x), (xi), (xii) and (xiv) of this list with an item containing, in general terms, all the halogen derivatives of hydrocarbons of the aliphatic series;
- (b) including an item No. 7, which refers to certain manifestations due to radiation, all manifestations due to radium, other radioactive substances or x-rays and completing the activities likely to cause them;
- (c) including in items Nos. 1(i) and (v) concerning poisoning by lead or a compound of lead and by mercury or a compound of mercury, the alloys of lead and the amalgams of mercury respectively;
- (d) including in item No. 1(iii), which refers to poisoning by phosphorous or its compounds, the inorganic compounds of phosphorous;
- (e) adding to item No. 2, among the activities likely to cause anthrax infection, the loading and unloading or transport of merchandise of whatever nature;
- (f) adding to the list silicosis with or without tuberculosis and the industries or processes involving a risk of this affection.

Furthermore, the Committee would be grateful if the Government on the same occasion would consider the possibility of including in the list of occupational diseases an explicit reference to the sequelae of the poisonings caused by arsenic and benzene (points (iv), (vii) and (viii) of item 1 of the schedule in Regulations No. 34 of 1969).

[The Government is asked to report in detail for the period ending 30 June 1988.]

#### Haiti (ratification: 1955)

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:

In its earlier comments, the Committee has asked the Government to provide information on the practical application of the Convention, particularly statistics on the number of workers employed in the trades, industries or processes appearing in the schedule of Article 2 of the Convention, the cases of diseases reported and the sums paid for compensation, in accordance with point V of the report form adopted by the Governing Body on this Convention.

In the information supplied to the Conference Committee in 1979, the Government stated that, although no case of occupational disease appeared in the statistics on industrial accidents furnished at the time to the ILO, this was because the comparatively low industrialisation of the country meant that there were no industries that might cause such diseases. The

Committee observes nevertheless that many of these accidents arise in many industries and during work (extraction of metal ores or building stone, industries of leather and leather articles, non-metallic metal products, transport, agricultural undertakings, etc.) using materials capable of causing one or more of the diseases listed in the schedule of the national legislation and that of the Convention.

The Government also stated, in 1979, that instructions had been given to the Industrial Accident Insurance Office to report separately cases of occupational diseases in the statistics that it was going to communicate to the ILO.

Since the Government has not provided any of the information requested concerning the application of the Convention, the Committee is once more unable to assess the way in which effect is given in practice to the Convention. It hopes that a report will be provided for examination at its next meeting and that this will contain the above-mentioned data which it has been calling for for a number of years.

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

#### New Zealand (ratification: 1938)

In reply to the comments which the Committee has made over a number of years, the Government has once again stated that it considers that the New Zealand accident compensation scheme allows for greater flexibility in the compensation of occupational disease, especially in comparison with those systems which have restricted their definition of occupational disease to those conditions within the schedule in Convention No. 42. According to the Government's statement, there is good evidence that even where schedules exist, many compensatable conditions and related deaths go unrecognised and uncompensated. The advantage of the New Zealand scheme is that it allows of a wider range of conditions to be judged as occupational in origin under specific circumstances than those set out in even the widest schedule. It would be argued strongly that New Zealand workers are already provided with a level of protection equal to, if not greater than, that provided for by the Convention. It should be noted that the present position in New Zealand of including "in its legislation a general definition of occupational diseases broad enough to cover at least the diseases enumerated in Schedule I to this Convention" would satisfy Convention No. 121, which provides for this option in national legislation.

The Committee notes the information provided by the Government. It considers, however, that although the system of the general definition of occupational diseases provided for by section 67 of the Act may in certain cases lead to compensation for a greater number of diseases than the list system recommended by the Convention, it remains true that the worker, under such a system, must prove the occupational origin of his disease. Yet, it is precisely so that the worker shall not have to provide such a proof, which might in certain circumstances be particularly difficult, that the Convention has



established a double-list system setting forth the occupational diseases and the activities that may cause them.

The Committee is still of the opinion that the inclusion in the national legislation of a list of occupational diseases and corresponding occupations, as prescribed by the Convention, would in no way diminish the protection at present afforded to workers, who would benefit from the presumption of occupational origin applying to diseases included in the list, and from the provisions now in force with regard to occupational diseases not included in the list required by the Convention.

The Committee therefore again requests the Government to re-examine this question and to take the necessary measures to bring the national legislation into full conformity with the Convention, unless it ratifies the Employment Injury Benefits Convention, 1964 (No. 121), which provides for, *inter alia*, the system of "full coverage" in Article 8, paragraph (b), and the ratification of which would ipso jure involve the denunciation of Convention No. 42.

\* \* \*

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

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

Peru (ratification: 1962)

With reference to its previous comments, the Committee takes note that the Government has requested employers' and workers' organisations to give their opinion on the problems encountered in the application of the Convention and the measures needed to solve them; these opinions will be assessed in order to determine whether or not the Convention should be denounced.

The Committee requests the Government to provide information on any developments resulting from these consultations.

\* \* \*

In addition, a request regarding certain points is being addressed directly to the United Kingdom.

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

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

**Convention No. 52: Holidays with Pay, 1936**Burma (ratification: 1954)

Referring to its previous observations and to the information communicated by the Government to the Conference Committee in 1987, the Committee again urges the Government to take the necessary measures in the very near future to give full effect to the following provisions of the Convention.

Article 1 of the Convention. The Act of 1951 on Leave and Holidays does not yet apply to certain private sector enterprises 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 Leave and Holidays allows an accumulation of holidays over a period of three years (section 4(3)), while the Convention requires the granting of annual holidays of at least six working days for workers of more than 16 years of age and at least 12 working days for workers of less than 16 years of age.

[The Government is asked to report in detail for the period ending 30 June 1989.]

Libyan Arab Jamahiriya (ratification: 1962)

Article 2, paragraph 3, of the Convention. For many years, the Committee has been drawing the Government's attention to the need to amend section 38 of the Labour Code of 1980 which does not explicitly exclude from paid annual leave the interruptions of work due to sickness, as required by this provision of the Convention. The Government has stated several times that it intends to take the necessary measures. In its last report, it states that the Committee responsible for examining international labour Conventions, established by decision of the Secretary of the People's General Committee of the Public Service, recommended that the competent authorities should amend section 38 of the Labour Code in order to bring it into conformity with this provision of the Convention. The Committee trusts that this amendment will be adopted very shortly.

Panama (ratification: 1958)

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:

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.

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

\* \* \*

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

### Convention No. 53: Officers' Competency Certificates, 1936

#### Liberia (ratification: 1960)

Article 5, paragraph 2, of the Convention. Further to its previous comments, the Committee notes with satisfaction that Maritime Regulation 7.191(2) as amended, with the accompanying Marine Notice and Nautical Inspector Guides, makes provision for the detention of Liberian registered vessels in cases of breach of the requirements of the Convention.

The Government has also provided information as to the number of licences (certificates) issued, vessels inspected and contraventions detected.

The Committee is again addressing a direct request to the Government on certain other questions.

#### 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 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.

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

Panama (ratification: 1970)

Further to its previous observations, the Committee has noted the information given to the Conference in 1987. The Government indicated that the inspection system operates through the issue of certificates of competency and requests from port inspectors, captains or shipowners for inspection by a consul of the Merchant Marine where anomalies are detected. The Committee would be grateful if the Government would supply the details called for in points III and V of the report form as to the working and results of the inspection system operating under Article 5 of the Convention.

As regards paragraph 2 of Article 5, the Government referred to Act No. 2 of 1980 concerning the power to detain vessels in cases of breach of the Convention. The Committee has noted that whilst, under section 4 of Act No. 2, the marine safety inspectors are empowered to check for compliance with legal standards as to the competency of those serving on board, infringement of these standards is not included in section 20 as one of the grounds on which a vessel may be detained. The Committee has noted that the Tripartite Maritime Labour Commission is responsible for dealing with the discrepancies in the application of the present and other maritime Conventions. It hopes the Government will indicate in its next report the manner in which it is to be ensured that detention of vessels is possible in cases where there is a breach of the Convention.

As regards paragraph 3 of Article 5, the Committee has noted the indication that when violations of the Conventions are found, the normal channels of communication are used, giving rise to a consul's inspection to confirm the violations and take the necessary measures.

Spain (ratification: 1971)

1. With reference to its previous observation, the Committee takes note of the communication of 29 January 1987, in which the College of Merchant Navy Officers of Spain (COMME) points out that, in the Spanish merchant navy, masters, navigation officers and engineers may be replaced by inadequately qualified persons. The COMME indicates that this abnormal situation came about in the 1960s and still persists. It states that under Royal Decree No. 2061/81 of 4 September 1981, concerning professional qualifications in the merchant navy, such replacements were not authorised; however, Administrative Circular No. 17/81, of 17 July 1981 apparently enabled the authorisation of such replacements to continue. According to a document submitted by the COMME, a report on shipping companies and the list of "persons trained and qualified in maritime fishing" who are authorised by administrative circulars to occupy posts of a higher category than those for which they are qualified, issued by the General Directorate of the Merchant Navy of the Ministry of Transport, Tourism and Communications, by April 1984, 693 persons trained and qualified in maritime fishing appear to have been authorised to hold such posts without certificates attesting their competency to carry out the duties of such category in the merchant navy.

2. The Government indicates in its report that there is currently a dispute over competency between persons holding maritime fishing qualifications and those holding merchant navy qualifications. The fact that there are persons qualified in maritime fishing in the Spanish merchant navy is a result of the social and economic conditions which prevailed in the past. The Government recalls the provisions of section 9 of Decree No. 629/63, concerning professional qualifications in the merchant marine and fishing, which enable the competent authority to authorise a vacant post of a higher category to be filled by a person holding a qualification for the category immediately below it. The Government states that this attempt to remedy the situation was an aberration. Consequently, the provisions of Decree No. 2061/81, of 4 September 1981 repealed section 9 of Decree No. 629/63. However, according to the Government's report, following an agreement between the General Directorate of the Merchant Navy, the shipowners and the most representative unions, a closed list of persons recruited as replacements between 1963 and 1981, who would be allowed to continue to carry out their former duties, was drawn up. The Government indicates that the COMME appears to have abandoned the above-mentioned tripartite talks.

3. The Committee notes that the Government states in its reply that such replacements violate Spanish law and Spain's international obligations. It adds that the current policy of the General Directorate of the Merchant Navy is gradually to substitute adequately qualified professionals for these replacements.

The Committee must therefore affirm that, in accordance with Article 3, paragraph 1, of the Convention, no person should be engaged to perform or should perform on board ship the duties of an officer, unless he holds a certificate of competency to perform such duties. It recalls that the national legislation does not define the present situation as a case of force majeure in the meaning of paragraph 2 of Article 3. The Committee therefore trusts that the Government will continue to adopt the necessary measures to ensure that in future only those persons holding certificates of competency for the duties they perform are engaged on board ship.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Brazil, Djibouti, Egypt, France, Liberia, Libyan Arab Jamahiriya, Mexico, New Zealand, Norway, Peru, United States.

Information supplied by Spain 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. In its previous comments the Committee drew the Government's attention to the necessity of bringing the national legislation into conformity with the following Articles of the Convention:

Article 1, paragraph 2. (Scope of the protection to be extended to vessels of 25 tons and above); Article 2, paragraph 1 (liability of the shipowner in cases of sickness or injury occurring between the dates specified in the Articles of agreement for reporting for duty and the termination of the engagement); Article 2, paragraph 3 (exclusion of the shipowners' liability in respect of sickness or death directly attributable to sickness if at the time of the engagement the person employed refused to be medically examined); and Article 6, paragraph 2(d) (necessity of obtaining the competent authorities' approval for the repatriation of a seaman to a port other than where he was engaged or the voyage commenced or to a port other than in his own country).

The Committee notes that the Government refers once again to a draft Labour Code containing provision which would ensure the application of the Convention. Since the above-mentioned points have been raised for many years the Committee trusts that the new Labour Code will be adopted in the near future so as to ensure full conformity with the Convention. It requests the Government to indicate any progress made in this respect as well as to supply a copy of the Labour Code once adopted.

2. The Committee also notes that section 9.1, Chapter 9 of the draft Labour Code excludes from the application of said chapter vessels engaged in "the coasting trade" whereas Article 1, paragraph 2(a)(ii), only authorises the exclusion of "coastwise fishing boats". In addition, section 9.1 of the draft also excludes persons employed solely to repair, clean or unload vessels, whereas under Article 1, paragraph 2(c), of the Convention as well as under section 290, paragraph 2(b), of the Maritime Law presently in force, the exclusion of such persons is authorised "solely in ports". The Committee hopes therefore that while adopting the new Labour Code, consideration will be given to the above-mentioned comments.

[The Government is asked to report in detail for the period ending 30 June 1988.]

Panama (ratification: 1971)

The Committee notes from the Government's report, as well as from the information supplied to the Conference Committee in 1987, that the draft maritime labour legislation to which the Government had referred in its last report has still not been adopted; this draft legislation contains provisions corresponding to the following Articles of the Convention: Article 2 (liability of the shipowner in respect of sickness and injury occurring between the dates specified in the articles of agreement for reporting for duty and the termination of the engagement); Article 3(b) (liability of the shipowner to provide

board and lodging); Article 7 (liability of the shipowner to defray burial expenses in case of death occurring on board or on shore); and Article 8 (liability of the shipowner to safeguard property left on board by sick, injured or deceased persons).

The Committee further notes that the tripartite Maritime Commission has been reactivated to overcome the difficulties in the application of the Convention. It trusts that this Commission will take into account the provisions of the above-mentioned draft maritime legislation, and that legislation giving full effect to the above-mentioned Articles of the Convention will soon be adopted. It requests the Government to report any progress made in this connection.

Peru (ratification: 1962)

In reply to the Committee's previous comments concerning Article 4, paragraph 1 (liability of the shipowner to provide medical care until the sick or injured seaman has been cured) and Article 8 of the Convention (obligation of the shipowner to safeguard property left on board by sick, injured or deceased persons), the Government states that the study prepared by the subcommittee set up by the Permanent Committee of the Ministry of Shipping for the Evaluation of International Conventions and Recommendations (CECMAL-OIT) and containing recommendations for the amendment and supplementing of sections 691, 723 and 689 of the regulations respecting harbour masters' offices and the merchant marine will again be revised by the Permanent Committee.

The Committee takes note of this information. It hopes that the revision of the study will take place soon and that the amendments in question will be adopted in the near future so as to lay down more precisely the obligations of the shipowner in accordance with the above-mentioned Articles of the Convention. It requests the Government to indicate any progress made in this respect.

\* \* \*

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

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

Panama (ratification: 1971)

Article 1 of the Convention (scope). In its previous comments the Committee had noted the exclusion from the social insurance scheme, under Resolution No. 1348-83 J.D. of 14 April 1983, of foreign seafarers married to a non-Panamanian wife, or with children whose mother is not Panamanian. In its report the Government states that this exclusion was due to a drafting error and that it was not its intention to exclude such persons from social insurance. It adds that the authorities of the Social Insurance Fund will soon take the

necessary measures to ensure that all foreign seafarers resident in the country and employed on ships under the Panamanian flag will be protected by the social insurance scheme. The Committee takes note of this information with interest. It hopes that these measures will be taken in the near future so as to ensure full conformity with the Convention which makes no distinction on the basis of nationality - the sole exception authorised in this connection being that provided for by paragraph 2(d) of Article 1 in respect of persons not resident in the territory of the member State. The Committee requests the Government to supply information on any progress made in this respect.

Peru (ratification: 1962)

1. The Committee takes note of the observations on the application of the Convention submitted by the "Sindicato Marítimo de Tripulantes y Defensa en el Trabajo al Servicio de C.P.V.S.A." concerning the application of the Convention. This communication was forwarded to the Government for its comments on 22 January 1988. The Committee would be grateful for the Government's comments in order to be able to examine at its next session the information submitted by the "Sindicato Marítimo de Tripulantes y Defensa en el Trabajo al Servicio de C.P.V.S.A."

2. Article 3 of the Convention (medical benefit). In its previous comments, the Committee drew the Government's attention to the fact that Article 3 of the Convention does not authorise the provision of medical assistance to be subject to any qualifying period. In its reply, the Government recalls that section 18 of Legislative Decree No. 22482 of 27 March 1979, under which the provision of medical benefit was made subject to the payment of three consecutive monthly contributions or four non-consecutive monthly contributions, has been replaced by Act No. 24620 of 23 December 1986. It adds that, since under this Act the Peruvian Institute of Social Security (IPSS) is empowered to establish qualifying periods to be met by the insured for medical benefit, in accordance with their working conditions, participation by the insured in the cost of medical care may be required in accordance with Article 3, paragraph 2, of the Convention.

The Committee notes this information. It points out that although Article 3, paragraph 2, of the Convention allows cost-sharing by beneficiaries for medical benefit, it does not authorise qualifying periods. It therefore hopes that the Government will take the necessary measures in order to abolish, in accordance with the Convention, any qualifying periods regarding medical benefit. It also requests the Government to supply copies of all regulations, rulings or other texts issued by the Peruvian Institute of Social Security under the above-mentioned Act No. 24620.

[The Government is asked to report in detail for the period ending 30 June 1988.]

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In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Egypt, Mexico.

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

#### Sierra Leone (ratification: 1961)

Further to its previous observations, the Committee notes with interest the Government's intention to prescribe the age of 16 years for admission to dangerous employment, so as to give effect to Article 5 of the Convention. The Committee hopes that the necessary measures will be adopted to this end in the near future.

The Committee also takes note of the information concerning difficulties resulting from the absence of birth records for many young persons, which the Government expects to solve through a UNDP-sponsored project aiming at the establishment of a system of accurate birth records. The Committee hopes that this project will make it possible for the Government to give effect to Article 4 of the Convention, which requires the employers of industrial undertakings to keep a register of all employed persons under the age of 18 years and indicating their date of birth.

[The Government is asked to report in detail for the period ending 30 June 1989.]

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In addition, requests regarding certain points are being addressed directly to the following States: China, Democratic Yemen, Philippines, Tunisia.

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

#### General observation

The Committee notes that, for a number of years, in the majority of cases the government reports have not contained the statistical information required by Article 6 of the Convention and the corresponding report form. The Committee recalls that the above Article provides that each Member which ratifies this Convention undertakes to communicate, with its reports, the latest statistical information relating to the number and classification of accidents occurring to persons occupied on work within the scope of this Convention and that, according to the report form on the Convention, in addition to such information, governments are requested to report inasmuch detail as possible on the number of persons occupied in the building industry and covered by the statistics.

In the absence of the above statistical information, the Committee is unable to ascertain the manner in which the safety provisions laid down in the Convention are implemented in practice,

and this is particularly regrettable as the building industry is among the sectors with the highest accident risks. The Committee therefore requests governments to supply in future reports all the statistical information required by the above provision of the Convention.

Algeria (ratification: 1962)

See General observation.

Central African Republic (ratification: 1964)

For a number of years, the Committee has drawn the attention of the Government to the need to adopt legislation with a view to giving effect to the various provisions of the Convention, ratified by the Government more than 20 years now. In its previous observations, the Committee has noted that following direct contacts which took place in 1978, a draft decree had been prepared but that, from the statements made by the Government to the Conference Committee in 1984, that draft had not yet been adopted.

Since the Government's report has not been received, the Committee has no information on the effect given to its observations. It must therefore once again come back to the issue and trusts that the above-mentioned draft, which according to the Government was submitted to the National Legislative Commission, will be adopted in the very near future and that the Government will not fail to indicate in its next report any progress achieved in this respect.

Mauritania (ratification: 1963)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation on the following point:

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 of 18 for the employment of young persons as crane drivers or signallers).

The Committee hopes that the Government will make every effort to take the necessary action in the very near future and that it will indicate in its next report any progress made to this effect.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Bulgaria, Denmark, Egypt, Finland, France, Guatemala, Hungary, Peru, Zaire.

Information supplied by Colombia, Mexico and Spain in answer to a direct request has been noted by the Committee.

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

#### General observation

The Committee wishes to recall that at its 71st Session in 1985 the International Labour Conference adopted Convention No. 160 concerning labour statistics. In the report presented to the Conference in this connection, it was pointed out that the new Convention included "a range of statistics far beyond the scope of Convention No. 63", providing "the elements for describing, understanding, analysing and planning the many and complex dimensions of labour's role in the functioning of the modern economy and of society in general". It was also stated that the proposed Convention "provides a simple [...] statement of general requirements and the basic principles underlying them" and that these "principles of flexibility and gradualism" that are reflected in the provisions "permit Members to ratify the Convention on the basis of as little as one Article, and which similarly permit a partial denunciation so that special circumstances encountered by Members from time to time can be accommodated without the necessity of full denunciation" [Provisional Record, ILC, Geneva, June 1985, page 35/1]. In view of the above, the Committee considers that it is appropriate to draw the attention of the governments of member States to the possibility of ratifying the new Labour Statistics Convention, 1985 (No. 160).

#### Algeria (ratification: 1962)

The Committee notes the Government's report in which it supplies information on the matters raised by the Committee in its previous comments.

Article 1(b) and (c) of the Convention. The Committee notes from the Government's report that statistics of average wages and hours of work are available for 1981, 1982, 1983 and 1984. Please indicate whether these statistics have been published. The Committee hopes that the Government will communicate the data that have been compiled to the Office at the earliest possible date, as provided for in this Article.

Part II, Articles 8 and 12 and Part IV. The Committee notes that the methods employed for the "employment and wages" survey are once again being reconsidered, in view of the coming into force of the texts issued by the SGT. The Committee hopes that the Government will communicate the necessary information in this respect with its next report, and that it will indicate the impact that the new methods may have on the data that are compiled.

Part III. The Committee notes that the Government decided to supplement its statistics with information concerning hours of work and wage rates as established by the regulations in force. The Committee once again expresses the hope that the Government will adopt the necessary measures in the near future to give effect to the provisions of Articles 13 to 23 of the Convention.

Chile (ratification: 1957)

The Committee notes the information supplied by the Government, particularly regarding Article 12, paragraph 2, of the Convention.

Article 5, paragraph 1. The Committee notes the Government's statement that information obtained by means of the questionnaire used in order to carry out the survey on employment and wages in individual establishments is not trustworthy. The Committee also notes that the statistics of hours of work are compiled by means of the survey on the labour force; however, the Committee notes that these statistics do not concord with the statistics on earnings. The Committee therefore hopes that the Government will take the necessary measures in the near future to obtain trustworthy information, and to transmit it with its future reports.

Article 5, paragraph 2. The Committee notes that, according to the Government, the chosen sample of the construction sector, which covers only enterprises employing 100 or more workers, is representative, inasmuch as there is a greater probability of enterprises of this type maintaining their operations on a continuous basis and of being a permanent and appropriate source of information. The Committee considers, however, that since 70 per cent of the establishments in the construction industry employ fewer than 20 workers, these establishments (which form the majority when the number of workers employed is taken into account) would appear likely to operate on a continuous basis taken as a group and would in that event be able to transmit the required information on a regular basis. The Committee therefore hopes that the Government will re-examine the question of taking these enterprises into account in surveys conducted for statistical purposes in the construction sector.

The Committee also notes the explanations given by the Government concerning the Minimum Employment Programme (PEM). In line with the conclusions of the committee set up to examine the representation presented by the National Trade Union Co-ordinating Council (CNS) under article 24 of the ILO Constitution, the Committee points out once again that the PEM cannot be considered to be an employment programme. The committee set up to examine the representation also considered that the PEM is not a programme of unemployment assistance. [Official Bulletin, Special Supplement 2/1985, Vol. LXVIII, Series B, paragraphs 55 and 56, p. 27.] The Committee therefore hopes that the Government will adopt the necessary measures to include in statistics of average earnings and hours actually worked, workers employed in the industries covered by the Convention that come under the Minimum Employment Programmes.

Article 10, paragraph 2. The Committee notes the Government's explanations to the effect that it is not possible to obtain figures

for the compilation of statistics of earnings for each sex and age group because the enterprises supplying the information do not have the necessary staff and are not sufficiently well organised to supply this type of information. The Committee once again expresses the hope that the Government will be able to take measures to obtain statistics of average earnings for each sex and age group of workers, at the intervals provided for by the Convention.

Part IV of the Convention, Article 22, paragraphs 2(c) and 3. The Committee notes the value fixed for the allowances in kind received by agricultural workers as part of their wages, and that the National Statistics Institute (INE) is not in a position to predict whether it will be possible to allocate resources in order to extend the coverage of labour statistics. The Committee nevertheless hopes that the Government will decide to take the necessary steps for the INE to be able in the near future to compile statistics in the agricultural sector and therefore to give effect to these provisions of the Convention.

Finally, the Committee hopes that the Government will consider it appropriate to take into account the suggestion made in its general observation.

Cuba (ratification: 1954)

With reference to its previous comments, the Committee notes the information contained in the Government's last report in which it states that in recent years the Year Book of Statistics of Cuba has shown some progress towards fulfilling the requirements of the Convention, and also indicates that this is the objective pursued by those responsible for compiling the Year Book.

The Committee also notes the request made by the Government to the Office for technical assistance. The Committee hopes that with this technical assistance it will be possible to adopt practical measures to give full effect to the Convention.

Finally, the Committee hopes that the Government will consider it appropriate to take into account the suggestion made in its general observation.

Mauritius (ratification: 1969)

Following its previous comments the Committee notes with satisfaction, from the Government's report and other information communicated to the ILO, that statistics of time rates of wages and of normal hours of work are compiled in such a manner as to meet the requirements of Articles 13 and 15, paragraph 1(2), of the Convention, following the revision of the survey on wages, earnings and hours of work.

Mexico (ratification: 1942)

Articles 1 and 5 of the Convention. The Committee notes the information supplied by the Government concerning statistics on average earnings and hours of work in the mining industry. The Committee notes, however, as the Government itself indicates, that these statistics do not fulfil the prerequisites of the information requested. The Committee once again expresses the hope that the Government will take the necessary measures in the near future to ensure that all the statistics required by Article 5 are compiled, published and sent to the ILO within the time limits laid down in Article 1.

Articles 12 and 21 of the Convention. The Committee notes the Government's comments on these Articles. The Committee repeats that it hopes that the Government will take the necessary measures in the near future for the compilation and publication of index numbers concerning mining, the manufacturing industry, and building and construction, showing the general movement of earnings and wage rates, in accordance with these Articles.

Panama (ratification: 1971)

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

Part II of the Convention. The Committee notes with interest from the Government's report that household surveys were reinstituted in 1982. It hopes that the Government will be able to indicate in its next report that statistics on the average earnings in the sectors of building and construction and mining are now being compiled and published regularly, and that it will communicate to the ILO the data compiled.

Parts II and III. The Committee regrets that it has still not been possible to adopt measures to give effect to the provisions of the Convention which deal with statistics on hours actually worked. It hopes that the Government will be able to achieve progress in the near future in regard to the compilation, publication and communication to the ILO of these statistics, and it requests the Government to provide information in its next report concerning the measures taken or contemplated in this regard.

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

Uruguay (ratification: 1954)

1. The Committee notes the information contained in the Government's report, particularly with regard to the point raised concerning Part IV of the Convention, and the documents enclosed with the report. With reference to its earlier comments, the Committee wishes again to raise the following points.

Part II of the Convention. The Committee notes the information supplied concerning mining and quarrying undertakings. With regard to the manufacturing industry, including the building industry, the Committee hopes that in 1988, it will be possible to lift the restriction referred to by the Government in its report, when the third national economic census takes place. The Committee therefore hopes that the Government will report on the progress made in the preparation of the updated directory and its use in sampling and estimating.

2. The Committee notes the copies of the Annual Survey of economic activity in the manufacturing industry and the Quarterly Industrial Survey, and requests the Government to continue providing the documents concerning this industry published by the Department of Statistics and Censuses.

3. With reference to its earlier comments, the Committee notes the information provided by the Government concerning the various points raised by the Committee. It hopes that the Government will be able to take steps to obtain information making it possible to compile and publish absolute figures of average earnings in enterprises of the regions in the interior of the country.

Part III. With reference to its earlier comments, the Committee notes the progress made in the areas covered by this Part of the Convention. The Committee would be grateful if the Government would continue to report on the results of the practical measures being implemented, which can be ascertained by establishing rates of normal hours of work for the occupations included in the representative selection of the industries.

Lastly, the Committee refers to its general observation.

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In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Australia, Barbados, Burma, Canada, Czechoslovakia, Denmark, Djibouti, Egypt, Finland, Guatemala, Ireland, Kenya, New Zealand, Nicaragua, Portugal, South Africa, Sri Lanka, Syrian Arab Republic, United Republic of Tanzania.

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

#### Argentina (ratification: 1956)

With reference to its previous comments, the Committee takes note of the information supplied by the Government on the requirements of the national legislation and collective agreements concerning certain aspects of food and catering, and the general nature of the inspection carried out by the competent authorities. In a direct request, the Committee is asking the Government to provide information on a number of other points concerning the application of the Convention.

Peru (ratification: 1962)

1. In its previous comments, the Committee pointed out that no effective action had been taken to implement the Convention since its ratification, and expressed the hope that the draft revised National Merchant Marine and Captaincy Rules which were to give effect to the Convention would be adopted soon. It notes that a Government representative in the Conference Committee in 1986 stated that, although there were no specific legislative provisions, there were collective agreements that had the force of law between the parties containing standards on food and catering. The Government representative further assured the Conference Committee that specific legislation would be adopted shortly.

The Committee has now taken note of the collective agreements provided by the Government, containing limited provisions as to the arrangement of meals and the responsibilities of mess committees and shipowners in relation to catering expenses and menus. The Government states in its report that collective agreements have the force of law as between the parties under article 54 of the Peru Constitution. It also states that the Standing Committee for the Application of International Maritime Standards has been considering questions of inspection in connection with regulations which were expected to come into force in March 1987.

The Committee would be grateful if the Government would indicate whether all seafarers employed on board sea-going vessels to which the Convention applies are covered by the agreements in question. At the same time, the Committee recalls that, whilst the Convention allows for collective agreements to be a means of implementing certain requirements, none the less, under for example Articles 4, 5, 6, 8 and 9, laws or regulations concerning food supply and catering arrangements are necessary, and these are to be supervised by the competent authority through a system of inspection. The Committee notes that the Captaincy and Marine, River and Lake Activities Regulations were issued in 1987. It hopes the Government will provide a copy of the complete text showing the effect given to the Convention through legislation as required.

2. By letter dated 22 January 1988, the Office forwarded to the Government comments received from the Maritime Trade Union of Crews in the Service of the Peruvian Steamship Company which relate, inter alia, to the application of the present Convention. The Committee hopes the Government will include in its next report any comments of its own it considers appropriate.

[The Government is asked to supply full particulars to the Conference at its 75th Session.]

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

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



**Convention No. 69: Certification of Ships' Cooks, 1946**

Peru (ratification: 1962)

Articles 3 and 4 of the Convention. In its previous comments the Committee has referred to draft regulations designed to give effect to these Articles. The Government has now indicated that amended regulations can only be issued on the proposal of the Ministry of Shipping at such time as it considers necessary and convenient, and that the comments of the Committee on this Convention will then be taken into account. The Committee is again addressing a direct request to the Government on this matter. It once more expresses the hope that the measures needed will be adopted shortly.

[The Government is asked to report in detail for the period ending 30 June 1989.]

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In addition, requests regarding certain points are being addressed directly to the following States: Djibouti, Egypt, Greece, New Zealand, Norway, Panama, Peru, Poland, United Kingdom.

**Convention No. 71: Seafarers' Pensions, 1946**

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

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

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

Spain (ratification: 1971)

With reference to its previous comments, the Committee takes note with satisfaction of Circular No. 44/85 of 13 November 1985 communicated by the Government, provision No. 10 of which provides that the persons concerned may apply for further medical examinations, giving thus effect to Article 8 of the Convention.

Tunisia (ratification: 1970)

Further to its comments over a number of years on the application of Article 4 (nature of the medical examination) and Article 5 of the Convention (period of validity of the medical certificate), the Committee notes that, according to the Government's report, the draft text to give effect to these provisions of the Convention is still not completed. The Committee hopes that in its next report, the

Government will be able to indicate that the above draft has been adopted.

[The Government is asked to report in detail for the period ending 30 June 1989.]

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

#### **Convention No. 74: Certification of Able Seamen, 1946**

Portugal (ratification: 1952)

The Committee takes note of the Government's statement to the effect that the General Directorate of Fishing will take its previous observation into account in revising the regulations on maritime enrolment. The Committee recalls that Article 1 of the Convention lays down that any person engaged on a vessel as an able seaman must hold the relevant certificate of qualification. The requirements of the Convention on conditions for qualification under Article 2 do not apply to fishermen as such. However, as the Committee stated in its previous comments, where a seaman on a fishing vessel has to carry out duties in the deck department corresponding to those required of an able seaman, the conditions laid down in Article 2 would apply.

The Committee therefore hopes that the revised legislation will be adopted in the near future and requests the Government to supply information on any progress made in this respect.

[The Government is asked to report in detail for the period ending 30 June 1989.]

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In addition, requests regarding certain points are being addressed directly to the following States: Guinea-Bissau, New Zealand, Panama, Poland, United States, Yugoslavia.

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

Dominican Republic (ratification: 1973)

The Committee notes the information supplied by the Government in its report. It notes in particular that the Government makes no further mention of the Minor's Code which, according to its two previous reports, was at an advanced stage of preparation, but referred again to preliminary draft regulations under Book IV, Chapter 2, of the Labour Code concerning the work of young persons, similar to the ones drawn up during the 1980 direct contacts.

Concerned that, for a number of years now, there has been no change in this situation, the Committee can only insist once more that the Government takes the necessary measures to give effect to the following provisions of the Convention: Article 2, paragraphs 1 and 4, of the Convention (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 (supervisory measures for ensuring the strict enforcement of the Convention).

[The Government is asked to report in detail for the period ending 30 June 1989.]

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

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

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

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

Bulgaria (ratification: 1949)

Further to its earlier comments, the Committee takes note with satisfaction of sections 140(2), (4)1, and 152 of the new Labour Code effective from 1 January 1987, which define the night period in accordance with the provisions of Article 3, paragraph 1, of the Convention.

**Convention No. 81: Labour Inspection, 1947**

Australia (ratification: 1975)

The Committee notes with satisfaction that sections 39 and 40 of the Occupational Safety, Health and Welfare Act, 1986 (South Australia) give effect to the provisions of Article 13, paragraph 2, of the Convention which were the subject of its previous comments.

Bangladesh (ratification: 1972)

Articles 20 and 21 of the Convention. The Committee takes note of the report on the administration of the Factories Act for 1985, which contains all the information required under Article 21 of the Convention with the exception of statistics on occupational diseases (point (g)). It requests the Government to state whether this report has been published and made available to the various authorities and employers' and workers' organisations.

Furthermore, the Committee wishes to draw the Government's attention to the fact that annual reports must be drawn up covering not only the application of the Factories Act, but all provisions of the law subject to the supervision of the labour inspectorate (Shops and Establishments Act, Payment of Wages Act, Workmen's Compensation Act, etc.). It therefore trusts that in future, annual reports covering all the work of the labour inspection services will be published and communicated to the ILO within the time-limits fixed by Article 20 of the Convention.

Bolivia (ratification: 1973)

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

Article 5 of the Convention. The Committee requests the Government to indicate the laws or regulations that have been adopted to ensure co-operation between the different inspection services and between inspectors and employers and workers.

Article 6. The Committee takes note that draft conditions of employment for labour inspectors have been prepared, based on the Conventions and Recommendations of the ILO. The draft, which takes account of national working conditions, assures stability of employment for inspectors and makes them independent of all changes of government and of improper external influences. The Committee hopes that the draft will shortly be adopted and requests the Government to transmit a copy of it.

Articles 10, 11 and 16. The Committee again expresses the hope that it will be possible to increase the number of labour inspectors and improve their working conditions, so that all workplaces throughout the country can be inspected regularly.

Articles 20 and 21. The Committee notes with regret that since the Convention was ratified, no report on the work of the inspection services has yet been published. It can only urge the Government to take the appropriate measures to give effect to these articles of the Convention and express once again the hope that in future, in keeping with the Government's repeated assurances, the annual inspection reports containing all the information called for in Article 21 will be published and transmitted to the ILO within the period established in Article 20.

Central African Republic (ratification: 1964)

Article 11, paragraph 2, of the Convention. With reference to its previous comments, the Committee requests the Government to indicate how, when the allowances allocated to public servants in relation to their work are determined by virtue of Order No. 004 of 1981, account is taken, inter alia, of the reimbursement to labour inspectors of any travelling expenses in accordance with the provisions of the Convention.

Articles 20 and 21. The Committee notes with regret that, despite the comments that it has been making for many years, no full report on the work of the labour inspection services has been communicated to the ILO. It points out once again the importance that it attaches to the publication and transmission to the ILO of reports of the inspection services as provided for in Articles 20 and 21 of the Convention, and trusts that the Government will take the necessary measures as soon as possible in order to give full effect to the provisions of these Articles.

Chad (ratification: 1965)

With reference to its earlier comments, the Committee takes note of the information supplied by the Government concerning the application of Articles 3, paragraph 2, and 7 of the Convention. It also notes that the amended sections of the Labour and Social Security Code which was revised with the assistance of the ILO and was to be adopted shortly, will give effect to the provisions of the Articles 12 and 13. Finally, the Committee notes that the application of other Articles of the Convention which were the subject of comments, namely Articles 10 (number of inspectors), 11 (material means and transport facilities made available to inspectors), 16 (frequency of inspection visits), 20 and 21 (annual inspection reports) continue to cause problems owing to the persistence of the war in the country.

The Committee expresses the hope that the Government will shortly be able to overcome the difficulties it is encountering in applying the Convention particularly with regard to the above Articles and requests it to supply information on any progress made in this respect in its next report.

Colombia (ratification: 1967)

Articles 20 and 21 of the Convention. The Committee notes the statistics of inspection visits and violations contained in the periodical bulletins (1986-87) appended to the Government's report. However, it notes with regret that the section of the annual report concerning the work of the inspection services and of the social security in 1985 enclosed with the Government's report does not contain any of the information called for in Article 21. The Committee trusts that the Government will take the necessary steps to ensure that in future, complete annual reports are transmitted to the ILO within the periods laid down by Article 20.

Denmark (ratification: 1958)

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

Article 15(a) of the Convention. The Committee notes that no reply is contained in the Government's report to a direct request that the Committee has been making for a number of years. Thus, in 1984, the Committee had noted from the Government's report that the new administration Act which was to give effect to the provisions of the Convention, under which labour inspectors were prohibited from having any direct or indirect interest in the undertakings under their supervision, was still in the stage of preparation. The Committee reiterates its hope that the Government will, in its next report, keep it informed of progress made in this connection.

Dominican Republic (ratification: 1953)

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 of the Convention. The Committee notes that the draft statute for the civil service, which the Government referred to in its previous reports, has not been approved by the Senate of the Republic. It trusts that the Government will take the necessary measures so that appropriate legislative provisions guaranteeing labour inspectors stability of employment and independence in the exercise of their functions are adopted in the very near future.

Article 13, paragraphs 2(b) and 3. For many years the Committee has been urging the Government to amend the Labour Code with a provision explicitly providing labour inspectors with the right to make or to have made orders requiring measures with immediate executory force in the event of imminent danger to the health and safety of the workers. It recalls that a preliminary Bill was formulated during the direct contacts missions which took place in 1977 and that another Bill was prepared in 1980 by the Secretariat of State for Labour.

The Committee notes with regret that no progress has yet been made in adopting the legislative measures which would give effect to the provisions of Article 13, paragraphs 2(b) and 3. It notes from the Government's last report that it even appears to have given up the idea of adopting such measures, as it considers that under sections 400, 401 and 403 of the Labour Code, the labour inspectors are provided with sufficient legal mechanisms to ensure the application of the provisions of the Convention. The Committee does not share this opinion and requests the Government to reconsider its position. It trusts that in its next report the Government will be able to indicate the adoption of a text which will give the labour inspectors the

right to take measures of immediate executory force as envisaged in the Convention.

Article 14. The Committee wishes once again to draw the Government's attention to the fact that the labour inspectorate shall be notified not only of occupational accidents, but also of cases of occupational disease. It hopes that the Government will not fail to take the necessary measures soon to give effect to this Article of the Convention.

Articles 20 and 21. The Committee recalls that the annual reports on the work of the inspection services should be published and transmitted to the Office within the time-limits set forth by Article 20 and that these reports should deal with all the subjects listed under Article 21. It hopes that in the future the requirements of these Articles will be observed.

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

#### Finland (ratification: 1950)

With reference to its previous observations, the Committee notes the Government's statement that the municipal labour inspection will be abolished and that the duties of the municipalities will be transferred to the state district administration. The Government further states that amendments to the Labour Protection Act, to come into force in September 1988, are expected to increase the labour inspection activities at the planning stage.

The Committee also notes the comments made by the Central Organisation of Finnish Trade Unions (SAK), the Finnish Employers' Confederation (STK) and the Employers' Confederation Service Industries (LTK), which were communicated with the Government's report.

SAK points out that inspection visits have been reduced during the period under review and that the number of accidents, including serious ones, has increased. In view of this situation, SAK considers that the amalgamation of state and municipal inspection services will reinforce the resources available for inspection. In the opinion of STK and LTK it would be more advantageous both as to costs and efficiency to develop the municipal inspectorate activities rather than to nationalise municipal labour protection inspection.

As regards the amendment of legislation, SAK considers that the closer attention to be paid to mental stress factors and ergonomic problems will entail new duties for labour protection requiring additional resources for advance inspection.

The Committee requests the Government to provide, in its next report, its comments on the observations of the trade unions and employers' organisations referred to above, and also information on the progress and results of the integration of inspection services, as regards inspection staff and activities.

Guinea (ratification: 1959)

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

Article 13, paragraph 2, of the Convention. With reference to its earlier comments, the Committee notes the statement by the Government that it is envisaging the insertion in the new Labour Code of provisions conferring upon labour inspectors the power to order measures of immediate executory force in the event of imminent danger to the health and safety of the workers. It hopes that the Code will be adopted in the near future and will give full effect to this provision of the Convention.

Articles 20 and 21. The Committee notes that, according to the Government, the inspection services are currently undergoing profound modification and that a programme financed by the UNDP intended, inter alia, to strengthen the services is currently being implemented with the assistance of the ILO and of CRADAT. It expresses the hope that - in accordance with the assurances given by the Government - starting from 1986 it will be possible for annual inspection reports containing all the information called for by Article 21 of the Convention to be published and transmitted within the time limits set forth in Article 20.

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

Haiti (ratification: 1952)

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

Article 14 of the Convention. The Committee notes that under section 411 of the revised Labour Code, the labour inspectorate receives notification of employment accidents which are transmitted by the Occupational Accidents, Sickness and Maternity Insurance Office (OFATMA). Please state whether the inspectorate is informed of cases of occupational disease.

Articles 20 and 21. The Committee notes that neither the annual report of the General Labour Inspectorate for the 1980-81 period which, according to the assurances given by the Government, should be published in the review Prévention, nor the reports for 1982-84, have yet been received by the Office. It trusts that the Government will not fail to take the necessary measures so that in the future annual inspection reports containing information on all the subjects listed in Article 21 are published and transmitted to the Office within the time limits set forth in Article 20.

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



India (ratification: 1949)

With reference to its previous comments, the Committee notes with satisfaction that section 118 of the Factories (Amendment) Act, 1987, and section 7 of the Dock Workers (Safety, Health and Welfare) Act, 1986, give effect to paragraphs (b) and (c) of Article 15 of the Convention.

Iraq (ratification: 1951)

The Committee notes with satisfaction that section 119 of the Labour Code, 1987, gives effect to the provisions of Article 15(a) of the Convention which was the subject of its previous comments.

Articles 20 and 21. The Committee notes with interest that section 115, III, of the Labour Code and Instruction No. 20/1987 of the Ministry of Labour and Social Affairs provides for the publication of an annual report on the activities of the labour inspectorate, in accordance with the provisions of these Articles of the Convention. It trusts that these reports will be published and communicated to the ILO within the time-limits laid down by Article 20.

Ireland (ratification: 1951)

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 1986 observation and direct request, the Committee notes with interest that the Government has stated that proposals for a comprehensive bill on safety, health and welfare at work (designed to extend statutory occupational safety and health cover to all employers, all employees and the self-employed, and providing for the establishment of a National Authority for Occupational Safety and Health involving representatives of employers, workers and the State) are currently being developed. The Committee would appreciate being informed of the adoption of this legislation, when it occurs, and receiving a copy of the text.

Italy (ratification: 1952)

The Committee notes the information supplied by the Government in reply to its previous comments. It notes, however, that the Government did not reply, or did not reply fully, to the questions the Committee had raised concerning the provisions of the Convention referred to below.

Article 16 of the Convention. The Committee is bound to recall that the provision that "workplaces shall be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions" is absolutely fundamental. It is obliged

to note with regret that the Government has not supplied in this connection the detailed information requested by the Committee.

Article 5(a). The Committee notes that, in the Government's view, there is no problem regarding co-operation between the labour inspectorate and local health units, and maintains that their functions are in different fields and have different objectives. The Committee is obliged to note that the two areas in question, namely the safety, health and well-being of workers and their other conditions of work, are covered by legal provisions which under Article 3(1)(a) of the Convention fall under the labour inspectorate's responsibilities. Co-operation between the services responsible for these areas may not therefore be excluded from the provisions of Article 5. The Committee expresses the firm hope that the Government will take appropriate measures on the national level to secure effective co-operation, in accordance with this Article, and that it will keep the Committee fully informed.

Article 6. The Committee is obliged, with regret, to repeat once again its request to the Government to transmit copies of laws and regulations (national and/or regional and/or, where appropriate, of applicable collective agreements) establishing the status of the staff of local health units who are assigned to labour inspection functions which provide them with the guarantees required by the Convention.

Article 9. The Committee notes with regret that the Government's report once again does not contain a reply to its previous direct request concerning this Article of the Convention. It is therefore bound once again to request the Government to supply information on the measures that have been taken or are contemplated to ensure the collaboration of qualified experts and technicians in the operation of the inspection services of local health units.

Articles 20 and 21. The Committee notes with regret that since 1978, when the new legislation came into force, it has received no annual reports of a general nature on the activities of the inspection services. It expresses its concern at the absence of this documentation which is indispensable for an assessment to be made of the effective operation of the inspection system provided for by the Convention. It repeats its firm hope that the Government will not fail to take the necessary measures in order to ensure in future the publication and transmission to the Office, within the time-limits laid down in Article 20, of an annual report of the work of the inspection services containing all the information set out in Article 21.

[The Government is asked to report in detail for the period ending 30 June 1988.]

#### Jamaica (ratification: 1962)

Article 13, paragraphs 2(b) and 3, of the Convention. In reply to previous observations of the Committee, the Government states that, under common law, the chief factory inspector may, through the Attorney-General, obtain from the court an injunction in matters relating to imminent danger to the health and safety of workers in factories, but that it may be more appropriate to have statutory

provisions empowering the Chief Factory Inspector to do so. (Existing provisions prescribe those powers only in respect of building operations, engineering construction and dock operations.) The Government adds that discussions will continue towards the amendment of the existing safety and health legislation in general. The Committee reiterates the hope that appropriate provisions will be adopted soon empowering factory inspectors to require measures with immediate executory force in the event of imminent danger to the safety and health of workers in all factories.

Article 14. The Committee notes with satisfaction that section 31 of the Quarries Control Act, 1983 provides for the notification of industrial accidents and occupational diseases as required by this Article. It also notes that a similar Act regarding mines is still in preparation. It hopes that the Government will indicate, in its next report, further development in this respect.

Articles 20 and 21. The Committee notes that the last annual report from the Ministry of Labour relates to 1973. It expresses the firm hope that the Government will take the necessary measures so that in future annual reports, containing information on the work of the inspection services, including information on all the subjects listed in Article 21, are published and transmitted to the Office within the time-limits set forth in Article 20.

#### Japan (ratification: 1953)

The Committee has taken note of the detailed information supplied by the Government in reply to the questions raised in its previous observation. It has also noted the comments made in this respect by the Japanese Confederation of Labour (DOMEI).

Referring to the figures given by the Government's report, DOMEI states that during the last year only about 5.8 per cent of all undertakings were visited and that in these circumstances "inspection will be performed only once in 17 years per undertaking". It considers, therefore, that the full protection of workers by reinforcing of the labour inspection administration and increasing the authority of inspectors is a large problem to be solved.

The Committee requests the Government to supply with its next report information on measures adopted to ensure effective application of Article 16 of the Convention concerning inspection of workplaces.

#### Jordan (ratification: 1969)

The Committee notes that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation which read as follows:

Article 12, paragraph 1(a) and (b), of the Convention. The Committee recalls that for a number of years it has been drawing the Government's attention to the scope of these provisions of the Convention, according to which inspectors shall be empowered to inspect any workplace liable to inspection "at any hour of the day or night" and - moreover - also to enter "by day" any

premises which they may have reasonable cause to believe to be liable to inspection. The Committee notes once again that the Government states in its report, as it had done previously, that these points have been dealt with in the draft new Labour Code which will be transmitted to the ILO when it has been enacted. The Committee trusts that the necessary provisions will be introduced in the very near future.

Article 13. The Committee notes the information supplied by the Government concerning the procedure to be followed in cases where the closure of the enterprise is envisaged until the danger to the workers is eliminated. The Committee would like to know:

- (a) what legal provisions are the basis for this procedure (and if possible to receive a copy);
- (b) how it is ensured, in accordance with this provision of the Convention, that "measures with immediate executory force are taken in the event of imminent danger to the health or safety of the workers".

Article 14. The Committee notes the information supplied by the Government with regard to the notification of industrial accidents. It trusts that the Government will take the necessary measures to ensure that cases of occupational disease are also brought to the attention of the labour inspectorate, in accordance with the provisions of this Article of the Convention.

Articles 20 and 21. The Committee notes that the Government's report does not contain a reply to its previous observation. It trusts that it will in future receive, within the time-limits provided for in Article 20, copies of the annual reports of labour inspection services containing all the information provided for in Article 21.

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

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

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

Articles 20 and 21. The Committee notes that no annual report on the work of the labour inspectorate has yet been transmitted to the Office. It trusts that the Government will not fail to take the necessary measures to ensure that such reports, containing information on all the subjects listed in Article 21, are published and transmitted to the Office within the time limits set forth in Article 20.

[The Government is asked to supply full particulars to the Conference at its 75th Session.]

Malawi (ratification: 1965)

Articles 20 and 21 of the Convention. The Committee takes note of the statistical information supplied by the Government in its report concerning the establishments liable to inspection and the number of workers employed therein, the number of inspection visits and the number of industrial accidents (points (c), (d) and (f) of Article 21). However, it notes with regret that, despite the Government's repeated assurances (most recently during the discussion of this case by the Conference Committee in 1986), no progress has yet been made in publishing annual reports on the work of the inspection services. In this connection, the Committee refers to its observation of 1987 in which it recalled its suggestions concerning the practical solution of problems likely to arise in the publication of such reports and expressed the firm hope that the Government would not delay taking the necessary measures to ensure that, in future, annual inspection reports containing information on all the subjects listed under Article 21, are published and transmitted to the ILO within the time limits laid down in Article 20.

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 Government's statement in its report with reference to the technical assistance that it received from an ILO expert on labour administration. The Committee hopes that the results of this assistance will help the Government in its efforts to make progress in the implementation of the Convention. The Committee requests the Government to supply information in general on the progress achieved in this respect. It would be particularly grateful if the Government would supply, with its next report, an overall picture showing the further progress that it has achieved in the implementation of Article 3, paragraph 2, of the Convention through the process referred to by the Government of separating manpower offices from labour inspection offices.

Article 6. The Committee notes the Government's statement in its report to the effect that the adoption of the statute of the labour inspectors and controllers has once again been delayed for financial reasons. It trusts that this statute will be adopted in the near future and requests the Government to indicate, in its next report, the progress that has been achieved in order to ensure the inspection staff stability of employment and to make them independent of any change of government and of improper external influences.

Articles 20 and 21. The Committee notes that the Government hopes to be in a position in the future to supply inspection reports, in accordance with these provisions of the Convention. It once again expresses the hope that the Government will therefore arrange for the publication (even by roneo printing if

that is found to be more economic) and the transmission to the ILO, within the time-limits prescribed in Article 20 of an annual inspection report containing all the information provided for in Article 21.

The Committee refers separately, in a request that it is addressing directly to the Government, to a number of points concerning the implementation of Articles 10, 11 and 16.

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

#### Nigeria (ratification: 1960)

The Committee notes with interest the information supplied by the Government in reply to its previous comments concerning the application of Articles 10 (strength of inspection staff) and 16 (frequency of inspection visits) of the Convention.

Articles 20 and 21 of the Convention. The Committee notes the Government's statement that efforts are still being made to publish all the outstanding annual inspection reports and that as soon as they are published they will be forwarded to the ILO. The Committee trusts that future inspection reports containing all the information provided for in Article 21 will be published and transmitted to the ILO within the time-limits provided for in Article 20.

#### Pakistan (ratification: 1953)

Articles 12, 13, 14 and 15 of the Convention. Further to its previous observation, the Committee notes that, with a view to giving effect to the provisions of these Articles of the Convention, the amendments to the Factories Act, 1934, the Shops and Establishments Ordinance, 1969, the Payment of Wages Act, 1936, and the Road Transport Workers Ordinance, 1961, are under active consideration by the Government. The Committee trusts that the legislation in question will be adopted in the near future, and that the Government will indicate the progress achieved in the next report.

The Committee also notes the instructions issued by the Government of the Punjab to inspectors to comply with the provisions of Article 15(c) of the Convention.

Articles 20 and 21. The Committee has examined the annual consolidated report on the working of labour laws for the year 1982 (the reports for 1981 and 1983 mentioned by the Government were not received by the ILO) and notes that information on staff of the labour inspection service is not included. It hopes that future inspection reports will be published and transmitted to the ILO within the time-limits set by Article 20 and they will contain all the information provided for in Article 21.

Romania (ratification: 1973)

The Committee notes with regret that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation which read as follows:

Articles 20 and 21 of the Convention. The Committee notes with regret that since the ratification of the Convention no report on the work of the inspection services has yet been transmitted to the Office. It trusts that the Government will not fail to take the necessary measures so that such reports containing information concerning the subjects listed in Article 21 are published and transmitted to the Office within the time limits set forth by Article 20.

[The Government is asked to supply full particulars to the Conference at its 75th Session.]

Senegal (ratification: 1962)

Articles 20 and 21 of the Convention. The Committee regrets to note that for several years no report on the work of the inspection services has been published. However, it notes the information supplied by the Government to the effect that the recent reorganisation of the Department of Labour and Social Security should enable the obligations under these Articles of the Convention to be fulfilled in the course of 1988. The Committee therefore expresses the hope that in future annual inspection reports containing all the information called for by Article 21 will be published and transmitted to the ILO within the periods laid down by Article 20.

United Republic of Tanzania (ratification: 1962)Tanganyika

Articles 20 and 21 of the Convention. With reference to its previous comments, the Committee notes with regret that no progress has yet been achieved concerning the publication of the annual report of the labour inspection services. It trusts that the Government will not fail to take all the necessary measures as soon as possible, so that in future annual reports on the activities of the inspection services, containing all the information laid down in Article 20, are published and transmitted to the Office within the time-limits set forth in Article 20.

United Kingdom (ratification: 1949)

Article 10 of the Convention. The Committee has noted the information supplied by the Government in reply to its previous observation, in which it referred to the decline in the numbers of

inspectors and visits carried out and to the comments made by the Trades Union Congress (TUC).

The Government states that, although recruitment has continued, it has not been able to increase the total number of factory inspectors, which was 561 at 30 June 1987. While having regard to the overall force of Article 3 of the Convention, however, the Government observes, that factory inspection is carried out according to the system of need as assessed by the Factory/Agricultural Inspectorate's priority system, which allocates different priorities to different workplaces according to the standards maintained and the risks involved, and that this system is more effective and more efficient than its predecessor, the cyclical system for all workplaces regardless of size or risk. The Government also refers to other measures taken such as additional inspection at sites of particular concern, computerised record-keeping systems, support by centrally and regionally based specialist professionals in the Technology Division, special studies, etc.

With respect to mines and quarries inspectorates, the Government states that the number of inspectors and the number of inspections have fallen but at a slower rate than the number of mines and quarries and the size of the labour force. As a result, the number of inspections per thousand employees was almost constant between 1981 and 1985, and the ratio improved in the year 1985-86.

The Government has attributed the decline of the number of wages inspectors to simpler and shorter wages orders made under the Wages Act, which excludes workers under 21 years of age from wage council regulations and makes no provisions concerning holiday entitlement.

In its further comments (received in the Office at the end of February 1988), the TUC refers to the major statement on health and safety adopted by its Congress in 1987 in which it concluded that a proper enforcement policy is urgently required, particularly in sectors where there are especially small firms and high accident rates. In the TUC's opinion "notwithstanding the Government's argument that efficiency measures should be considered in relation to compliance with Article 3 of the Convention, these do not of themselves affect the deterioration in inspectorate cover that has occurred as a result of the drop in fieldforce numbers".

The Committee hopes that the Government will continue to supply information in future reports on developments in the application of the Convention.

#### Zaire (ratification: 1968)

Articles 20 and 21 of the Convention. The Committee notes the information contained in the reports on the work of the inspection services for 1981, 1983, 1984 and 1985. It notes that in these reports there are no statistics on the following points of Article 21: (b) staff of the labour inspection service; (c) workplaces liable to inspection and the number of workers employed therein; (f) industrial accidents; and (g) occupational diseases. It trusts that the Government will take the necessary measures in order to ensure in future that these reports include all the information provided for in



Article 21 and that they are published and transmitted to the Office within the time-limits set forth in Article 20.

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In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Angola, Antigua and Barbuda, Argentina, Australia, Bahamas, Bahrain, Bangladesh, Barbados, Belgium, Belize, Burkina Faso, Burundi, Cameroon, Cape Verde, Colombia, Comoros, Costa Rica, Djibouti, Dominica, Ecuador, Egypt, France, Gabon, Ghana, Grenada, Guinea-Bissau, Guyana, Honduras, India, Jamaica, Jordan, Kenya, Kuwait, Madagascar, Malaysia, Mali, Malta, Mauritania, Morocco, Mozambique, New Zealand, Niger, Panama, Peru, Portugal, Qatar, Romania, Rwanda, Sao Tome and Principe, Saudi Arabia, Sierra Leone, Singapore, Solomon Islands, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Switzerland, Syrian Arab Republic, Tunisia, Turkey, United Kingdom, Uruguay, Venezuela, Yemen, Zaire.

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

#### Convention No. 84: Right of Association (Non-Metropolitan Territories), 1947

##### Fiji (ratification: 1974)

When Fiji became a Member of the ILO, the Government undertook to continue to apply the provisions of Convention No. 84 until it was in a position to ratify the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

The Committee notes with regret that for the second year in succession the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its previous direct request, which read as follows:

In its earlier comments, the Committee asked the Government to consider amending section 13(1)(e) of the Trade Unions Act, which confers on the Registrar of Trade Unions the power to refuse the registration of a trade union if he considers that a trade union already registered adequately represents the whole or a substantial part of the interests in respect of which the applicants seek registration.

The Committee takes note of the statement by the Government in its report, received in March 1985, to the effect that it has not amended section 13(1)(e) of the Trade Unions Act, and that it is in favour of retaining this provision, which is intended to discourage an apparent tendency towards a fragmentation of the trade union movement through the formation of breakaway unions. The Government adds that, in these circumstances, it is reluctant to make any change that will create fragmentation, weaken the unions and affect the general well-being of the people, that in its opinion the Convention is complied with in this regard and

that, moreover, the representative employers' and workers' organisations share this point of view.

The Committee points out that it is not necessarily incompatible with the Convention to allow preferential or exclusive bargaining rights to a trade union if it is determined in accordance with objective and pre-established criteria that this is the union most representative of a given category of workers. What is essential, however, is that the legislation should not affect the right of workers to associate for all lawful purposes (Article 2 of the Convention) and that a trade union, even a minority union, representing a given category of workers should be able to exist legally to protect and defend the individual interests of its members.

The Committee therefore asks the Government to state in future reports whether the Registrar of Trade Unions has had occasion to refuse the registration of a union under section 13(1)(e) of the Trade Unions Act and, if so, to supply a copy of any decision taken.

#### **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 Bulgaria, Poland and Mongolia 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 differences in the situations and conditions that have been determined by history in the different areas of economic and social relations.

To judge all countries according to criteria of one given 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 statement.

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.

Bangladesh (ratification: 1972)

Further to its previous comments, the Committee notes the observations made by the Bangladesh Free Trade Union Congress on the application of the Convention. These observations are specifically related to the powers granted to the Registrar by virtue of section 10 of the Industrial Relations Rules of 1977 with regard to the supervision of the internal affairs of trade unions. This matter was raised in the Committee's previous comments which noted that the Registrar, or any other officer authorised by him, may enter the office of any trade union or federation, inspect and take any record, register or other document.

The Committee notes that, in its reply, the Government limits itself to stating that the legislation criticised by the trade union organisation is in conformity with Article 3 of the Convention, and that it is necessary for the healthy development of trade unions that there should be some supervision of their records in order to avoid fraudulent practices.

The Committee recalls that in paragraph 188 of its General Survey of 1983 on Freedom of Association and Collective Bargaining, it emphasised that, in order to avoid interference by the authorities in trade union matters, "supervision of union finances should not normally go beyond a requirement for the organisation to submit periodic financial returns" and that "investigatory measures should be restricted to exceptional cases, when they are justified by special circumstances such as presumed irregularities that are apparent from annual financial statements or complaints reported by members of the trade union". "Furthermore, ... these controls should be conducted subject to review by the competent judicial authority."

However, the Bangladesh Free Trade Union Congress states that, immediately on receipt of the annual financial statements the Registrar summoned, on repeated occasions, the trade union officers in order to inspect their books of accounts and related papers.

The Committee points out that this procedure is incompatible with the right of workers to organise their internal administration (Article 3), and it once again requests the Government to take measures in order to limit the powers granted to the Registrar by section 10 of the 1977 Rules in order to bring them into conformity with the Convention.

Furthermore, the Committee recalls that the following matters were raised previously:

- right of association of persons carrying out functions of management and administration;
- right to join a trade union or to participate in the management of a trade union of persons actually employed in the establishment or group of establishments concerned;
- associations of civil servants;

- dissolution of a trade union the number of whose members is less than 30 per cent of the workers in the establishment or group of establishments for which the trade union has been set up.

1. The Committee has pointed out that section 2(b)(xxviii) of the 1969 Ordinance, as amended, excludes from the definition of "workers" covered by the text, whose right of association is defined in section 3(a) of the Ordinance: managerial and administrative staff and staff employed on supervisory duties who carry out managerial or administrative functions. It takes note of the statements by the Government and by the Bangladesh Employers' Association to the effect that managerial staff are covered by the definition of "employer" given in section 2(b)(viii), whose right of association is provided for by section 3(b) of the same Ordinance. The Committee has pointed out, as it does in paragraph 131 of its General Survey of 1983, that forbidding these persons to join trade unions representing other workers is not necessarily incompatible with freedom of association, on two conditions: first, that they have the right to form their own organisations to defend their interests and, second, that the categories of managerial staff and employees in positions of confidence are not so broadly defined that the organisations of other workers in the establishment or branch of activity are weakened by being deprived of a substantial proportion of their present or potential membership. According to the Bangladesh Employers' Association, there would be no management or administration if these groups of staff were authorised to set up trade unions with the workers under their orders. The Committee has noted that these groups of persons are entitled to set up their own associations for the defence of their interests. Therefore, it asks the Government once again to provide details on the number or percentage represented by persons in these groups in the establishments. The Bangladesh Employers' Association might also provide statistics.

2. The Committee has already 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 the establishment or group of establishments concerned. The Committee has considered 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 once again that the text has been amended by Ordinance No. XV of 1985 so as to abolish the requirement contained in subsection (b) that an officer or member of a trade union must cease to be an officer or member of the said trade union on the coming into force of the 1980 amendment if he is not employed in the establishment in which the union has been formed. The Committee has observed that this subsection has been abolished because it has ceased to be necessary, but that the basic requirement contained in section 7A(1)(a)(ii) remains in force. While recalling that the free exercise of the right to establish and to join unions implies the free determination of the structure and composition of unions, and that conditions placing restrictions on the status of a trade union officer represent interference in the internal affairs of

the unions, the Committee insists that these provisions be repealed in the near future.

3. With regard to the public servants excluded from the scope of the Industrial Relations Ordinance of 1969, namely those employed in the administration of the State other than those employed on the railways and in the postal, telegraph and telephone services, the Committee has observed that, by virtue of section 29 of the 1979 Regulations, the right to join associations representing their interests is subject to many conditions, laid down unambiguously, for example: under section 29(a) associations must combine government services by category and under section 29(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 under section 29(f)(ii) the associations cannot have financial dealings 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 has recalled that such provisions are incompatible with the principles of the Convention. In its General Survey of 1983 and particularly in paragraphs 195 to 198, the Committee emphasises that the activities of a trade union cannot be restricted solely to the occupational field since the choice of a general policy - for example in economic matters - is bound to have consequences on the situation of workers.

The Committee observes again that all these aspects of the legislation are not in accordance with the right of workers to establish and to join organisations of their own choosing laid down by Article 2 of the Convention (government servants are confined to a single association of their category), 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 has noted that the Government cites Article 11 of the Convention in support of the view that the provisions of these Regulations meet the situation since public servants are organised in different associations.

The Committee has recalled 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, and that under Article 11 it is for a Member that has ratified the Convention to take the necessary measures to give effect to it. The Committee further points out that a communication of September 1984 from the Bangladesh Free Trade Union Congress shows that the Bangladesh Public Servants' United Council is not entitled to be registered and has no right to bargain collectively. The Committee urges once again the Government to reconsider the situation in the light of the above comments in order to give full effect to Articles 2 and 3 of the Convention in respect of public servants.

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 in the establishment or group of establishments for which the union was formed. Under section 11A(1) of the 1969 Ordinance, such a cancellation results in the dissolution of the union.

The Government states that the purpose of this provision is to help the unions to maintain their numbers and ensure social peace by avoiding a multiplicity of small competing unions, and not to interfere in their operation. The Committee considers, however, that a procedure of this kind, which grants to the administrative authority discretionary power over the existence of a trade union is equivalent to 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 has already noted that appeal is possible to the labour courts (section 11 of the Ordinance), but it points out 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 set up. The Committee considers that, where the legislation lays down a criterion of a minimum number of members, this number should be a reasonable one. The figure of 30 per cent, applied generally both to small and to large establishments, appears excessive to the Committee, which considers that it may be an obstacle to the establishment of organisations. The Committee therefore requests the Government to re-examine this condition and to revise the legislative provision on this point.

The Committee requests once again the Government to reconsider the situation as a whole in the light of the above comments and to report any measure that is taken in order to give effect to the Convention.

#### Belgium (ratification: 1951)

In the comments that 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 being deemed null and void if they are contrary to the agreements concluded within the National Labour Council or a

committee or subcommittee which covers the enterprises concerned (section 10(3) of the Act of 1968).

The Committee noted that the worker members of the National Labour Council (Act of 29 May 1952) consist only of representatives of representative workers' organisations chosen by the King from among the candidates put forward by the inter-occupational 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 branch of activity from participating in collective bargaining in its own sector on the grounds that it is not affiliated to an inter-occupational organisation represented on the National Labour Council. The Committee therefore invited the Government to reconsider the above 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 particular sector or 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 now notes the conclusions of the Committee on Freedom of Association on Case No. 1250 concerning the complaints of workers' organisations which have been refused access to the National Labour Council or to the public and private sector committees that formulate the collective agreements by which they are compulsorily bound (see the 241st and 251st Reports of the Committee on Freedom of Association). It notes that the Committee on Freedom of Association considers that the simple fact that the legislation of a country establishes a distinction between the most representative workers' and employers' occupational organisations and other occupational organisations is not in itself open to criticism. However, the determination of the representative occupational organisation must be based on objective and predetermined criteria, so as to avoid any possibility of partiality or abuse.

In view of the absence of any criteria in the legislation, the Committee of Experts, in line with the Committee on Freedom of Association, therefore invites the Government to adopt by legislative means objective, predetermined and detailed criteria to govern the rules for the access of workers' and employers' occupational organisations to the National Labour Council and to the various public and private sector committees in which the binding collective agreements are formulated, in order to avoid any possibility of partiality or abuse in the choice of organisations authorised to sit in these bodies.

The Committee requests the Government to indicate in its next report any progress achieved in the adoption of such legislation.

#### Bulgaria (ratification: 1959)

The Committee notes the Government's last report. It also notes the new codified labour legislation that came into force on 1 January 1987, English and French translations of which have been transmitted to the Office by the Government.



In previous years, the Committee commented on the system of trade union unity that is prevalent in the country. It notes that provisions similar to those that were the subject of previous comments are contained in the new legislation.

By virtue of section 35 the central leadership of the trade unions is entitled to legislative initiative, and in particular by virtue of section 36, to participate in the drafting and adoption of legislative texts. These prerogatives are the same as those conferred on the Central Council of Bulgarian Trade Unions (the specific name of the central leadership of the trade unions), with regard to labour protection, labour inspection, State social insurance and safety and health within the enterprise (which led to the adoption by the central leadership of the Act of 30 June 1973, Decision No. 15 of 12 May 1973, Decision No. 57 of 13 June 1962, the Regulation of 17 April 1967, the Ordinance of 25 March 1960, etc.). In the Committee's opinion, any other confederation set up in accordance with Article 2 of the Convention, and to which reference is made in Article 6 in the context of higher-level organisations, would be confronted with the very wide powers and prerogatives afforded by the law to the existing confederation and would therefore be considerably restricted in its exercise of the normal activities of defending the interests of its members.

The Committee consequently considers that these provisions are liable to reduce considerably the value for workers of setting up trade union organisations outside the established structure.

In these circumstances, the Committee requests the Government to indicate the role and functions that another trade union structure could have if the case were to arise.

#### Burma (ratification: 1955)

The Committee notes the information supplied by the Government to the Conference Committee in 1987 in reply to its comments, and the subsequent discussion.

It recalls that for many years it has been raising the question of the trade union monopoly established under section 9 of Act No. 6 of 1964, as amended in 1976, and under sections 2 and 6(b) of Regulation No. 5 of 1976 issued thereunder, which is contrary to Articles 2, 5 and 6 of the Convention, which lay down the right to associate freely for trade union purposes of all workers and at all levels of trade union structure. The Committee noted that these legislative provisions clearly establish a single trade union structure and prevent workers from being able to establish other trade union structures outside the framework of the existing trade union structure ("Asiayone").

The Committee notes the Government's statement to the Conference Committee to the effect that, following disappointments in their experiences of multiple trade unions, which they now consider to be a cause of disunity and disorder, the workers themselves decided to introduce a single trade union structure, which was not therefore imposed by law. The Government adds that workers are able to establish other associations, such as those of professional workers,



artists, musicians, doctors and nurses. From the Government's point of view, the established structure can only therefore be modified with the consent of the workers, who have not yet put forward proposals to this effect following the Committee's comments.

With reference to the associations that can be established by professional workers, artists and doctors, the Committee requests the Government to specify the nature of these associations and the activities that they can exercise.

The Committee feels that it must point out that the Government is bound by the provisions of the Convention and that it is therefore responsible for initiating the necessary steps to implement them.

The Committee once again emphasises, as it did in paragraph 137 of its General Survey of 1983 on Freedom of Association and Collective Bargaining, 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 enjoy for the future their freedom to set up, should they so wish, unions outside the established trade union structure. Furthermore, even in a case where a de facto monopoly exists as a consequence of all the workers having grouped together, legislation should not institutionalise this factual situation, for example, by designating the single central organisation by name, even if the existing trade union so requests.

In view of the Government's statement that it is prepared to respect its obligations, the Committee trusts that it will take the appropriate steps to bring the legislation into conformity with the Convention, and in particular with Article 2 thereof.

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

With reference to its previous comments on the application of this Convention, the Committee notes that during the 73rd Session of the Conference (June 1987), a Government representative confirmed the indications supplied the previous year to the effect that his Government was prepared to agree to a direct contacts mission between the competent national authorities and a representative of the Director-General, with a view to contributing to the elimination of de facto and de jure discrepancies that exist between the law and practice and the Conventions on freedom of association.

The Committee recalls that the conclusions of the Committee on Freedom of Association in Case No. 1040 and its own comments concerned the following points:

- the general suspension since 1981 of all trade union activities, which is known as the "trade union truce";
- the dissolution by administrative authority of the General Union of Central African Workers (UGTC);
- the fate of the property of the former UGTC, both real estate and liquid assets;
- the reasons why the Bangui Court, which has been seized with the question of the disposal of the UGTC property since 1982, has not yet given a decision;

- the right of Central African workers to carry on freely their activities of furthering and defending their economic and social interests through the central trade union organisations of their own choosing;
- the reasons for which the rules of two central trade union organisations deposited in 1981 have not yet, after seven years, been approved by the authorities;
- the obligation placed on the members of the executive of a trade union to have belonged to the occupation for five years (section 10 of the Labour Code);
- the obligation placed on delegates of employers' and workers' organisations to belong to the occupation or occupations concerned to be able to discuss collective agreements (section 22 of the Code);
- restrictions on the rights of foreigners to join a trade union (obligation to have lived in the country for at least two years and the condition of reciprocity on behalf of Central African citizens established in the country from which the foreigners came) (section 6(2) of the Code).

The Committee takes note of the Government's reply to the Conference Committee, and in particular of the statement by a Government representative explaining that, in spite of the trade union truce decided upon in 1981 to maintain social peace and re-establish order so as to revitalise the economy, which had been stagnating for 14 years due to social and economic disorganisation, the trade union movement has not been suspended. According to the Government, proof of this is the existence at the national level of the National Confederation of Central African Workers, and at the enterprise level, of workers' representatives who ensure that industrial relations are maintained.

While noting the statement by the Government representative giving assurances that, following the adoption of the Constitution and the institution of the democratic system, trade union organisations will take up their activities once again, the Committee regrets that the Government has not replied to the proposals made to it by the Office regarding the dates for the direct contacts mission. Indeed, the Committee notes with concern that by applying the trade union truce since 1981, trade union activities have been suspended, and it once again expresses the firm hope that such a mission may take place in the near future in the Central African Republic in order to examine the application of the Convention in law and in practice.

[The Government is asked to supply full particulars to the Conference at its 75th Session.]

#### Chad (ratification: 1960)

The Committee notes the information supplied by the Government in its report and the draft Labour Code transmitted to the Office.

It recalls that its previous comments concerned the following points:

- the need to repeal or amend section 36 of the Labour Code prohibiting the trade unions from all political activity;

- the need to repeal Ordinance No. 30 of 26 November 1975 suspending all strike action throughout the country;
- the need to repeal Ordinance No. 001 of 8 January 1976 prohibiting public and similar employees from exercising the right to organise.

The Committee notes from the Government's report that, with the technical assistance of the Office, the 1966 Labour and Social Insurance Code has just been revised and will be adopted by the competent authority. It notes with interest the assurances given by the Government to the effect that the sections that are not in conformity with ILO Conventions have been amended or repealed. It notes in particular from the Government's statement that the Ordinances of 26 November 1975 and 8 January 1976 suspending all strike action throughout the country and prohibiting public and similar employees from exercising the right to organise, which are out of date and have lapsed, will soon be repealed.

The Committee takes note of the draft Labour Code which in section II of its final part repeals Ordinance No. 30 of 26 November 1975 which suspended all strike action throughout the country. It notes, however, that the same section II repeals the provisions of Books 1 and 2 of the 1966 Labour Code and that the draft Code does not appear to contain provisions recognising workers' right to strike (unless this is contained in sections 431(4) and 433(7) in a very restrictive and allusive manner). The machinery for the settlement of collective disputes does not seem to allow workers the possibility of going on strike.

The Committee recalls the importance that it attaches to the right to strike as a legitimate means of furthering and defending the economic and social interests of workers and their organisations. It points out that, if the right to strike may be limited or prohibited, such restrictions should be confined to essential services whose interruption would endanger the life, personal safety or health of the whole or part of the population (in this connection, see the General Survey of 1983 on Freedom of Association and Collective Bargaining, paragraph 214).

The Committee expresses the firm hope that legislation conforming to the Convention will be adopted in the near future and it requests the Government to indicate any progress achieved in this respect in its next report.

[The Government is requested to supply full particulars to the Conference at its 75th Session.]

#### Congo (ratification: 1960)

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

The earlier comments of the Committee related to the question of the trade union monopoly established by the legislation, namely section 173 of the 1975 Labour Code, the modalities being laid down by Ministerial Order No. 78.08 of 21 December 1976. Under section 173, first-level unions and unions

in undertakings are governed by the rules of 'the trade union organisation', it being understood from the report of the Government for 1979 that this means the Congolese Trade Union Confederation. The Committee has further pointed out that this organisation receives, by virtue of Decree No. 73/167/MJT of 18 May 1973, a percentage of the basic monthly wage that each worker in the country must pay as trade union dues. As the Committee has pointed out earlier, this situation under the law conflicts with Article 2 of the Convention, which proclaims the freedom of workers to establish and to join organisations of their own choosing.

The Committee takes note of the statement by the Government representative to the Conference Committee to the effect that the single trade union system results from the common will of the workers and from political, economic and historical development, the Government having merely confirmed the will of the workers.

The Committee refers to its General Survey submitted to the 69th (1983) Session of the International Labour Conference, particularly paragraphs 134, 136 and 137, in accordance with which the principle of Article 2 is not intended as an expression of support either for the single trade union system or for that of trade union pluralism but it does at least imply that this pluralism must be possible in all cases. The Committee points out that a situation of de facto trade union monopoly as a result of the will of the workers must not be institutionalised by the law, since 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.

The Committee notes that the Government has indicated its intention to reconsider the question of the institution of the check-off system for the benefit of the Congolese Trade Union Confederation. It trusts that measures will be adopted in the very near future to abolish this obligation placed on all workers for the sole benefit of one trade union organisation.

With regard to trade union monopoly, the Committee requests the Government to ensure that the above-mentioned legislative provisions are also re-examined with a view to bringing the legislation into conformity with Article 2.

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 75th Session.]

#### Côte d'Ivoire (ratification: 1960)

With reference to its previous comments concerning the powers of the President of the Republic to decide to submit an industrial relations dispute to compulsory arbitration when he considers that a strike or a lock-out is likely to jeopardise public order, the Committee notes with interest the information supplied by the Government in its latest report to the effect that a reformulation of section 183 of the Labour Code has been proposed. Henceforth, the

above possibility would become applicable in the following circumstances:

- (1) in cases where the strike affects an essential service, the interruption of which would endanger the life, personal safety or health of the whole or part of the population;
- (2) in cases where the strike is called by public officials acting in their capacity as employees of the public authorities;
- (3) in the event of an acute national crisis.

The Committee hopes that the text of section 183 of the Labour Code will be amended as proposed in the near future in order to bring the legislation into conformity with the principles of freedom of association.

It requests the Government to indicate in its next report any progress achieved in this respect.

#### Dominican Republic (ratification: 1956)

The Committee takes note of the information provided by the Government in its report and of the information supplied to a representative of the Director-General during his mission to the country in December 1987.

In its previous observation, the Committee pointed out that the discrepancies between the legislation and the Convention related 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 who, with a few exceptions, are covered by special laws. Other legislative provisions (Act No. 2059 of 22 July 1949, Act No. 56 of 24 November 1965, Act No. 520, section 13) which contain important restrictions on the trade union rights which these workers should enjoy under the Convention (in particular, the prohibition of all trade union propaganda and proselytism within public and municipal administrations or autonomous institutions of the State (Act No. 56); the provisions contained in section 13 of Act No. 520 which empowers the Executive to dissolve, by administrative procedures, any associations which might be formed by public officials);
- the major restrictions on the exercise of the right to strike by virtue of sections 373, 374 and 377 of the Labour Code (the prohibition of sympathy strikes and political strikes, the requirement that more than 60 per cent of the workers of the enterprise or enterprises concerned must have voted in favour of the strike, and the cessation of legal strikes and the guarantees provided for in section 375 upon initiation of the arbitration procedure which is deemed to be open from the date of the official notification referred to in section 640 and which involves the resumption of work within 48 hours following the above notification);

- the prohibition of the right to strike in the permanent public services listed in section 371, some of which, in the opinion of the Committee, do not come within the definition of essential services in the strict sense of the term (including, for example, transport in general, the sale of fuel for transport and the retailing of foodstuffs in markets).

I. Workers in agricultural enterprises employing no more than ten workers (section 265)

The Committee notes that the authorities explained once again to a representative of the Director-General during his mission to the country in December 1987 that the provisions of section 265 of the Labour Code, which excludes from the scope of the Code agricultural workers in enterprises employing no more than ten workers, do not imply any restriction of their right to organise because they have the possibility of forming or joining occupational unions and because by law, the minimum number of workers required for the formation of a union is 20.

II. Public officials and employees

The Committee notes from the information supplied by the Government to the representative of the Director-General to the effect that, in practice, certain categories of public employees, especially in decentralised enterprises, appear to have formed unions. The Committee wishes to recall that, according to the Convention, public officials should enjoy the right to associate for trade union purposes. (However, the law may establish certain specific restrictions on the right to organise of certain public officials involved in high-level management or decision-making. In the view of the Committee, such restrictions would not necessarily run counter to Article 2 of the Convention.)

III. Restrictions concerning the right to strike

With regard to restrictions on the right to strike, the Committee would suggest an amendment concerning the number of workers in an undertaking necessary for a strike to be declared (section 374, subsection 3): the number might be reduced to a simple majority of the voters of a bargaining unit, excluding those workers not taking part in the vote. Similarly, it would be advisable to delete services relating to transport in general, the sale of transport fuel and the retailing of foodstuffs in markets from the list of permanent public services, since, as it has already stated on other occasions, in the opinion of the Committee they do not come within the definition of essential services in the strict sense of the term (see paragraph 214 of the General Survey submitted to the 69th Session of the International Labour Conference, 1983), in other words, those services whose interruption would endanger the life, personal safety or health of the whole or part of the population. As regards the prohibition of sympathy and political strikes, the Committee considers that a general prohibition of sympathy strikes could be open to abuse and that

workers should have the possibility of recourse to such action on condition that the strike with which they are in sympathy is legal. Furthermore, the Committee suggests that the prohibition of political strikes should be abolished so that workers may come out on strike in protest against state economic and social policies which they consider to be contrary to their interests, it being understood that the main objective of unions should be to ensure the economic and social development and well-being of all workers (see paragraphs 195 and 217 of the General Survey).

The Committee recalls that for a long time the Government has been stating its intention to revise the legislation. It therefore urges the Government to take the necessary measures to bring these provisions of the legislation into conformity with the Convention in the near future and requests it to provide information on any progress made in this connection in its next report.

Ecuador (ratification: 1967)

The Committee takes note of the Government's reports and of the discussions in the 1987 Conference Committee. The Committee also notes that the Central Ecuatoriana de Organizaciones Clasistas has recently forwarded comments on the application of the Convention, although the Government's observations on these comments have not yet been received.

The Committee recalls that its previous comments referred to the following points:

- the prohibition placed on public servants from setting up trade unions (section 60(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 59(f) of this Act);
- the obligation to be Ecuadorian for membership of the executive committee of a works council (section 455 of the Labour Code);
- 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);
- 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) of the Code);
- the penalty of imprisonment laid down by Decree No. 105 for the instigators of collective work stoppages and for those who participate in them;
- protection against acts of anti-union discrimination at the time of recruitment.

The Committee observes that the Government states in its report that it is prepared to revise sections 59(f) and 60(g) of the Act on the Civil Service and Administrative Careers and sections 455 and 461 of the Labour Code along the lines suggested for legislative reform during the 1985 direct contacts mission (concerning the right to organise of public servants, the possibility for foreigners to become members of executive committees, and the non-dissolution by the

administrative authorities of works councils). The Government indicates that it is reflecting on the timeliness, as the case may be, of taking measures for the legislative reforms proposed by the direct contacts mission and therefore requests that a reasonable delay be accorded.

The Committee notes, however, that in its report the Government considers that when account is taken of the content of sections 4, 5, 7, 436, 437, 444 and 448 of the Labour Code, there is no need for protection against acts of anti-union discrimination at the time of recruitment. The report also states that the ban on unions from taking part in the activities of political or religious parties is an essential guarantee of the right of association and a measure to protect public order. The report adds that this measure secures the co-existence of trade union organisations and prevents fratricidal struggles, and that it safeguards national unity and applies constitutional guarantees against discrimination on grounds of political or religious beliefs, sex, race or social situation. With regard to Decree No. 105, the Government indicates in its report that this Decree has nothing to do with working conditions, but is aimed at riots, disturbances and disorders that constitute a threat to public order in a village, a zone or a region, and that the State could not deny itself the power to suppress them, where necessary, without abdicating from its principal objectives, rights and duties: namely, self-protection and the conservation of its existence as a body guaranteeing social order and peace. The Government's report states that, in an appeal brought by workers' representatives questioning the validity of Decree No. 105, the Court of Constitutional Guarantees confirmed that it was in force since it did not contravene any constitutional principle; the Court's ruling was confirmed by Parliament. The Government considers that the above Decree does not prejudice the right to strike (which is guaranteed by the Constitution) or contravene this Convention. According to the report, the above Decree refers to the criminal paralysis of the activities of a whole community (either national or local) for the purposes of disruption and sets out offences that are deemed to be crimes against the internal security of the State or against public safety; in this way it covers certain crimes laid down in the Penal Code (uprisings against the Government, impeding the movement of vehicles or persons, inciting the citizens to take up arms, the occupation of buildings, etc.). The legal interests protected by the Decree are public order and the internal security of the State. The direct victim of the crimes could be any inhabitant of the Republic, while the indirect victim is civil society in general and could even be the State itself in terms of its political structure. When the Decree uses the word "stoppage" (paro), it uses it in the sense of "paralysis", arbitrarily imposed, by means of a rebellious attitude towards the legitimate authorities, in which daily life is completely suspended in an area, region, or the whole nation, producing a situation of total or partial anarchy in the community affected and disturbing the peace of the inhabitants.

The Committee wishes to emphasise the need for provisions that provide protection against acts of anti-union discrimination at the time of recruitment, whereas the provisions referred to by the



Government in its report do not give specific protection at that time of recruitment.

The Committee also wishes to emphasise that the prohibition placed on unions or occupational associations from taking part in the activities of political or religious parties should be limited in their scope to those matters that are in no way related to furthering and defending the interests of workers and should, in any event, give trade union organisations the right to express opinions on the social and economic policy of the Government.

Finally, under Decree No. 105, the act of inciting or participating in a collective stoppage is punishable with penalties. The Committee notes the explanations provided by the Government concerning the objectives of the Decree and the type of situations in which it is applied. Nevertheless, the Committee emphasises that "the collective stoppage of activities ... and any other similar anti-social activities" are included in the definition of collective stoppage; the broad terms in which such stoppages are defined mean that they could cover strikes that are called in certain geographical areas, and, as recognised by the Government in a communication forwarded in October 1986 (see the 248th Report of the Committee on Freedom of Association, Case No. 1381 (Ecuador), para. 393), they cover political strikes. In these circumstances, the Committee requests the Government to take measures in order to repeal Decree No. 105 or amend it, taking into account the comments of the Committee.

The Committee requests the Government to take the necessary measures to give effect to the other proposed amendments agreed upon by the Minister of Labour and Human Resources and the representative of the Director-General during the 1985 direct contacts mission. The Committee requests the Government to supply information in this respect and expresses the hope that in the near future it will be possible to bring the legislation into full conformity with the provisions of the Convention.

#### Egypt (ratification: 1957)

The Committee notes the information supplied by the Government to the Conference Committee in 1987, in reply to its comments.

It recalls that the provisions of the legislation noted by the Committee for some years as being incompatible with the Convention are the following:

- the single trade union system laid down by law in favour of an organisation mentioned by name, i.e. 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 regulation respecting the internal management and activities of trade unions (exclusion from the right to vote and to be elected to trade union office of the unemployed and the retired (section 23); obligation to have been a member of a trade union organisation for a year to be elected to office (section 36(c)); need for the approval of the Confederation of Egyptian 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 that is responsible for work stoppages 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 notes that the technical committee set up to examine the possibility and means of amending provisions of the Trade Union Act, No. 35 of 1976, as amended by Act No. 1 of 1981, and the Labour Code, Act No. 137 of 1981, is continuing its work. The Government emphasises the steps to be taken in the trade union hierarchical structure before a text can be adopted, namely the consultation of the 1,995 trade union committees concerning the proposals made by the technical committee, and then consultation with the 23 general trade unions and, finally, the transmission of their proposals to the executive committee of the Confederation of Egyptian Trade Unions. The Government adds that once the opinions of the various trade union bodies concerning the committee's proposals have been gathered together, a Bill will be prepared and submitted to the People's Council for adoption.

The Committee recalls that its comments related mainly to the provisions of Act No. 35 which confer on the Confederation of Egyptian Trade Unions prerogatives preventing the establishment of other trade union organisations at the same level or the placing of first-level unions under its supervision. Although noting, according to the Government's previous reports, that this situation is a result of the wishes of the Egyptian workers, the Committee points out that in accordance with Articles 2 and 6 of the Convention, national legislation must not institutionalise a de facto situation of trade union unity, and workers must be able to keep for the future their freedom to set up, should they so wish, unions of their own choosing that are able to group themselves into higher-level trade union organisations outside the established trade union structure.

The Committee therefore trusts that appropriate measures will be taken in the near future to eliminate from Egyptian legislation every provision of such a nature as to discourage the creation of other trade unions.

With regard to the system of compulsory arbitration for the settlement of collective disputes (sections 96 to 106 of the Labour Code), the Committee notes that, according to the Government, in the great majority of cases, it is the workers' rights that are recognised by the arbitration machinery and workers' trade unions which seek a dialogue and resort to conciliation procedures in cases of collective disputes.

Nevertheless, it is the Committee's opinion that, since this machinery for the settlement of disputes may also be set in motion at the request of the employer (section 95), it is consequently liable in practice to result in a very wide prohibition of the right to strike, which is not in accordance with the right of trade unions to organise

their activities, as laid down in Article 3. In these circumstances, the Committee considers that the above provisions concerning the compulsory conciliation and arbitration system should be relaxed so that the trade unions may have means of defending and furthering the interests of their members without being obliged, in cases of dispute, to resort immediately to the conciliation and arbitration procedure.

Furthermore, the Committee points out that the legislation does not guarantee workers the right to strike and that, on the contrary, the Public Prosecutor can obtain the removal of the executive committee of a trade union organisation that has provoked work stoppages or deliberate absenteeism in a public service or public utility.

With regard to the strike that occurred on 7 and 8 July 1986 in the Egyptian railways, the Committee notes the information supplied by the Government and its notes in particular that the Supreme State Security Court has made a ruling in this case. Although noting the considerations put forward by the Government regarding the essential nature of rail transport in Egypt, particularly for the transport of grain, medicines and foodstuffs, the Committee points out that the peaceful exercise of the right to strike is one of the essential means available to workers and their organisations for the promotion and protection of their economic, social and occupational interests. Restrictions on its exercise are only compatible with the Convention in the case 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 public services in general) where their interruption due to strike action would endanger the life, personal safety or health of the whole or part of the population.

The Committee considers that, in order to give effect to the Convention, the restrictive provisions contained in section 70(2)(b) of the Trade Union Act should be confined to essential services according to the definition given by the Committee (see above).

Although noting the Government's point of view that the political freedom and democracy towards which the country is advancing will doubtless have positive effects on trade union organisation, the industrial relations system and the working class, the Committee trusts that the amendments that are to be made to Egyptian legislation will make it possible to give full effect to the Convention.

#### Ethiopia (ratification: 1963)

The Committee notes the Government's report and the information it contains in reply to its comments. In particular, the Committee notes that the new Constitution of the Democratic Republic of Ethiopia has been adopted and came into force on 12 September 1987, and that, according to the report, it establishes the foundations for the rights laid down by the Convention, which will then be set out in detail in the draft Labour Code. The Government also reports that the Code will be submitted in the near future to the "National Shengo" and that, once it is adopted, it will be transmitted to the Office.

In the meantime, the legislation that is in force is still that which was the subject of the Committee's previous comments.

The points of discrepancy between the national legislation and the provisions of the Convention, which the Committee has been noting for a number of years, relate to the following matters:

- institutionalisation of the single-trade-union system by law;
- right of association of rural workers;
- international affiliation of trade unions;
- right to strike;
- obligation placed on trade unions to apply the National Democratic Revolution Programme of Ethiopia;
- trade union rights of public servants and domestic staff;
- employers' organisations.

The Committee notes that Article 48 of the Constitution guarantees Ethiopians freedom of speech, press, assembly, peaceful demonstration and association (paragraph 1) and that the State shall provide the necessary material and moral support for the exercise of these freedoms (paragraph 2). It notes the Government's statements to the effect that the new Code to be issued under the Constitution should reflect the right of workers and employers to establish and join organisations without previous authorisation (Article 2 of the Convention), and should also take into account the Committee's comments, with particular reference to those concerning restrictions on the right to strike.

The Committee requested the Government to re-examine the situation with regard to the rural workers' associations governed by Proclamation No. 223 of 1982 in order to ensure that it is in conformity with the principles of freedom of association contained in the Convention. In this connection, the Committee notes that the Government once again advances the argument that rural workers are neither employers nor workers, but that they are associates of co-operatives and consequently the Convention is not applicable to them. To support this point of view, the Government once again puts forward the argument that Convention No. 87 is not applicable to rural workers, since Convention No. 141 (an instrument that has not been ratified by Ethiopia) was adopted specifically to protect their freedom of association. It adds that peasants who are associated in co-operatives should be regarded in the meaning given to them by Recommendation No. 127 of 1966 (quoted in paragraph 1(2) of Recommendation No. 149). The Government states that it has adopted legislation that is in accordance with Recommendation No. 127, and which, rather than prejudicing the independence of peasants' associations, has on the contrary fulfilled the objectives of the instrument by developing this type of co-operative.

The Committee draws the Government's attention to Chapter XIII of its General Survey of 1983 on Freedom of Association and Collective Bargaining, and in particular to paragraph 329, and it points out that Convention No. 87 is addressed to all workers "without distinction whatsoever" (Article 2) and only authorises exclusions in respect of the armed forces and the police (Article 9). Rural workers therefore do in fact lie within the scope of the instrument, and member States that have ratified the Convention are therefore under the obligation to ensure the application of the rights laid down in it to all workers, including rural workers, with the exception, if the State so wishes, of the armed forces and the police. The Committee emphasises

that Convention No. 141, far from contradicting or restricting the scope of the rights contained in Convention No. 87, to which it refers in its preamble, is intended to strengthen the role of organisations of rural workers in economic and social development and reaffirms in Article 3 the right, which is set forth in Article 2 of Convention No. 87, of rural workers to establish and join independent organisations of their own choosing without previous authorisation.

The Committee requests the Government to take these comments into consideration and as a result to ensure that the provisions of the Convention are fully applied to associations of rural workers and to re-examine their situation in the light of its comments. It also requests the Government to indicate, where appropriate, the relevant legal provisions concerning the dissolution of these associations.

Furthermore, the Committee noted that agricultural workers on state farms are not covered by Proclamation No. 223. It understands from the statement made by the Government representative to the Conference in 1985 that they are considered, by virtue of section 27 of Proclamation No. 64/75, to be covered by the definition of the term "workers", and that Proclamation No. 222 of 1982 therefore applies to them. The Committee once again requests the Government to confirm this point.

Further to its previous observation, in which it developed the seven points of discrepancy noted above, the Committee trusts that, in accordance with the assurances given in the Government's report, the new Code that is due to be adopted in the near future under the provisions of the new Constitution, will give full effect to all the provisions of the Convention.

#### Guatemala (ratification: 1952)

The Committee notes with satisfaction the text of the Act on trade union activities and on the regulation of strikes by state employees (Decree No. 71-86 which came into force on 1 January 1987) implementing the provisions of the 1986 Constitution which grants to state employees freedom of association and the right to strike, and which expressly repeals any provisions that are contrary to these principles.

While noting that these positive developments are continuing, the Committee nevertheless recalls the need to bring all the Guatemalan legislation into conformity with the Convention and particularly to amend or repeal the following sections of the Labour Code of 16 August 1961:

- section 211(a) and (b) on the strict supervision of trade union activities by the Government;
- section 207 on the impossibility for unions to take part in politics;
- section 226(a) on the dissolution of trade unions that have taken any part in matters concerning electoral or party politics;
- section 223(b) which confines to Guatemalans the possibility of being elected to trade union office;

- section 241(c) which lays down the obligation to obtain a majority of two-thirds of the workers in the enterprise or production centre for the calling of a strike;
- section 222(f) and (m) which requires a majority of two-thirds of the members of a trade union for the calling of a strike;
- sections 243(a) and 249 which prohibit strikes or work stoppages by agricultural workers at harvest time, with a few exceptions;
- sections 243(d) and 249 which prohibit strikes or work stoppages by workers in enterprises or services in which the Government considers that the suspension of their work would seriously affect the national economy;
- section 255 which provides for the possibility of calling upon the national police to ensure the continuation of work in the event of an illegal strike;
- section 257 which prescribes the detention and trial of offenders;
- section 390(2) under which a sentence of from one to five years' imprisonment can be imposed on those who carry out acts intended not only to cause sabotage and destruction (which, indeed, do not lie within the scope of the protection of the Convention), but also to paralyse or disturb the functioning of enterprises contributing to the development of the national economy, with a view to jeopardising national production.

The Committee recalls that, with regard to the election of trade union leaders, provisions to the effect that they shall be nationals of the country should be relaxed in order to enable foreign workers to obtain access to trade union office at least after a reasonable period of residence in the host country; that, with regard to the prohibition of political activities, the legislation should permit trade unions to participate in the bodies responsible for advancing opinions on economic and social policies, with a view to improving the cultural, economic and social situation of the workers; and that, with regard to the exercise of the right to strike, limitations and prohibitions are only compatible with the Convention in respect of essential services in the strict sense of the term where their interruption due to a strike would endanger the life, personal safety or health of the whole or part of the population, or in the event of an acute national crisis.

The Committee once again requests the Government to inform it of the measures taken to bring the whole of its legislation into conformity with the provisions of the Convention.

#### Guinea (ratification: 1959)

With reference to its previous comments, the Committee notes with satisfaction the information supplied by the Government in its report to the effect that Presidential Ordinance No. 114/PRG/SGG/86 of 28 August 1986 recognises the independence of the National Confederation of Workers of Guinea (CNTG) in respect of the State and its bodies, and that the provisions of the Ordinance repeal the previous measures which placed the CNTG under the supervision firstly of the Secretariat of State for Labour and then of the Permanent Secretariat of the Military Committee for National Recovery. The Committee notes that

Ordinance No. 114/PRG/86 of 28 August 1986 expressly repeals Ordinance No. 347/PRG/85 of 30 December 1985 which placed the CNTG under the supervision of the Permanent Secretariat of the Military Committee for National Recovery, and that Ordinance No. 47/PRG/86 of 1 February 1986 provides that trade unions are not the administrators of enterprises but social partners whose fundamental mission is to defend the material and moral interests of the workers.

Furthermore, the Committee takes note of the provisions of the Labour Code which came into force on 28 January 1988 and, in particular, of sections 237 to 250, 252 to 264 and 328 to 377 thereof, respecting freedom of association and recourse to the right to strike, which give partial effect to the Convention.

However, the Committee notes with regret that, contrary to the Government's indications in its last report that measures to make the legislation more flexible should have been introduced as a result of the adoption of the draft Labour Code, certain discrepancies remain between the legislation and the Convention:

- section 251 of the new Code only authorises workers of Guinean nationality to be elected as trade union officers (whereas in accordance with Article 3 of the Convention, foreign workers should be able to be elected to trade union office, at least after a reasonable period of time working in the host country);
- sections 342, 350 and 351 provide for the establishment of arbitration machinery at the request of only one party to a labour dispute or at the Minister's request if he considers that a strike is liable to endanger the public order or general interest, and make such arbitration compulsory by a decision of the highest judicial body and empower the Minister of Labour to request the Council of Ministers to give executory force to an arbitration ruling thus terminating a strike (whereas compulsory arbitration should only be used to end a strike where work is being interrupted in essential services in the strict sense of the term, that is, in services whose interruption would endanger the life, personal safety or health of the whole or part of the population, or in the event of an acute national crisis).

The Committee requests the Government to indicate in its next report the measures that have been taken or are contemplated in order to give effect to the Convention on these two points.

#### Haiti (ratification: 1979)

The Committee notes with regret that once again the Government's report has not been received. It recalls that its previous comments concerned the following discrepancies between the national legislation and the Convention:

- the necessity of obtaining the approval of the Government to establish an association of more than 20 persons (section 236 of the Penal Code);
- the wide powers conferred on the Government to supervise the trade unions (section 34 of the Decree of 4 November 1983);
- the prohibition of strikes in the event of compulsory arbitration (sections 185, 190, 199 and 200 of the Labour Code);

- the prohibition of strikes lasting longer than 24 hours, lightning strikes and go-slows of more than one hour (section 206 of the Labour Code);
- the absence of a statutory right to organise for public servants.

Since then, the Committee has taken note of the provisions contained in the 1987 Constitution of the Republic of Haiti, and in particular of section 35, paragraphs 3 and 4, which guarantees at the constitutional level the freedom of association of workers in the public and private sectors, and recognises the right to strike.

However, the Committee also notes with concern the conclusions of the Committee on Freedom of Association concerning a complaint submitted by several trade union organisations regarding the repressive measures that have recently been imposed on the trade union movement in Haiti (see Case No. 1396 in the 254th Report of the Committee on Freedom of Association, approved by the Governing Body in February-March 1988).

The Committee of Experts notes that the Committee on Freedom of Association was obliged to examine this complaint without being able to take into account the Government's information and observations, since it did not reply to the allegations brought against it concerning, inter alia, the arrests of trade union leaders, the dissolution by administrative authority of the Autonomous Confederation of Haitian Workers (CATH) (even though the trade union leaders were subsequently freed and the dissolution by administrative authority was lifted) and the large number of anti-union dismissals.

The Committee of Experts, in line with the Committee on Freedom of Association, deplores the lack of co-operation from the Government with the Office, and appeals to it to send a report on the application of Conventions Nos. 87 and 98 and to take measures in order to give effect to these Conventions in law and in practice, and in particular, to take severe measures to eliminate the danger to trade union activities constituted by such reprehensible anti-trade union activities, and to protect the development of the trade union movement in a climate free of insecurity and fear.

[The Government is asked to supply full particulars to the Conference at its 75th Session.]

#### Jamaica (ratification: 1962)

In the comments that it has been making for several years, the Committee has requested the Government to amend certain provisions of the national legislation in order to bring them into conformity with the requirements of the Convention, namely:

- the need to amend sections 9 and 10, paras. 1, 2, 4, 5 and 8, of the Labour Relations and Industrial Disputes Act No. 14 of 1975, as amended in 1978 (sections 11A and 15(iii)), which empower the Minister to submit an industrial dispute to compulsory arbitration and to terminate any strike in the essential services, for which the list is too extensive, and in other services if the strike is liable to jeopardise seriously the interests of the nation.



The Committee notes with regret the information supplied by the Government in its latest report to the effect that the Government has decided to extend rather than reduce the list of essential services in order to include overseas telecommunication services and telephone services. The Committee also notes the Supreme Court ruling that section 11A of the Act does not give the Minister unlimited discretionary power, but that his power stems from considerations concerning the national interest and that the Minister must exercise it in order to secure industrial peace and not merely to satisfy some narrow personal interest.

The Committee recalls that the Minister of Labour should only be able to have recourse to the courts in order to end a strike in the following circumstances:

- (1) in the event of strikes in essential services in the strict sense of the term, namely those in which the strike would endanger the life, personal safety or health of the whole or part of the population; or
- (2) in the event of an acute national crisis.

The Committee urges the Government to indicate in its next report the measures taken to amend its legislation in order to bring it into conformity with the Convention, in view of the fact that these matters have been the subject of its comments for many years.

#### Japan (ratification: 1965)

The Committee notes the comments concerning the application of the Convention submitted by the General Council of Trade Unions of Japan (SOHYO) which deal specifically with the denial to fire-fighting personnel of the right to organise in trade unions. In a communication of 8 March 1988, the Government indicates that it is currently examining SOHYO's comments and that it will send its observations for consideration by the Committee at its next session.

It points out that this matter and the prohibition of strikes by public servants (which is enforceable by disciplinary sanctions) have been raised for a number of years; these points were also the subject of a substantial discussion in the 1987 Conference Committee.

In view of the fact that the Government has not yet responded to the comments recently transmitted by the SOHYO, the Committee considers that it would be more appropriate to deal with all the outstanding matters after considering the Government's comments on these subjects.

It will therefore conduct an in-depth examination of the points that have been raised at its session next year.

#### Liberia (ratification: 1962)

The Committee notes the report of the Government and the information supplied by the Government to the Conference Committee in 1987 and the subsequent discussion. It also notes the report of the Committee on Freedom of Association concerning Case No. 1219, which was adopted by the Governing Body in May 1987.

For several years the Committee has been noting the discrepancies between the legislation and Articles 2, 3, 5 and 10 of the Convention. The Committee notes that, according to the Government, the amended draft of the Labour Code has taken its previous comments into account. Consequently, according to the Government, following the adoption of the new Labour Code, the following texts should be immediately repealed: Decree No. 12 of 30 June 1982 which bans strikes; section 4601-A of the Labour Practices Act which prohibits agricultural workers from joining industrial workers' organisations; and section 4102, paragraphs 10 and 11, of the Labour Practices Act which provides for the supervision of trade union elections by the Labour Practices Review Board.

Regarding public servants, whose right to associate is not referred to in the law, the Committee notes the Government's statement that it is prepared to take the necessary steps for this right to be included in a future amendment of the Civil Service Act. The Committee notes that the Government wished to underline the fact that in practice there are organisations of public servants and of rural workers, that strikes have occurred without sanctions being applied and that trade union elections are only supervised by the Ministry of Labour at the invitation of the trade union organisation in question.

The Committee therefore requests the Government to bring the legislation into conformity with practice and trusts, taking into account the assurances given by the Government to the Conference Committee, that in order to achieve this the new Labour Code will be adopted in the near future and that the new provisions will give full effect to the Convention. The Committee also trusts that the right to organise of workers in state enterprises and the public service will be specifically recognised by the law in the near future.

In view of the fact that the Committee has been raising these matters for very many years, it urges the Government to make every effort to adopt the announced measures in the near future.

#### Mongolia (ratification: 1969)

The Committee notes the Government's reports and the information they contain in reply to its comments.

With reference to its previous comments, the Committee points out that the existence of a single-trade-union system in the country results 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 that can promote and defend their interests. The Committee also 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 implies that no mass organisations, particularly trade unions, would have any possibility of operating outside the Party framework.

1. Trade union unity. The Committee notes the views advanced by the Government according to which the fact that no legislative provision prohibits or prevents the establishment of trade unions is sufficient to ensure the application of Article 2 of the Convention. The Government adds that the trade union system corresponds to the specific economic and social conditions prevailing in the country at the time when the trade union movement emerged and that sections 4 and 185 of the Labour Code protect trade union rights and ensure the participation of trade unions in the administration of society and the State. It also specifies that the trade union rights referred to apply to all trade unions whether they exist now or will be established in the future. In the Government's opinion, little is achieved merely by ensuring under the law that workers' organisations have the right to draw up their constitution and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes, and the legislation must therefore consolidate the legal foundations of trade union activity - sections 4 and 185 were envisaged for this purpose. The Government also states that the current trade union system is considered by the workers to be one of their most important achievements and that the Central Council of Mongolian Trade Unions and the central committees are responsible for dealing with essential issues affecting the vital interests of all workers.

However, the Committee considers that although the legislation does not in theory prevent a trade union from being constituted, the provisions of the Labour Code, which specifically and exclusively confer essential trade union functions on the Central Council of Mongolian Trade Unions and on the trade union committees (sections 4, 183 and 185 of the Code) are in themselves an obstacle to other trade union organisations being able to exercise in practice activities of a trade union nature. In its General Survey of 1983 on Freedom of Association and Collective Bargaining, the Committee emphasised that, even in a case where a de facto monopoly exists as a consequence of all the workers having grouped together, legislation should not institutionalise this factual situation, for example, by designating the single central organisation by name, even if the existing trade union so requests (see paragraph 137 of the General Survey).

The Committee is once again bound to draw the Government's attention to the fact that it should be possible for workers' organisations to be set up, where this is so desired, outside the existing trade union structure, to defend their members' interests and to formulate their programmes, as envisaged in Article 3. The Committee points out that the principles laid down in the Convention are aimed at ensuring that workers are able, both in theory and practice, to establish freely organisations of their own choosing to represent their interests.

2. Political ties. With regard to the ties between the People's Revolutionary Party of Mongolia and the trade unions, the Committee notes from the Government's reports that the Party constantly supports the trade unions in their activities since these organisations have the common background of having been established and developed principally as working class organisations. According to the Government, as a result of the fact that the Party plays an

essential role in social development for the good of the whole of the population and supports the workers' struggle in a planned and scientific manner corresponding to the objectives of national development and the ideals of the working class, it is normal for the Party's programme to be followed and supported by the masses and social pressure groups, including the trade unions. Consequently, the Government considers that the provisions of section 82 should be viewed in the context of the situation as it describes it and that it is an internal political matter which is not dealt with by the Convention.

In the first place, the Committee wishes to emphasise that it recognised in paragraph 195 of its General Survey of 1983 on Freedom of Association and Collective Bargaining that the participation of trade unions in economic and social policy-making bodies, in order to achieve the objective of promoting working conditions, means that trade unions must be able to devote attention to matters of general interest, i.e. "political" in the broadest sense of the word. However, the Committee referred in paragraph 196 of the above Survey to the 1952 resolution concerning the independence of the trade union movement to point out that the political relations of trade unions with political parties or their political activities intended to further the achievement of their economic and social objectives should not be of such a nature as to compromise the freedom and independence of the trade union movement.

The Committee stresses this point, since the links between the trade union organisation and the political party are in this case imposed by legislation, namely the Constitution of the State, contrary to the provisions of Article 3, under which organisations shall have the right to organise their activities in full freedom.

The Committee therefore requests the Government to reconsider the situation in the light of its comments in order to give full effect to the provisions of the Convention.

Furthermore, the Committee reiterates its request concerning the regulations respecting the rights of the trade union committees to which the Government referred in 1977. It urges the Government to attach a copy of them to its next report.

#### Nicaragua (ratification: 1967)

With reference to its previous comments, the Committee notes the written and oral information supplied by the Government to the Conference Committee on the Application of Standards in June 1987, and the subsequent discussions. It also takes note of the interim conclusions reached by the Committee on Freedom of Association regarding Cases Nos. 1129, 1298, 1344, 1351 and 1372, and the complaint submitted by several Employer delegates to the 73rd Session of the Conference, under article 26 of the ILO Constitution (see the 255th Report of the Committee of Freedom of Association, approved by the Governing Body in February-March 1988).

The Committee recalls that its previous comments referred to the consequences of the state of emergency proclaimed in the country with

regard to trade union rights and the need to amend a number of legislative provisions in order to implement the Convention.

1. Consequences on trade union rights  
of raising the state of emergency

The Committee noted that by virtue of Decree No. 245 of 9 February 1987 the state of emergency had been further extended, throughout the national territory, for a period of one year, suspending certain public and trade union freedoms and rights such as: inviolability of the home (section 26); freedom of expression (section 30); freedom of movement (section 31); the right of peaceful assembly without prior authorisation (section 53); the right to demonstrate (section 54); the guarantee against censorship (sections 67 and 68); and the right to strike (section 83).

Although aware of the gravity of the situation through which the country is passing, the Committee had noted with concern the suspension of the right to strike and of freedom of association, and expressed the view that the proclamation of the state of emergency and its extension over several years constituted an extremely serious restriction on the means that should be available to workers and their organisations in order to further and defend their economic and social interests. The Committee also noted that the Committee on Freedom of Association (see the 248th Report, paras. 433 and 434) had also recognised the existence of extremely grave circumstances in Nicaragua, although it expressed the view that a return to normality in trade union life would be facilitated if the right to hold trade union meetings on trade union premises and the right to strike in non-essential services, *inter alia*, were safeguarded. It also expressed the firm hope that the Government would take the necessary measures to this effect and that it would be able to lift the state of emergency throughout the national territory.

The Committee takes note with interest of the content of Decrees Nos. 296 and 297 of 19 January 1988 repealing Decree No. 1233 of 11 April 1983 which had set up the people's anti-Somoza tribunals, and repealing Decrees Nos. 245 and 250 of 1987, which had extended the state of emergency throughout the national territory. The Committee also notes the Government's statement in its communication of 19 January 1988 that the state of emergency was suspended on 19 January and that it intends to apply Amnesty Act No. 33.

The Committee requests the Government to keep it informed of the practical consequences of the suspension of the state of emergency on the return to normal trade union life, particularly with regard to the freedom to receive and communicate trade union information, the right to hold trade union meetings on trade union premises and the right of employers and workers to constitute organisations of their own choosing in order to further and defend their interests, without interference by the public authorities.

## 2. Other legislative questions

The Committee also noted in its previous observations that certain provisions of or omissions from the legislation were not in conformity with the Convention and it referred in particular to the need:

- to guarantee, by a specific provision, the right of public servants, self-employed workers in the urban and rural sectors and persons working in family workshops, to associate in defence of the occupational interests of their members;
- to abolish the requirement of an absolute majority of the workers of an enterprise or work centre for the formation of a trade union (section 189 of the Labour Code);
- to amend the provision on the general prohibition of political activities by trade unions (section 204(b) of the Code);
- to amend the obligation now placed on trade union leaders to present to the labour authorities the registers and other documents of a trade union on application by any of the members of that union (section 36 of the Regulations on Trade Union Associations);
- to lift the excessive limitations on the exercise of the right to strike, requiring a majority of 60 per cent for calling a strike, prohibiting strikes in rural occupations when the produce may be damaged if it is not immediately available, and enabling the authorities to end a strike that has lasted 30 days through compulsory arbitration if no settlement has been reached after the date authorised for the strike (sections 225, 228 and 314 of the Code).

The Committee recalls that since 1985 it has been noting the information supplied by the Government to the effect that, in order to bring its legislation into conformity with the Convention, it is planning to amend section 189 of the Labour Code in order to recognise the possibility of a multiplicity of trade unions in the enterprise and of amending section 204(b) of the Code in order to eliminate the prohibition of political activities by trade unions. It also envisaged amending section 36 of the Regulations on Trade Union Associations so as to require that requests for the presentation of a 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 recalls that during the direct contacts between the national authorities and a representative of the Director-General in December 1983, the authorities stated that sections 225 (majority required for calling a strike) and 314 (compulsory arbitration after a strike has lasted 30 days) could be amended along the lines desired by the Committee. Furthermore, the Government representative at the Conference Committee in 1985 stated that the Government accepted the comments of the Committee as to the need to amend the provisions regulating the right to strike and was prepared to take them into account.

The Committee therefore appeals to the Government to adopt legislation in the near future that is in full conformity with the

Convention and requests it to supply detailed information on the return, in practice, to normal trade union life.

[The Government is asked to supply full particulars to the Conference at its 75th Session.]

Pakistan (ratification: 1951)

The Committee notes the Government's report and the information that it supplied to the 1987 Conference Committee. It also notes the 244th and 246th Reports of the Committee on Freedom of Association regarding Case No. 1332, which were adopted by the Governing Body in May-June 1986 and November 1986, and the 253rd Report regarding Case No. 1383, which was adopted by the Governing Body in November 1987.

In the first place, the Committee notes that martial law, which banned the setting up of unions in certain enterprises and any strike action, was lifted on 31 December 1985. With reference to the point of view expressed in this connection by the Government in its report for 1985, the Committee hopes that this step towards a relaxation of the situation which, according to the Government, forms part of the democratisation process, will encourage the process of bringing the legislation and practice into conformity with the principles contained in the Convention.

The Committee recalls that its previous comments concerned the legislative provisions which deny certain workers the right to establish union organisations, restrict the right to strike, permit the supervision of trade union funds by the Registrar and limit the right of representation of minority unions.

Trade union rights

The Committee noted on previous occasions that Martial Law Regulation No. 52 of 1981 that was referred to in the context of Cases Nos. 1075 and 1175 of the Committee on Freedom of Association, completely prohibited trade union activities in the Pakistan International Airlines Corporation (PIAC). The Committee notes that, during the examination of Case No. 1332 regarding the same issue, the Committee on Freedom of Association observed that in spite of the lifting of martial law and the repeal of Regulation No. 52, an amendment to the PIAC Act has in practice had the same effect as the above Regulation and deprives the employees of the PIAC of their trade union rights. The Committee shares the opinion of the Committee on Freedom of Association and considers that the amendment to the Pakistan International Airlines Corporation Act, which deems all PIAC employees to be civil servants and therefore denies them the right to establish unions and to carry out union activities, infringes Articles 2 and 3 of the Convention.

With regard to Government employees and public servants of grade 16 and above, the Committee notes the Government's statement in its report to the effect that it is not in the public interest to accord the right of freedom of association to these employees who, in its opinion, do not fall within the scope of the definition of the word "worker" although they may nevertheless form their own associations

for the protection of their rights and interests. The Committee points out in this respect that in order to be in conformity with the Convention the associations established by public servants must be able to exercise trade union activities. Consequently, the Committee requests the Government to state the type of activities that civil servants' associations may exercise.

#### Recourse to strikes

The Committee noted that, despite the possibility, under section 32(1) of the Industrial Relations Ordinance of 1969, of calling a strike after conciliation proceedings have failed, the right to strike is subject to the restrictions set forth in sections 32(2) and 33(1) of the Ordinance. The Committee noted that in normal times the Government authorities may put an end 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 notes that the Government representative stated to the Conference Committee that these were exceptions envisaged by the Ordinance and that normally the Government can only intervene to bring a strike to an end in cases where it extends beyond 30 days and may only do so in the public interest, and that the courts can determine whether the Government's action was intended to protect the public interest or not.

The Committee has already emphasised 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 takes place in public utility services, is liable to result in a very broad prohibition of the right to strike which, in the opinion of the Committee, should be confined to essential services in the strict sense of the term, namely those whose interruption would endanger the life, personal safety or health of the whole or part of the population.

The Committee also noted that workers in export processing zones do not have the right to strike by virtue of section 4 of the Rules governing these zones. The Committee notes that the Government's report does not supply information in this respect; however, the Committee recalls the Government's previous statements to the effect that the restrictions affecting these workers in respect of labour law (no recourse to strikes or collective bargaining) generally respond to the conditions laid down by multinational organisations before they make investments in the country. It also stated that these workers enjoy better conditions of employment than the other workers in general. The Government expressed its intention of reconciling the necessity placed upon it of affording fewer trade union rights to the workers in these zones in order to maintain social peace and attract investors with the obligations it has assumed through its ratification of the Convention. It announced that, with this in mind, the question was under study. Although the Committee is aware of the economic difficulties mentioned several times by the Government, it recalls the importance it attaches to the full enjoyment by workers without distinction whatsoever of the trade union rights provided for by the Convention.



With reference to Case No. 1175 brought before the Committee on Freedom of Association, the Committee of Experts noted in its previous comments that in accordance with section 33 the following have been recognised as public utility services: the petroleum and gas industry, harbour services and transport services. The Committee of Experts noted that these are not services in accordance with the definition given in paragraph 214 of its General Survey of 1983, the interruption of which would endanger the life, personal safety or health of the whole or part of the population.

The Committee points out that strikes are one of the essential means available to workers to promote and protect their occupational interests and considers that limitations and restrictions such as those existing in practice go beyond those usually considered by the Committee to be admissible. The Committee therefore requests the Government to ensure that, in accordance with Article 3, unions can organise their activities and formulate their programmes and that, in accordance with Article 10, they can further and defend the interests of their members.

#### 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 emphasis on the illiteracy rate of workers (in the region of 26 per cent according to the report) which, according to the Government, makes it necessary to exercise limited supervision of financial statements and bank statements that are usually submitted to the administrative authority. The Committee also notes that, according to the Government, it wishes to keep the trade unions safe from malpractices and exploitation.

Although taking into account these considerations, the Committee nevertheless points out that in paragraphs 182-188 of its General Survey of 1983, it considered that supervision of union finances should not normally go beyond a requirement to submit periodic financial returns, and that the discretionary power for the administrative authority to examine any trade union document presents a grave danger of interference. In the Committee's view investigatory measures should be restricted to exceptional cases such as presumed irregularities that are apparent from the presentation of annual financial statements or complaints brought by members of the trade union. Furthermore, in order to guarantee the impartiality and objectivity of the procedure, these controls should be subject to review by the competent judicial authority.

#### Right of representation of minority unions

In its previous comments, the Committee also noted that workers in minority unions could not be represented by the union they had joined for their own personal claims. It noted that, according to the Government, these workers may bring their grievances to the notice of the employer himself through their shop steward or collective

bargaining agent. They may also, by virtue of the Industrial Relations Ordinance, appeal to the labour courts in cases of the violation of their rights, irrespective of trade union membership.

The Committee draws the Government's attention to the fact that, by virtue of the right of workers to join organisations of their own choosing, as set forth in 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.

In view of the fact that the Committee has been commenting on all these questions for many years, it expresses the firm hope that the Government will make every effort to take the measures in the new future that are necessary to give full effect to the Convention.

#### Poland (ratification: 1957)

With reference to its previous comments, the Committee takes note of the Government's latest report as well as the verbal and written information that it supplied to the Conference Committee on the Application of Standards, in June 1987, and the subsequent discussions. It also notes the comments of the International Confederation of Free Trade Unions (ICFTU) and the World Confederation of Labour (WCL) concerning the trade union situation in Poland which relate principally to the refusal to register various unions. These comments were transmitted to the Government in January 1988. The Government indicated in a communication dated 8 March 1988 that it will send its observations after an in-depth analysis of the question. In addition, the Committee recalls that its previous comments referred to the following questions: the system of trade union unity imposed by law, the denial of the right to organise to officials of prison establishments and restrictions on the right to strike.

#### 1. The system of trade union unity in the legislation

The Committee noted that only one trade union organisation may exist in an enterprise for an indefinite period to be determined by the Council of State (section 60(3) of the Trade Union Act, as amended) and that the Act concerning farmers' socio-occupational organisations (section 33(2)) and the Act concerning the representation of workers employed by the State (section 40) impose systems of trade union unity that are not in conformity with Article 2 of the Convention.

In its reports, the Government explained, with regard to section 60(3) of the Trade Union Act, that the need to retain this provision is dictated by the current social, political and economic situation. It indicated that far-reaching social and economic reforms, intended to overcome the existing difficulties, justify the current situation, which corresponds to the interests of the State and nation and can be changed by a decision of the Council of State if the circumstances justify it. According to the Government, public opinion polls

demonstrate that a single trade union organisation operating in an establishment encourages staff integration and promotes the role of trade unions as the defenders and representatives of the occupational interests of the workers. The Government added that elected self-managing bodies operate alongside trade unions in establishments and that they enjoy broad powers enabling them to influence the enterprise management and control the activities of managers. Furthermore, even though only one trade union organisation is authorised in an enterprise, the law does not exclude trade union pluralism, since each trade union may determine its orientation. According to the Government, the principle of trade union unity has been adopted as a temporary solution, but not as a solution excluding pluralism.

Regarding the appeal made to the Constitutional Court to ascertain whether section 60(3) of the Trade Union Act is constitutional in accordance with section 84(1) and (2) of the Constitution, the Government states that the Court rejected the appeal for lack of legal grounds and that the appeal therefore proceeded no further.

With regard to the Act of 8 October 1982 concerning farmers' socio-occupational organisations, the Government agreed that the National Farmers' Organisation is made up of agricultural circles and farmers' unions. However, it adds that federations of associations of agricultural sectors and other farmers' organisations may freely join it. This, it notes, demonstrates that the National Organisation which is designated by law as the main representative of individual farmers is not monopolistic, since free, independent and self-managing organisations, representing the rights and interests of individual farmers who specialise in a given kind of animal or plant production, and other social organisations operating in rural areas, are not automatically members of it. Furthermore, the organisations referred to by the Act do not cover wage earners employed in the collective or private sectors, or members of production co-operatives, who may join the appropriate trade unions, provided for in the 1982 Trade Union Act.

The Committee, while taking note of the Government's explanations on this question, can only urge upon the Government the need in the near future to bring the legislation into conformity with Article 2 of the Convention, which guarantees workers, without distinction whatsoever, the right to establish organisations of their own choosing.

2. Denial of trade union rights to officials in prison establishments

The Committee noted that the law does not recognise the right to organise to officials of prison establishments (section 12 of the Trade Union Act).

The Government referred to Article 9 of the Convention which permits the armed forces and the police to be excluded from the guarantees it affords, and indicated that for many years the prison service had formed part of the militia, before being attached to the Ministry of Justice. Nevertheless, according to the Government, the staff hierarchy and discipline in this sector are similar to those of the militia and, in accordance with Polish case law and practice,

officials of prison establishments, in the same way as those of the militia and professional soldiers, are not workers in the sense of section 2 of the Labour Code.

The Committee, while noting the Government's explanations, must recall that the functions of these public officials should not justify their exclusion from the right to organise on the basis of Article 9 of the Convention, which applies to the armed forces and the police. In its General Survey of 1983 on Freedom of Association and Collective Bargaining, the Committee emphasised that the armed forces and the police are the only categories which, in accordance with the Convention, may be excluded from the benefits of its provisions. It would not therefore be in accordance with the Convention to deny this right to any other category of workers, unless under the national legislation or regulations, they are recognised as forming part of the army or the police.

### 3. Restrictions on the right to strike

The Committee noted that the Trade Union Act establishes restrictions on the right to strike: acceptance of the call to strike by the majority of the workers concerned and the prior agreement of the higher trade union body (section 38(1)); a very extensive list of essential services in which strikes are prohibited (section 40); limitation of strike action to defence of the social and economic interests of a specific group of workers (section 37(1)).

The Government stated that the Trade Union Act guarantees to workers the right to strike and to trade unions the right to organise strikes, and it added that this is the first occasion on which regulations have endorsed this right in a system based on socialist property. The Government nevertheless admitted that the Act excludes from the right to strike certain categories of establishments and of workers. According to the Government, these exclusions are justified by considerations of general interest connected with the need to ensure during the strike the provision of services and supplies that are essential to the normal existence of society, state safety and defence, the normal functioning of state bodies and public services and the fulfilment of fundamental international obligations. In the Government's view, it will be possible after some time and in the light of the experience that is acquired to analyse the problem and to propose the elimination of some exclusions. On the other hand, however, the Government considers it necessary to maintain the requirement of the consent of the majority of the workers and the agreement of the higher trade union body for a strike to be called. On these two points, the Government explained that the right to strike is granted under the law to all workers and not only to members of a trade union, in order to defend the economic and social interests of a specific category of workers, and that a refusal to participate in the vote by the majority of the workers could signify their abstention and a lack of support for the strike. Finally, the Government agreed that political strikes are forbidden, although it explained that the law authorises other less radical means for the workers to give expression to their demands.

The Committee notes the Government's indications concerning the possibility of amendments to shorten the list of essential services in which strikes may be restricted. In this connection, the Committee recalls, as it has already noted in its General Survey of 1983, that in cases where the right to strike is limited or prohibited by national legislation in the public service or in essential services, such restrictions would become meaningless if the legislation defined the public service or essential services too broadly. In the opinion of the Committee, the prohibition on strikes 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 (see paragraph 214 of the Survey). The Committee also recalls that the exclusion of strikes that are purely political in character from the scope of the principles of freedom of association does not cover strikes which are aimed at criticising a government's economic and social policies. Finally, while taking note of the Government's explanations concerning the requirement of a majority decision for a strike to be called, the Committee can only reiterate the observations that it has made on previous occasions, and that it has addressed to other countries whose legislation was not in conformity with the principles of the Convention, namely that a simple majority of the voters - excluding those workers not taking part in the vote - of a bargaining unit should be sufficient to call a strike and that the necessity of the agreement of the higher trade union body should be abolished.

The Committee trusts that the Government will examine attentively the conclusions and observations that it has made above and requests it to indicate in its next report the measures taken to remove the trade union unity that is imposed by the law, to afford the right to organise to all workers other than those in the armed forces and the police, and to abolish the excessive legislative restrictions imposed on the exercise of the right to strike.

[The Government is requested to supply full particulars to the Conference at its 75th Session.]

#### Syrian Arab Republic (ratification: 1960)

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

The Committee takes note of the statement of the Government representative to the Conference Committee in 1986 (72nd Session).

The Committee recalls that its previous comments related to Legislative Decree No. 84 of 1968 concerning trade unions (section 7), Legislative Decree No. 250 of 1969 (section 2) and Law No. 21 of 1974 concerning peasants' co-operatives (sections 26-31) which set up a single trade union structure, section 25 of Legislative Decree No. 84 which restricts the trade union rights of foreign, non-Arab workers, sections 32, 35, 36, 44 and 49(c) of Legislative Decree No. 84 and sections 6 and 12 of Legislative Decree No. 250 of 1969 which restrict the free administration and

independence of the management of trade unions, and section 160 of the Agricultural Labour Code of 1958 which prohibits strike action in the agricultural sector.

1. As regards the system of trade union unity, the Committee notes that the Government representative emphasised the voluntary adherence of workers to one central trade union, and the fact that decisions are taken independently was obvious in that different types of trade union have been established in different regions. The Government representative also indicated that a teachers' trade union had been set up and that, in addition to workers' unions, there existed various associations of workers and employers.

The Committee takes note of this information which, in the Government's view, shows the existence of a multiplicity of trade unions. The Committee recalls, however, that the terms of the legislation (Legislative Decree No. 84 of 26 June 1968, Legislative Decree No. 250 of 1969 and Law No. 21 of 1974) clearly establish a system of trade union unity according to which only one trade union can be set up for the same occupation within the same "Mouhafazat"; the unions in a Mouhafazat can only group themselves into one federation of workers in the Mouhafazat (section 5) and all can group themselves into the General Federation of Workers of Syria (section 7). In addition, it is only when this Federation has taken a decision that the occupations which can constitute groups of unions and the occupational groups which can constitute unions, may be determined (section 4). The Committee recalls that, even if affiliation to an existing union is voluntary, and if the workers concerned wish to remain within the single trade union system, such a system should not be established by law, given that under Article 2 of the Convention workers should be able to establish organisations of their own choosing. The Committee has recognised, in paragraph 136 of its General Survey on Freedom of Association and Collective Bargaining of 1983, that this principle was not intended as an expression of support either for the idea of trade union unity or for that of trade union pluralism; pluralism, however, should remain possible in all cases. The Committee draws the attention of the Government to the fact that, if the workers wished to form unions other than those which they are entitled to set up (other than occupational associations) that is to say outside the established structure that is directly linked to the General Federation of Trade Unions, they would be unable to do so, contrary to Article 2 of the Convention.

2. Moreover, the Convention guarantees trade union rights to "all workers without distinction whatsoever", the only categories which can be excluded therefrom under Article 9 of the Convention being the armed forces and the police. This means that foreign, non-Arab workers employed in the Syrian Arab Republic should also be able to join or form trade unions of their own choosing. Section 25 of Legislative Decree No. 84 only provides this possibility if they have been resident in Syria for one year and only if there are reciprocal rights. The Committee

notes that the Government representative stated that reciprocal clauses were matters of State sovereignty, but that in practice every worker could belong to a union. The Committee considers, nevertheless, that an amendment should be made to section 25 in order to bring it into conformity with Article 2.

3. As regards the management of trade union finances, the Committee notes that, according to the Government representative, it would not be logical for a trade union to accept a gift from a person or from an organisation if this was not in the interests of national objectives or if there were a risk of threat to the sovereignty of the country. The Committee understands that the prohibition on unions under section 32 of Legislative Decree No. 84, and on unions of artisans under section 6 of Legislative Decree No. 250 from accepting gifts, donations and legacies, except with the prior consent of the General Federation and with the approval of the Minister, results in part from the trade union unity situation which has been set up for the benefit of the General Federation. The Committee recalls that this provision is in contradiction with Article 3 of the Convention which provides, in particular, for the right of workers' organisations to organise their administration without interference by the public authorities. The same may be said for section 36, which the Government representative explained, concerns legally financed assistance but which, as the Committee has noted, imposes certain obligations on unions as regards their management and the preparation of their budgets and which provides that trade union committees should receive a certain percentage of the total income. The same is the case as regards section 12 of Legislative Decree No. 250.

Under section 35 the Ministry is also endowed with control over the funds of trade unions. According to the Government representative, this control ensures that the accounts are properly kept, but it does not affect the manner in which the trade unions use their funds nor the objectives of the unions. He also recalled the instructions issued in 1968 concerning the verification of funds and financial statements and the bodies dealing with financial management. The Committee takes note of these explanations and recalls that control exercised over trade union funds should not normally extend beyond the obligation to supply financial reports periodically. On the other hand, if the administrative authority has a discretionary power to inspect the books and other documents of organisations or to carry out investigations and demand information at any time, there exists a serious risk of interference in trade union affairs. The Committee requests the Government to supply with its next report detailed information concerning the authority of the Ministry in this connection and the manner in which it is exercised.

4. In his statement, the Government representative pointed out that the condition laid down in section 44 that a person had to spend six months in an occupation before being eligible for trade union office was designed to ensure that trade union leaders were competent and trained. The Committee accepts that the particular nature of the functions of trade union leaders

requires a certain degree of competence. It would, however, draw the attention of the Government to the fact that trade unions themselves should lay down these requirements, for example in their statutes, and that it is necessary that trade unionists should be able to freely elect their representatives and decide on conditions of eligibility (Article 3 of the Convention). The Committee would also recall in this connection that, in paragraph 155 of its General Survey of 1983, it considered that the right of workers and employers to elect their representatives in full freedom is an essential condition for their organisations to act effectively and independently and to promote their members' interests efficiently. In order that this right be fully recognised it is essential that the public authorities refrain from any interference which would restrict the exercise of this right, whether in determining the conditions of eligibility of union officials or in the process of the elections themselves.

5. As regards section 49(c), under which the General Federation has the right to dissolve, for various reasons, the executive committee of any trade union, the Committee takes note of the information supplied by the Government representative according to which such dissolution can only intervene after the completion of an enquiry. It also notes that this matter also arises within the context of the system of trade union unity mentioned under point (1) of the present observation.

6. In addition, the Committee had noted that strikes are prohibited in the agricultural sector by virtue of section 160 of the Agricultural Labour Code of 1958. This prohibition removes from agricultural trade union organisations an essential means by which they may promote and defend the occupational interests of their members and is not in conformity with Article 3. The Committee notes that, according to the Government representative, a draft law has been prepared by the Government with a view to repealing this provision. The Committee expresses the hope that it will be repealed in the near future and requests the Government to keep it informed of any developments in this matter.

7. In its previous observation, the Committee had suggested to the Government that it should carefully examine the possibility of taking advantage of the technical assistance of the ILO in order to resolve the difficulties experienced in the application of the Convention. The Government had, on several occasions in the past, mentioned that a draft of a new labour code had been prepared and submitted to the competent authorities. It subsequently indicated that a serious study had been undertaken to bring the legislation into conformity with the Convention. The Committee, however, notes that, in his statement, the Government representative pointed out that his Government would not request the assistance of the Office since the outstanding questions were not, in his view, linked to the problem of the application of the Convention but to a problem of interpretation of the Convention by the Committee.

8. In view of the large number of divergencies that exist between the legislation and the terms of the Convention, the Committee would urge the Government to take appropriate steps to



introduce the necessary amendments to give effect to the Convention on the points mentioned above.

The Committee requests the Government to keep it informed of developments in the situation.

Trinidad and Tobago (ratification: 1963)

In the comments that the Committee has been making for several years it has drawn the Government's attention to the need to amend a number of the provisions of the national legislation in order to bring it into conformity with the requirements of the Convention, namely:

- the need to amend several laws enacted in 1965 which all afford a privileged position under the legislation to the association registered by the Minister for the purposes of collective bargaining, without envisaging objective and pre-established criteria for the determination of the most representative association (sections 24(3) of the Civil Service Act, 28 of the Fire Service Act, and 26 of the Prison Service Act). Such criteria should be provided for in order to enable civil servants, firemen and prison officers to choose by a majority vote, without restrictions imposed by the legislation, the occupational association that they consider to be representative and to make it possible for associations that have not received sufficient votes to request another ballot within a specific period of time, in order to bring the legislation into conformity with Articles 2 and 3 of the Convention on these points;
- the necessity of amending sections 59(4)(a) and 65 of the Industrial Relations Act, 1972, as amended in 1978, so as to enable a simple majority of the voters - excluding those workers not taking part in the vote - in a bargaining unit to call a strike and to ensure that any resort by the Minister of Labour to the Tribunal to put an end to a strike is restricted: (1) to cases of strikes in essential services, namely those in which the strike would endanger the life, personal safety or health of the whole or part of the population; or (2) in the event of an acute national crisis.

While noting the Government's very general statements indicating that discussions with the civil servants' association are under way and that the Government that came to power in 1986 has set up several tripartite mechanisms in order to re-examine the industrial relations system in the country, the Committee urges the Government once again to indicate in its next report the measures that have been taken in order to ensure that the legislation is in conformity with the Convention, in view of the fact that some of the matters referred to have been the subject of the Committee's comments since 1969.

United Kingdom (ratification: 1949)

The Committee notes the Government's report on the application of the Convention and the concise information that it contains in reply to its previous comments. It also notes the information supplied by a

Government representative to the Conference Committee in 1987 on this subject and the subsequent discussion.

The Committee recalls that following a complaint against the Government submitted by the Trades Union Congress (TUC) and other trade union organisations alleging non-observance of the trade union rights of workers in the Government Communications Headquarters in Cheltenham (GCHQ), which is the subject of Case No. 1261 before the Committee on Freedom of Association, it commented on the situation of these public service workers who had been denied their right to membership of a trade union by a unilateral act of the Government.

In its 1987 observation, the Committee requested the Government to supply additional information on the whole situation, both regarding the communications from the TUC which had been transmitted to the Government and in connection with any attempts which may have been made to give effect to the measures recommended earlier by the Committee of Experts and the Conference Committee on the Application of Conventions and Recommendations. In this connection, the Committee takes note of the latest observations by the Committee on Freedom of Association regarding Case No. 1261 (see 253rd Report of the Committee on Freedom of Association, approved by the Governing Body in November 1987, paragraph 22) and associates itself with the request concerning the measures that should be taken to initiate negotiations with the trade unions of the public servants concerned, with a view to restoring to these workers their rights of freedom of association as laid down by the Convention.

The Committee points out that Convention No. 87 guarantees to workers, including public servants, the right to establish freely and join organisations of their own choosing (Article 2 of the Convention) and that, consequently, member States that have ratified this instrument are obliged to give effect to this provision, with no other restrictions regarding the categories of protected workers than those permitted under Article 9, namely the armed forces and the police. The Committee trusts that the Government will take action to enable the workers at GCHQ to enjoy the right of freedom of association in trade unions in accordance with the Convention.

The Committee requests the Government to report any developments in the situation in this connection.

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

### Convention No. 88: Employment Service, 1948

Sierra Leone (ratification: 1961)

The Committee takes note of the information provided by the Government to the Conference at its 73rd Session.

It notes, in particular, that the Ministry of Labour invited the employers' and workers' organisations to nominate members of the national Joint Consultative Committee (JCC), which is intended to be the body for tripartite consultations on the employment services. It also notes that the enactment of the new legislation on the employment service referred to in its previous comments is delayed by the administrative difficulties.

The Committee reiterates its hope that the measures envisaged will be adopted in the near future and that it will make possible: (a) the setting up of national, and where necessary regional and local advisory committees ensuring the participation of employers' and workers' representatives in equal numbers in the organisation and operation of the employment service and in the development of the general policy of this service, in accordance with Articles 4 and 5 of the Convention; and (b) the determination of the functions of the employment service in accordance with Article 6 of the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: Nicaragua, San Marino.

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

#### France (ratification: 1953)

Article 5 of the Convention. The Committee takes note of the Act of 19.6.1987 regarding the duration and arrangement of working time, section 14 of which completes the provisions of section L.213-1 of the Labour Code. Under the new provisions, when, in case of serious emergency, the national interest demands it, the prohibition of night work can be suspended in respect of women working in shifts, by an Order extending a branch collective agreement, issued by the Minister responsible for labour. Circular No. 1/1987 of 30.6.1987 states that such exceptions, based on Article 5 of the Convention, were introduced because of the discriminatory effects of the existing regulations, resulting, for example, in the dismissal of women when a workshop goes over to non-stop production for reasons of economy of operation of the new equipment, or in the exclusion of women from new shifts engaged in non-stop production, thereby blocking their prospects of attaining higher job classification (jobs in the non-stop production sector being the most highly skilled).

The Committee takes note of the comments on this circular submitted by the General Labour Confederation (Force ouvrière) to the effect that the instructions contained in it do not appear to observe either the spirit or the letter of the Convention. It also notes that, in the letter addressed to Force ouvrière (which communicated a copy to the ILO), the Minister of Social Affairs and Employment stated that, in his opinion, the exception contemplated is covered by the case of serious emergency provided for in Article 5 of the Convention.

The Committee notes in this connection that the terms in which Article 5 defines the circumstances in which the prohibition of night work may be suspended are reproduced in the new provisions of section 213-1 of the Code. It therefore hopes that, in applying these new provisions, the Government will ensure that such suspensions are only authorised under the conditions and within the limits laid down in the Convention.

The Committee also considers it useful to recall the comments it made in 1986 (paragraphs 69 to 71 of the General Report) on the question of the application of Conventions concerning the night work of women.

Guinea-Bissau (ratification: 1977)

With reference to its previous comments, the Committee takes note with satisfaction of the General Labour Act which came into force on 1 May 1986, section 160 of which, in conjunction with section 60, prohibits women from working in industrial enterprises during the night, in accordance with the provisions of the Convention.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Bahrain, Swaziland, United Arab Emirates.

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

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

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

Brazil (ratification: 1965)

The Committee notes the information contained in the Government's report. In its previous observation, the Committee noted the Government's statement that the Labour Law Committee has been examining a draft law to bring the relevant sections of the Consolidated Labour Laws into conformity with the Convention. The Committee had pointed out that under Article 3, paragraphs 2 and 3 of the Convention, there should be entitlement to a proportionate holiday and corresponding remuneration when a seafarer leaves his engagement after completion of from one to six months' service; and under Article 4 annual holidays are to be given by mutual agreement at the first opportunity as the requirements of the service allow. In its latest report the Government merely indicates that this matter is under examination with a view to adapting national legislation to the

provisions of the Convention. Since these questions have been the subject of the Committee's observations for several years, the Committee very much hopes that in its next report the Government will be in a position to provide information on positive steps taken to rectify the outstanding discrepancies.

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

Requests regarding certain points are being addressed directly to the following States: Egypt, Israel, Italy.

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

#### Central African Republic (ratification: 1964)

The Committee notes the information supplied by the Government in its most recent report to the effect that a supplement to Decrees Nos. 61/135 and 61/137 of 19 August 1961 is currently under study in order to take into account the Committee's suggestions. The Committee hopes that the Government will be able to adopt these regulations in the very near future. In this connection, the Committee recalls that in accordance with the provisions of Article 2, paragraph 1, of the Convention, the contracts to which the Convention applies shall include clauses guaranteeing to the workers concerned working conditions, and not only wages, which are not less favourable than those established for work of the same character in the trade or industry concerned in the same district.

With regard to the national collective agreement for public works and construction, the Committee would be grateful if the Government would send a copy of this agreement with its next report, since the copy referred to in its report has not arrived.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Brazil, Grenada, Jamaica, Saint Lucia, Turkey, Uganda.

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

### Convention No. 95: Protection of Wages, 1949

#### Afghanistan (ratification: 1957)

The Committee notes from the Government's report that the present Convention has been specifically kept in mind in drafting the new Labour Code, and that a new system of wages is under consideration.

It notes also that drafts of regulations regarding the application of the present Convention have been prepared and submitted to the Council of Ministers.

The Committee recalls that the Government has been referring to its intention to adopt legislation to apply the Convention for more than 20 years. It accordingly hopes that the Government will be able to indicate in its next report what progress has been achieved.

[The Government is asked to report in detail for the period ending 30 June 1988.]

Dominican Republic (ratification: 1973)

The Committee takes note of the Government's report and of the information submitted by a Government representative to the Conference Committee in 1987. The Committee observes that the Government has made no reply to the various questions in its previous comments. With reference to the points raised in its previous observation and the comments made by the Committee this year concerning Convention No. 105, the Committee hopes that the Government will reply to its previous comments which are summarised below.

1. Legislative measures. The Committee recalls that it has drawn the Government's attention on several occasions to the need for legislative measures to give full effect to Articles 2, 3, 5, 6, 8(2), 10, 13(2), 14, and 15(b) of the Convention. In some of these cases (Articles 2 and 3), the Government has stated that a Bill or draft amendments to the legislation in force, to give full effect to the Articles in question, have been submitted to the National Congress. The Committee hopes that in its next report the Government will provide information on the measures adopted to give effect to all the above Articles.

2. Measures to guarantee observance of the statutory minimum wage in agriculture. With reference to the report and to the conclusions of the Commission of Inquiry established under article 26 of the ILO Constitution to examine a complaint concerning the application of the present Convention, the Committee hopes that the Government will take the necessary steps, as it said it would, to ensure that Haitian cane cutters are paid the statutory minimum wage. The Committee also recalls the recommendations of the Commission of Inquiry concerning wages based on output, and would be grateful if the Government would provide information on the measures adopted to establish a more uniform and regular system of working hours for cane cutters and to ensure that wages based on output total no less than the guaranteed minimum wage. Similarly, with regard to the recommendation of the Commission of Inquiry in this connection, the Committee would be grateful if the Government would continue to provide information on the measures and regulations adopted and the instructions issued concerning State and private plantations, to ensure that sugar-cane is weighed in the presence and under the supervision of workers' representatives.

3. Payment of wages in negotiable wage vouchers. The Committee hopes that the Government will take the necessary steps to ensure the abolition, both by law and in practice, of the payment of wages in the



form of vouchers or any other form alleged to represent legal tender, in State and private enterprises.

4. Article 7. The Committee takes note of the information supplied by the Government concerning State enterprises and requests it to supply information concerning the measures adopted to give effect to this Article in private plantations.

5. Deferred payment of wages. The Committee notes that, according to the Government, there have been no changes with regard to the situation of sugar-cane workers. It hopes that the Government will supply full particulars on the arrangements made to ensure that the payment of workers' wages is not deferred either in State or private enterprises.

6. Enforcement. The Committee would be grateful if the Government would provide full particulars of the activities of the inspection services of the Ministry of Labour to ensure the observance of the workers' rights with regard to wages and on the results obtained.

[The Government is asked to supply full particulars to the Conference at its 75th Session.]

Libyan Arab Jamahiriya (ratification: 1962)

The Committee takes note of the Government's report in which it indicates that the Committee's observation was submitted to the Commission set up by Decision No. 72 of 1985 of the Secretariat of the People's General Committee of the Public Service, and that this Commission recommended that the competent authorities amend the legislation in force in order to bring it into conformity with the provisions of the Convention.

The Committee refers to its previous comments concerning Articles 2, 4, 7 and 8(1) of the Convention. In those comments it indicated that two questions were outstanding. The first is that agricultural workers do not appear to be covered by the legislation governing the payment of wages (Article 2). The Committee recalls that a Government representative stated to the 1982 Conference Committee that Act No. 15 of 1981 covered all employees, including those in the agricultural sector. The Committee notes, however, from section 3 of the Act that it applies only to workers employed in offices.

The second question relates to the regulation of payments in kind (Article 4) and deductions (Article 8). The Committee previously indicated that these matters did not appear to be regulated in the terms required by the Convention. The above-mentioned statement to the 1982 Conference Committee indicated that these matters were also covered by Act No. 15 of 1981, though in this regard as well this does not appear to be the case.

The Committee would be grateful if the Government would indicate the measures that have been taken or are contemplated in this respect.

With reference more specifically to Article 8, paragraph 1, the Committee notes the Government's indications in a supplementary report that section 34 of the Labour Code establishes a maximum of 25 per cent for deductions from workers' wages, and that the remaining 75 per cent is sufficient for the necessities of workers and their families.

Nevertheless, the Committee refers to its direct requests of 1976 and 1980, in which it pointed out that section 34 relates to the proportion of the workers' wages which may be attached or assigned, and not to the deductions referred to in Article 8 of the Convention. The Committee would therefore be grateful if the Government would indicate, as regards deductions made by the employer other than through the attachment and assignment of wages: (a) whether any provision prohibits all deductions that are not specifically authorised by law or by collective agreements; and (b) whether any limit has been set on the total amount of authorised deductions under sections 35, 36 and 78 of the Code, which when taken together amount to around 50 per cent of the monthly wage. If, as appears to be the case, there are currently no provisions of this nature, the Committee hopes that the Government will adopt the necessary provisions, as it stated in its report, in order to give effect to these Articles of the Convention.

The Committee hopes that, following the recommendations of the Commission set up in 1985, the Government will adopt appropriate legislation in the near future to give full effect to the provisions of the Convention. The Committee would be grateful if the Government would continue reporting the measures that have been taken towards the adoption of these new legislative provisions.

Finally, the Committee notes that the Governing Body has set up a Committee from among its members, to examine the representation made under article 24 of the ILO Constitution by the Federation of Egyptian Trade Unions concerning the application in the Libyan Arab Jamahiriya of this Convention and of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The Committee will therefore examine the matters raised in this representation once the Governing Body has completed its examination.

#### Philippines (ratification: 1953)

Article 3 of the Convention. The Committee recalls that in previous direct requests, it has requested information on the arrangements for the payment of Filipino workers employed abroad, in particular in Iraq. It appears from the Government's report that such arrangements still have not been finalised, more than three years after several thousand Filipino workers went to Iraq in accordance with an agreement between the two Governments.

The Committee therefore requests the Government to indicate in its next report what agreement has been reached in this regard and in particular what arrangements are presently in force for the payment of the Filipino workers concerned.

[The Government is asked to report in detail for the period ending 30 June 1988.]

#### Portugal (ratification: 1983)

The Committee notes the information supplied by the Government in its report and the supplementary report received in June 1987. It



also notes the discussion that took place in the Conference Committee in 1986, regarding the Committee's previous comments and the comments of the Committee set up by the Governing Body to examine the representation made by the General Confederation of Portuguese Workers alleging non-observance by Portugal of various Conventions, including Convention No. 95. The Committee also notes with satisfaction the legislation that has been adopted (in particular, Act No. 17/86 of 14 January 1986; Legislative Decree No. 177/86 of 2 June 1986; Decision No. 90/85 of 20 September 1985; Decisions Nos. 25-I/SESS/86 and 25-/SESS/86, of 26 February and 5 May 1986 respectively; and the Joint Decision of 18 July 1986) in order to give effect to the provisions of the national legislation that protect workers' wages and to implement Articles 12, paragraph 1, and 15(c) of the Convention. The Committee also notes the reports of the General Labour Inspectorate concerning enterprises which are in arrears in the payment of wages to workers. The Committee refers to some aspects of these questions in the request that it is addressing directly to the Government.

The Committee notes the Government's comments on the observations made in 1986 by the Confederation of Portuguese Industry on the reasons, of a fundamentally economic nature, which gave rise to the arrears in the payment of wages to workers. It observes that basic questions of economic policy are raised, which it will not examine at this time.

The Committee also notes the comments made by the Confederation of Portuguese Industry regarding some of the legislative texts adopted by the Government (Act No. 17/86 and Legislative Decree No. 7-A/86) in order to give effect to the provisions in national legislation that guarantee payment of workers' wages. The Committee also notes the comments made by the General Confederation of Portuguese Workers (CGTP-IN) regarding the various legislative texts adopted by the Government, and on some of the practical information supplied by the Government. These comments were forwarded to the Government on 22 September 1987. The Government's comments on this subject have not been received.

The Committee notes that the Government's supplementary report, that was received in June 1987, contains statistics indicating that during the preceeding 18 months the numbers of enterprises and of workers affected by non-payment of wages had decreased by 58 per cent and 49 per cent respectively. It also indicated that the amount of wages outstanding had decreased by 22 per cent over the same period and specified that this smaller proportion was due to the increase in the minimum wage during that period.

The CGTP-IN, on the other hand, stated in its comments that the information supplied by the Government is inaccurate in that it relies on a restricted definition of wages, which takes into account only the basic wage and not the other aspects of remuneration that are also covered by national legislation and by Convention No. 95. The CGTP-IN also states that the Government's statistics, although indicating that workers are currently receiving their wages, omits to indicate the situation regarding the arrears of unpaid wages.

The Committee is not in a position to reach any conclusions on these questions in the absence of appropriate information from the

Government. It therefore hopes that the Government will supply any information that it considers appropriate on the comments received from the CGTP-IN, and, in particular, that it will indicate whether, in its references to unpaid wages, it was referring to all elements of remuneration, or only to basic or minimum wages. It also hopes that the Government will indicate in its next report that further progress has been achieved in eliminating this problem. The Committee hopes that in the near future the Government will be in a position to report that most of the enterprises which are in arrears in the payment of workers' wages or which have paid no wages at all, have been able to fulfil this obligation.

[The Government is asked to report in detail for the period ending 30 June 1988.]

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In addition, requests regarding certain points are being addressed directly to the following States: Belize, Bolivia, Chad, Comoros, Dominica, Grenada, Islamic Republic of Iran, Italy, Philippines, Portugal, Saint Lucia, Sierra Leone, Solomon Islands, Uganda.

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

Finland (ratification: 1951)

Part II of the Convention. Further to its previous comments, the Committee notes with interest the adoption in 1985 of legal provisions to regulate and supervise labour-hiring activities. It notes in particular that by virtue of Act No. 652/85, amending the Labour Exchange Act, and Decree No. 908/85, the business of hiring out labour (including artists and performers) requires a licence granted by the Ministry of Labour, which can also withdraw the licence if the conditions and prescriptions under which it was granted are not fulfilled. Furthermore, an annual report on activities must be submitted by the enterprises or persons engaged in the hiring of labour and data must be submitted on request by employers using labour. If the hiring of labour is directed abroad, advance notification for each separate case shall be submitted and the authorities may prohibit the transaction or set special conditions for it.

The Committee also notes the comments of the workers' organisations (Confederation of Salaried Employees (TVK) and the Central Organisation of Finnish Trade Unions (SAK)) supplied with the Government's report. These organisations emphasise the weaknesses and gaps in the regulations (particularly with regard to the hiring of labour directed abroad and the hiring of artists) the failure to adapt these standards to the new forms of activity that have developed and the importance that the ILO should continue to prepare an international convention on the use of temporary and hired labour, the difficulties in supervising the application of the regulations and,

more generally, the insufficient nature of the public employment services.

Although it considers that the requirements set forth in the Convention are substantially fulfilled in their essence by the provisions adopted in 1985, the Committee, referring to its previous comments, would be grateful if the Government would continue to supply information on developments in this connection and particularly on the application of the above regulations.

Guatemala (ratification: 1953)

Part II of the Convention. With reference to its previous comments, the Committee notes with satisfaction that the adoption of Government Agreement No. 103-84, dated 27 February 1984, provides in section 5, paragraph 4, that recruiting agents authorised to operate in the agricultural sector may only charge fees and expenses on a scale submitted to and approved by the General Labour Inspectorate, as required by the provisions of Article 5, paragraph 2(c), of the Convention.

Japan (ratification: 1956)

Part III of the Convention. Further to its previous observation, the Committee takes note of the report (adopted by the Governing Body at its 238th Session (November 1987)) of the committee set up by the Governing Body to examine the representation made by a number of Japanese trade unions under article 24 of the ILO Constitution, alleging non-observance by Japan of the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96).

It notes in particular the conclusion of the report that the provisions of Law No. 88 of 5 July 1985 ("Worker-Dispatching Undertakings Law"), read together with the provisions of the corresponding Ministry of Labour Ordinance, appear to satisfy, in substance and through equivalent measures, the requirements set forth under Article 10(b), (c) and (d) of the Convention (renewable yearly licence, fees and expenses approved or fixed by the competent authority, authorisation and regulation of recruitment and placement of workers abroad).

Pakistan (ratification: 1952)

Part II of the Convention. The Committee takes note of the information supplied by the Government in its report. It also notes the information provided to the Conference Committee and the discussion on that occasion. The Committee notes in particular from the Government's report that the Provincial Governments have been requested to let the Federal Government have their views with regard to the application of the Fee-Charging Employment Agencies (Regulation) Act, 1976, in the different parts of the country. Further to its earlier comments, the Committee cannot but reiterate

the hope that the Government will take the necessary measures to bring the Act into operation at an early date, or will adopt any other relevant provision, to give legislative effect to the requirement of the Convention, concerning the abolition of fee-charging employment agencies (Article 3 of the Convention).

The Committee also notes the information supplied by the Government as regards the regulation of the "overseas employment promoters", under the Emigration Ordinance, 1979 and Rules made thereunder. It would be grateful if the Government would continue to supply, in its future reports, any relevant information on the fee-charging employment agencies for which exceptions are allowed under Article 5 of the Convention, as required under Article 9 of the Convention and Point V of the report form.

[The Government is asked to report in detail for the period ending 30 June 1989].

#### Syrian Arab Republic (ratification: 1957)

Part II of the Convention. The Committee takes note of the information supplied by the Government in its report on the application of the Convention.

With reference to its previous observation, the Committee recalls the Government's statement to the effect that, in 1984, the Council of Ministers approved a Bill to align the Labour Code with the Convention: (a) by repealing sections 18 and 22 of the Labour Code, which authorise the setting up of private employment agencies; (b) by amending section 11 of the above Code with a view to extending the application of its provisions to domestic and similar workers.

The Committee regrets to note that the Government's report does not contain the information requested previously on the follow-up given to this Bill which, had it been adopted, would have enabled the problems raised in the comments since the Convention came into force, to be solved.

It again notes the Government's assurances that, in practice, private employment agencies do not exist and the relevant provisions of the Code are not applied. In this connection, it takes particular note of certain measures taken by the Government to prevent, in effect, the setting up of such agencies. However, the Committee is bound to reiterate its previous comments regarding the need for measures to bring the legislation into full conformity with the Convention and declared practice. The provisions of the Labour Code currently in force authorise the setting up of private employment agencies, apparently guaranteeing exemption from the payment of a fee only to unemployed persons whom such agencies place in employment, excludes certain activities such as "casual jobs" from the provisions concerning placement, or provides for special texts for domestic workers.

The Committee trusts that the Government will re-examine its position in the light of the above considerations, and that it will take the appropriate measures at an early date to ensure that its legislation gives full effect to Part II of the Convention which provides for the progressive abolition of fee-charging employment

agencies conducted with a view to profit and the regulation of other agencies.

[The Government is asked to report in detail for the period ending 30 June 1989.]

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Bangladesh, Belgium, Bolivia, Djibouti, Egypt, France, Luxembourg, Norway, Panama, Portugal, Sri Lanka, Swaziland, Sweden.

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

### Convention No. 97: Migration for Employment (Revised), 1949

#### Italy (ratification: 1952)

With reference to its previous comments, the Committee notes with satisfaction Act No. 943 of 30 December 1986 laying down provisions concerning the placement and treatment of immigrant workers from countries outside the European Economic Community and against clandestine immigration, paragraph 1, section 12, of which gives effect to Article 8 of Annex I and Article 13 of Annex II of the Convention by prescribing penalties against persons who exercise an activity as intermediaries in the clandestine or illegal recruitment of migrant workers.

#### Spain (ratification: 1967)

1. In its previous comments, the Committee pointed out that it would be advisable, given the steady increase in the number of foreign workers employed in Spain, to adopt legislation regulating the status of foreign workers in Spain in order to give full effect to the provisions of the Convention concerning immigrants.

The Committee notes with satisfaction the adoption of the Basic Act No. 7/1985 of 1 July 1985 concerning the rights and freedoms of foreigners in Spain, and of its implementing regulations (particularly Decree No. 1119/1986 of 26 May 1986), which give effect, in particular, to Article 6, paragraph 1(a)(i), of the Convention, by providing that the remuneration and other conditions of work of foreigners authorised to work in Spain as employees may not be lower than those fixed for Spanish workers by the legislation or collective agreements in force, and to Article 6, paragraph 1(a)(ii), of the Convention, by recognising that foreign workers lawfully in Spain are entitled to join the union of their choice and to strike under the same conditions as Spanish workers.

2. The Committee also pointed out that section 2 of the Order of 15 July 1976 regulating the allocation of accommodation built under the auspices of the National Accommodation Institute, which accords

priority to Spaniards in the allocation of its accommodation, was contrary to the equal treatment in respect of accommodation laid down in Article 6, paragraph 1(a)(iii), of the Convention. The Committee notes with satisfaction the statement made by the Government in its last report to the effect that foreigners now receive the same treatment as Spaniards in the allocation of subsidised accommodation under Basic Act No. 7/1985 and Decree No. 1631/80 of 18 July 1980 concerning the allocation of the accommodation under the responsibility of the National Accommodation Institute.

3. Furthermore, the Committee is addressing a direct request to the Government concerning the measures taken in pursuance of the new legislation mentioned above, in order to ensure that the provisions of the Convention are applied in practice to immigrant workers.

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

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

Chad (ratification: 1961)

Article 4 of the Convention. With reference to its previous comments concerning the need to amend sections 119 and 121 of the Labour Code, which allow the administration to intervene in the collective bargaining process and which require prior authorisation for collective agreements to come into force, the Committee notes the Government's statement in its report to the effect that a preliminary draft of a Labour Code is currently being considered by the various competent departments of the International Labour Office.

The Committee notes with interest the provisions of Title IV of the draft Labour Code on collective bargaining and collective agreements. It notes in particular that section 341, paragraphs 1-3, empower the Minister of Labour to inform the parties of the Government's major economic and social policies, but leave the parties to collective bargaining free to take into account of their own accord facts of general interest and to decide freely on the effect to be given to the comments made by the Minister of Labour. In the Committee's opinion, these provisions improve the application of Article 4.

The Committee requests the Government to indicate any progress achieved in the adoption of the above provisions in its next report.

Furthermore, the Committee notes that the draft Labour Code does not include any provision that is comparable to section 37 of the current Labour Code which provides that: "no employer shall take into consideration membership of a trade union or participation in trade union activities in taking any decision concerning, inter alia, engagement, the running of the undertaking or distribution of work, vocational training, promotion, careers, remuneration, the granting of

social advantages or disciplinary measures. The head of an undertaking or his representative shall not use any kind of pressure in favour of or against any trade union organisation. Any measure taken by an employer in contravention of the provisions of the above paragraphs shall be considered as wrongful and may serve as grounds for an action for damages."

While noting the specific provisions contained in Chapter III of the draft on the protection of staff representatives, the Committee expresses the firm hope that a provision similar to section 37 of the Labour Code that is currently in force, and accompanied by appropriate civil remedies and penal sanctions, will be maintained in the definitive version of the Labour Code, in order to give effect to Articles 1 and 2 of the Convention.

Dominican Republic (ratification: 1953)

The Committee notes the information supplied by a Government representative to the 73rd Session of the Conference and the report transmitted by the Government, although it notes that the above are of a general nature and do not refer in detail to the matters raised by the Committee in its previous observation concerning the following points:

I. Haitian workers in sugar plantations

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 noted the Government's assurance that a Bill to guarantee protection against removal of trade unionists and to protect trade union leaders engaged in the negotiation of collective agreements or other trade union activities, had been submitted to Congress.

With reference to these points, the Government representative stated to the Conference Committee that the situation of Haitian workers employed in sugar plantations had changed in 1987 since, just as in the two previous years, no Haitian workers had been engaged, and he added once again that Haitians working in the country enjoyed the same rights as Dominican workers. He noted, however, the existence of clandestine work by Haitian workers who illegally cross the border, although he explained that this is a phenomenon which can be controlled only with difficulty and that, nevertheless, the authorities of the two countries are working in good faith to resolve these problems.

The Committee can only urge the Government to adopt legislation as soon as possible that is in conformity with the recommendations made by the Commission of Inquiry in 1983 concerning the protection of these workers against acts of anti-union discrimination by employers.

II. The need to strengthen measures  
protecting workers against anti-union  
discrimination and acts of interference

The Committee pointed out the need to adopt provisions protecting workers against anti-union discrimination by employers and acts of interference by employers against workers' organisations. The Committee notes the Government's statement in its report to the effect that: important new draft provisions will be published guaranteeing the situation of up to seven workers who administer or promote a trade union; the State Department for Labour, by means of mediation and arbitration, has achieved important progress for workers' organisations by encouraging collective bargaining and peaceful solutions to labour disputes; and the number of new trade union organisations has risen sharply.

In its previous observation the Committee expressed the hope that legislation would be adopted in the near future that was in accordance with the Convention and it pointed out that under the current legislation, although section 307 of the Labour Code contains a number of provisions that are in conformity with Articles 1 and 2 of the Convention, the penalties envisaged by the law in order to enforce them, which are limited to a fine of from ten to 500 pesos (sections 678(15) and 679(6) of the Code), are quite insufficient and should be increased. In this connection, the Committee takes note of the 254th Report of the Committee on Freedom of Association concerning Case No. 1393 (Dominican Republic), approved by the Governing Body at its 239th Session (February-March 1988), and endorses the conclusions and recommendations set out therein which emphasise the need to adopt measures affording effective protection against acts of anti-union discrimination and interference. In this connection, the Committee can only emphasise once again the need to adopt these legislative measures as soon as possible.

III. Agricultural workers excluded from  
the scope of the Labour Code

In its previous comments, the Committee referred to the exclusion of agricultural, agro-industrial, stock-raising and forestry enterprises employing fewer than ten permanent workers from the scope of the Labour Code (section 265), thus enabling the employers in these enterprises to evade the obligations laid down by section 307 of the Code, which prohibits employers from acts of anti-union discrimination and acts of interference, and allows the exclusion of this category of workers from the collective bargaining procedures.

The Committee therefore once again requests the Government to keep it informed of the measures that have been adopted to amend the legislation so as to bring it into full conformity with the Convention in the near future.

[The Government is asked to supply full particulars to the Conference at its 75th Session.]



Fiji (ratification: 1974)

The Committee notes with regret that for the second year in succession the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its previous direct request, which concerned the need to adopt a specific provision guaranteeing protection against acts of interference.

The Committee pointed out that Article 2, of the Convention is intended to guarantee to (existing) workers' and employers' organisations adequate protection against any acts of interference that they might commit against each other. The purpose of this provision is to guarantee the independence of the organisations and, in particular, the absence of control by any employer over trade union organisations.

Furthermore, the Committee recalled that in accordance with the Convention specific measures, including appropriate penalties, must be taken, in particular through legislative means, to ensure respect for the guarantees set forth in the Convention. The Committee therefore urges the Government to reconsider the situation in the light of its comments and to take suitable measures in the near future to give effect to Article 2.

Furthermore, the Committee takes note of the report of the Committee on Freedom of Association concerning Case No. 1379, approved by the Governing Body at its 235th Session (March 1987). It requests the Government to supply information concerning the application of the Counter-Inflation (Remuneration) Act so that it can assess the extent to which free collective bargaining has been restored and thus evaluate the position as regards conformity with the obligations under Article 4.

Finland (ratification: 1951)

The Committee notes the substantial information supplied by the Government in reply to its comments, and in particular the information on the practical effect given to the Convention and the judicial decisions that were requested, together with the section of its last general report dealing with the Convention.

The Committee recalls that its previous comments had been on the subject of Article 1 of the Convention. It noted the insufficiency of the sanctions incurred by employers committing acts of anti-union discrimination against workers, to which the Central Organisation of Finnish Trade Unions (SAK) had drawn its attention.

The Committee noted that an overall reform of the penal legislation was to have provided the protection envisaged under Article 1. In its reply, the Government states that this reform is still under preparation. With regard to the application of the Convention, the Government specifies that the Ministry of Social Affairs and Health has submitted a proposal to the Ministry of Justice to the effect that the provisions referring to discrimination in

employment should be separated from the overall reform of the Penal Code. The Government however points out that, although the Penal Code does not penalise discriminatory acts on the basis of membership of a trade union or participation in trade union activities, other laws include provisions in this respect including the appropriate penalties. The Committee has already noted the examples of legislative provisions that it provides to support its point of view.

With regard to labour protection delegates, the Committee takes due note of the amendment to section 26 of the Act on Supervision of Labour Protection, which lays down penalties in the event of the discriminatory dismissal of delegates.

The Committee considers that neither the legislation nor its application through the courts yet provide workers in a fully satisfactory manner with the adequate protection against all acts of discrimination in respect of recruitment and employment, that they shall enjoy by virtue of Article 1.

Nevertheless, the Committee notes that on 18 September 1987 the Government submitted to Parliament draft amendments to the Seamen's Act and the Contracts of Employment Act to extend the protection already provided against acts of anti-trade union discrimination in employment to the recruitment of employees. At the same time it has decided to increase the scale of penalties incurred by the employer under these Acts.

The Committee notes with interest all the information supplied by the Government and hopes that the draft amendments will be adopted in the near future. It requests the Government to transmit copies of them once they are adopted.

#### Guinea-Bissau (ratification: 1977)

The Committee notes the information supplied by the Government in its reports.

It recalls that its previous comments concerned the following points:

- the need to adopt a specific provision to guarantee workers adequate protection, accompanied by civil and penal sanctions, against acts of anti-union discrimination (Article 1 of the Convention);
- the need to adopt a provision to protect trade union organisations against acts of interference by employers or employers' organisations (Article 2);
- the need to extend the application of the Convention to public servants not engaged in the administration of the State (Article 6);
- the need to specifically repeal sections 26 and 27 of Legislative Decree No. 36-173 of 6 March 1947 which confers on the authorities the power to participate in the drafting of collective agreements (which, according to the Government, has fallen into disuse).

The Committee recalls that during the direct contacts that took place in 1982 between the competent authorities and a representative of the Director-General, a draft Legislative Decree was prepared in

this respect in order to bring the legislation into conformity with practice and with the Convention.

The Committee notes that the last reports contain no indication of the adoption of the above text. However, it takes note of the assurances given by the Government that the General Labour Act, approved on 3 April 1986, fills the gaps that existed at the level of the right to organise and collective bargaining. The Government recognises that other measures are necessary for the implementation of the legislative provisions that have just been adopted, such as the adoption of the draft Legislative Decree on employers' associations and economic agents that was communicated with the last report, and it states that the workers' trade unions are currently being organised but that no collective agreements have yet been concluded.

The Committee notes with satisfaction the provisions of the General Labour Act which apply the Convention, and in particular sections 20(2), (b), (d) and (e), 24(d) and Chapter XI, section 175(2) which guarantee workers protection against acts of anti-union discrimination and provide that the administrative authorities when participating in the process of collective bargaining shall respect the independence of the parties.

The Committee notes, however, that the provisions on the protection of workers against anti-union discrimination do not appear to be accompanied by penal sanctions against employers and that the General Labour Act is not applicable to workers in the public service.

The Committee hopes that the Government is planning to adopt dissuasive penalties in order to prevent employers from engaging in acts of anti-union discrimination against workers at the time of recruitment or during employment, and once again points out that public servants who are not engaged in the administration of the State should be able to enjoy the right of collective bargaining.

The Committee requests the Government to indicate in its next report all other measures that have been taken or are envisaged in order to bring its legislation into full conformity with the Convention.

#### Jamaica (ratification: 1962)

The Committee notes the information supplied by the Government concerning compulsory arbitration and refers in this respect to its observation concerning Convention No. 87.

The Committee also notes with regret that the Government made no comments concerning the need to amend section 5 of the Labour Relations and Industrial Disputes Act No. 14 of 1975, and section 3, (1)(d), and (2) of the regulations issued thereunder on 6 May 1975 regarding the denial of the right to negotiate collectively in the case of the workers in a bargaining unit when these workers do not amount to more than 40 per cent of the unit.

In this respect, the Committee of Experts, in the same way as the Committee on Freedom of Association, which had the matter brought to its attention in Case No. 1158 (examined in its 226th and 230th Reports, which were approved by the Governing Body), once again urges the Government to indicate in its next report the measures that have

been taken or are contemplated in order to ensure that the union with the greatest number of workers in a bargaining unit, even if it does not have 40 per cent of the workers in that unit, is entitled to negotiate collectively conditions of employment at least on behalf of its own members.

Jordan (ratification: 1968)

The Committee notes the Government's report and the information it contains in reply to its comments.

For several years, since the first analysis of the effect given to the Convention, the Committee has been making comments on Article 2 of the Convention concerning the absence of specific legislative provisions, enforceable by penalties, to protect workers' organisations against interference by employers or their organisations, as provided for in this Article.

The Committee notes from its last report that the Government considers there is no need to adopt legislation to apply Article 2 since there have never been acts of direct or indirect interference either in the establishment or administration of occupational organisations at any time during the history of industrial relations in the country. The Government adds that employers' and workers' organisations exercise their activities freely in accordance with the Constitution of the Hashemite Kingdom of Jordan, that they are not subject to any kind of domination or support of any kind, except that their by-laws should be respected and that the Minister of Labour can exercise supervision by virtue of the laws and regulations that are in force.

The Committee draws the Government's attention to Chapter XI of its General Survey of 1983 on Freedom of Association and Collective Bargaining, and particularly to paragraphs 283 and 284 in which it points out 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 is not therefore sufficient, in the Committee's view, for Article 2 to be observed in practice for the adequate protection against acts of interference set forth in the Convention to be fully guaranteed.

The Committee requests the Government to take these considerations into account and hopes that it will reconsider the situation so as to give full effect to Article 2.

Furthermore, the Committee has previously pointed out that section 1(2) of the Labour Code excludes from its scope both domestic servants and agricultural workers who are not employed in government organisations or institutions for mechanical equipment or in permanent irrigation work. The Committee takes due note of the fact that, according to the report, the new draft Labour Code deals with this matter in detail and that, in the event of disputes, the employment contracts of these categories of workers are covered by the civil courts. The Committee requests the Government to indicate how the draft would enable these categories of workers to negotiate their terms and conditions of employment.

Liberia (ratification: 1962)

The Committee notes with regret that the Government's report does not contain any reply to its comments formulated in March 1986. It must therefore repeat its previous observation which read as follows:

With reference to its earlier comments, the Committee notes that the draft Labour Law referred to several times by the Government has not yet been adopted. The Committee refers to the following three points which it has raised previously:

1. The provisions of the national legislation are insufficient to guarantee to workers adequate protection, accompanied by civil remedies and penal sanctions, against acts of anti-union discrimination at the time of recruitment and during the employment relationship, as provided by Article 1 of the Convention.

2. With regard to acts of interference, the Committee also notes that the present provisions do not make it possible to ensure the protection provided for by Article 2 of the Convention, that is to say, that clear and precise provisions, including penalties, should be adopted to protect workers' organisations adequately against acts of interference by employers and their organisations.

3. Furthermore, the possibility provided for by Article 4 of the Convention of bargaining collectively is not accorded to employees of state enterprises and other authorities since these categories are excluded from the scope of the Labour Code. The Committee recalls that the Convention, by virtue of Article 6, does not deal with the position of public servants engaged in the administration of the State. In the opinion of the Committee, the exclusion from the scope of the Convention of persons employed by the State or in the public sector but not acting in their capacity as agents of the public authority - even when they are in a situation identical to that of public servants whose activities involve the administration of the State - is incompatible with the meaning of the Convention, the only public servants who may be excluded from the scope of the Convention being those engaged in the administration of the State.

The Committee recalls that the Government has submitted a revised proposed Labour Law and a draft Decree of the People's Redemption Council; the adoption of these texts was to have given effect to the Convention, particularly on the points raised by the Committee, but these are still before the competent authorities.

Since the Committee has been making these comments for many years, it trusts that the Government will do everything possible to take the necessary measures to give full effect to the Convention in the very near future.

Libyan Arab Jamahiriya (ratification: 1962)

The Committee notes with regret that the Government's report does not contain any reply to its comments formulated in March 1986. It must therefore repeat its previous observation which read as follows:

The Committee recalls that, in its previous observations, it noted that section 34 of Act No. 107 of 1975 concerning trade unions ensures protection against acts of discrimination for trade union activities during the employment relationship but not at the time of the recruitment of a worker, contrary to Article 1 of the Convention. The Committee observes that no provision of the legislative texts transmitted with the report provides for this protection of workers. Consequently, the Committee requests the Government to take steps so that specific provisions, accompanied by appropriate civil remedies and penal sanctions, are adopted in order to guarantee workers that they will not be subject to acts of discrimination at the time of their recruitment.

The Committee previously noted that sections 63, 64, 65 and 67 of the Labour Code lay down conditions for the validity for collective agreements, conditions which are contrary to the terms of Article 4 with regard to the free and voluntary negotiation of collective agreements.

The Committee notes that under Act No. 9 of 1984, concerning the organisation of peoples' congresses, it is the responsibility of the Occupational Peoples' Congress, of which the citizens are members (section 2 of the Act), to formulate the internal policy of the enterprise, of the socialist undertaking, of the production unit, of the occupational bodies and of the public service (section 15 of the Act). The Committee requests the Government to provide detailed information on the application, in practice, of this provision, with regard to Article 4, and particularly to specify the role played by the workers' trade unions set up by Act No. 107 of 1975.

The Committee previously noted that agricultural workers are excluded from the Labour Code and that seafarers are governed by the Maritime Code; the Committee requests the Government to transmit a copy of the Maritime Code and the texts of the legislation giving agricultural workers the rights guaranteed by the Convention.

The Committee has studied the Decision of the General Peoples' Committee, No. 184 of 1983, concerning the organisation of municipalities, which, in Part IV concerning the responsibilities of the peoples' committee of the public service in municipalities, lays down that peoples' committees of the public service shall be responsible for the recruitment of workers. The Committee requests the Government to indicate which workers are covered by these provisions and under which provisions the protection against anti-union discrimination set out in Article 1 of the Convention is guaranteed to workers at the time of their recruitment and subsequent employment, and the methods by which they are able to negotiate their conditions of employment and wages.

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

Morocco (ratification: 1957)

The Committee notes the information supplied by the Government to the 1987 Conference Committee on the Application of Standards and in its last report in reply to the Committee's previous comments.

The Committee recalls that its previous observation concerned the need to adopt a specific legislative provision giving workers adequate protection, accompanied by civil remedies and penal sanctions, against any acts of anti-union discrimination and particularly in respect of acts calculated to make the employment of a worker subject to the condition of membership or non-membership of a union, as well as dismissals or other acts prejudicing a worker by reason of his union membership or his participation in union activities (Article 1 of the Convention).

The Committee notes the assurances given by the Government in its report to the effect that sections 7 and 8 of the draft Labour Code that it adopted prohibit any discriminatory act on the grounds of the union membership or union activities of workers and provide for penalties of from two weeks' to six months' imprisonment and a fine of from DH500 to DH3,000 against persons contravening these provisions.

The Committee hopes that the above provisions will come into force in the near future. It also requests the Government to supply a copy of the draft Labour Code to which it refers and asks it to supply information in its next report on the definitive adoption of provisions affording to workers protection against acts of anti-union discrimination in order to bring the legislation into conformity with the Convention.

[The Government is requested to supply full particulars to the Conference at its 75th Session.]

Nicaragua (ratification: 1967)

The Committee takes note of the discussion in the Conference in June 1987 and the conclusions of the Committee on Freedom of Association regarding Cases Nos. 1129, 1298, 1344, 1351 and 1372 and concerning the complaint submitted by several Employers' delegates under article 26 of the ILO Constitution regarding the non-observance of Conventions Nos. 87, 98 and 144 during the same Session of the Conference (see the 255th Report of the Committee on Freedom of Association, approved by the Governing Body at its February-March 1988 Session).

With reference to the application of Convention No. 98, the Committee recalls that, since 1981, it has been pointing out to the Government the need to repeal Decree No. 530 of 24 September 1980 which, in section 1, subjects collective agreements to the prior approval of the Ministry of Labour before they can come into force. The second introductory paragraph of the Decree provides that "collective labour agreements have an important effect on economic

activity, and particularly on the general level of wages and prices, and therefore the State cannot remain indifferent to them in view of the anarchic influence they may have at this stage of the process of national reconstruction on the economic and social order."

The Committee noted the Government's statements in its previous reports to the effect that the economic situation in Nicaragua required stabilisation measures preventing the free determination of wages through collective bargaining. The Government added that it had taken steps to guarantee the living standard of the workers and that the General Directorate of Employment and Wages was preparing to put into effect a new wage policy to be applied within the framework of the National Labour and Wages Organisation System (SNOTS).

The Government concluded that Decree No. 530 of 1980 did not restrict the rights of employers' and workers' organisations to negotiate collective agreements and that it was in accordance with the principle of tripartism of the ILO since it provided for the intervention of the Ministry of Labour. According to the Government, the National Labour and Wages Organisation System (SNOTS) provides for the participation of employers and workers in order to discuss the characteristics of the work to be performed in the various occupations so as to determine wage levels in view of the quantity of the work and its complexity. With regard to other conditions of employment, these are negotiated by means of a conciliation procedure. In the event of the failure of conciliation, the Government is not empowered to impose the terms of a collective agreement upon the parties. Even during the state of national emergency, the dispute had to be resolved through arbitration by a judicial tribunal.

The Committee notes the statement by a Government representative to the Conference Committee in June 1987 to the effect that the legislative amendments proposed by the Committee of Experts are the responsibility of the Parliament and involve consultations with the representatives of all the sectors concerned.

It also notes with interest that on 19 January 1988 the national state of emergency was lifted throughout the country.

The Committee wishes, however, to emphasise that Decree No. 530 has been in force for more than seven years and that it requires approval to be given by the Ministry of Labour for reasons of economic policy to collective agreements, so that employers' and workers' organisations are not able to determine wages freely.

Even though the Government has endeavoured to maintain the living standard of the workers, the Committee considers that this situation, and the practice of resorting to compulsory arbitration through the judicial authorities in the event of disagreements between the parties for the solution of collective disputes on subjects other than wages is not in conformity with Article 4 of the Convention respecting the promotion and development of machinery for voluntary negotiation with a view to the regulation of terms and conditions of employment by this means.

The Committee has expressed the opinion on many occasions that in cases where governments consider that the economic situation requires stabilisation measures to be taken which hinder the free determination of wage rates through voluntary collective bargaining, such restrictions should only be imposed as an exceptional measure and only



to the extent that is necessary; they should only be applied for a reasonable period of time.

The Committee hopes that the Government will examine closely the conclusions and observations that it has set forth above, and requests it to indicate in its next report the measures that it has taken to give full effect to the Convention.

[The Government is asked to supply full particulars to the Conference at its 75th Session.]

Pakistan (ratification: 1952)

The Committee notes the Government's report. It also takes note of the 244th and 246th Reports of the Committee on Freedom of Association with regard to Case No. 1332, approved by the Governing Body in May-June 1986 and in November 1986, and of the 253rd Report concerning Case No. 1383, approved by the Governing Body in November 1987.

1. With reference to the conclusions of the Committee on Freedom of Association concerning Case No. 1332, the Committee notes that the legislation respecting the Pakistan International Airlines Corporation (PIAC) (namely Act No. XIX of 1956, as amended by Ordinance No. LIII of 1984) as well as banning trade union activities by employees of the Corporation, confers upon it, by virtue of section 10 as amended, the power to dismiss its employees without giving any reason, without the employees having the right to appeal before a court and only giving them the right to be heard. This provision gives the employer full latitude to dismiss an employee for any reason whatsoever, and particularly for reasons that may be connected with trade union activities. The Committee points out that by virtue of Article 1 of the Convention workers shall enjoy adequate protection against acts of anti-union discrimination (paragraph 1), and more particularly in respect of dismissals by reason of union membership or participation in union activities (paragraph 2, subparagraph (b)). The Committee draws the Government's attention to the fact that in order to give effect to the provisions concerning the protection of the right to organise, employees of the PIAC should in the first place be allowed, in the same way as any other worker, to participate in trade union activities (see its comments in this respect under Convention No. 87) and secondly to enjoy adequate protection against any discriminatory act respecting recruitment or employment. The Committee emphasises that, even if they are considered as public servants, employees of the PIAC must enjoy the protection of the Convention since only the armed forces and the police (Article 5) and public servants engaged in the administration of the State (Article 6) may be excluded from its provisions.

2. Further to its previous comments, the Committee points out that sections 38A et seq. of the Industrial Relations Ordinance No. XIX, as amended in 1974, empower the Government to constitute a wage commission to fix wage rates and determine all the other terms and conditions of service in banks and in any other sector that may be specified by a government notification, and that these provisions

restrict the exercise of voluntary negotiation as established under Article 4.

The Committee notes that, according to the Government's report, employees of banks and other financial institutions enjoy freedom of association and that in all these establishments the sole collective bargaining agent is determined by secret ballot. The bargaining agent is entitled to present to the employer a charter of demands relating to the employees' wages and conditions of service. These demands are then submitted to the wage commission which is presided over by a High Court Judge, and which gives the parties, namely the bargaining agent and the management, the opportunity to present their arguments. The decision of the commission is binding on both parties for between two and three years. The Government emphasises that the workers' point of view is duly taken into account by each decision. It adds that the system works to the advantage of employees in the financial and banking sectors who are among the best paid workers in the country. In the Government's view, such a system corresponds to the bargaining process that shall be encouraged in accordance with Article 4.

The Committee recalls that the principle of voluntary negotiation implies the establishment of procedures encouraging discussions between the parties with the aim of concluding agreements that are freely arrived at. In the Committee's opinion, if, in order to facilitate negotiation, bodies and procedures are established, their intervention should not result in restrictions on the scope of negotiation or the independence of the parties. The Committee notes that in this case the parties are only consulted prior to the decision being handed down by a body that is both administrative and judicial and which alone determines the wages and terms and conditions of employment in a particular sector for a certain period.

The Committee consequently requests the Government to ensure that, in accordance with Article 4, the social partners are able to discuss their wages and employment conditions and that the intervention of the wage commission is restricted to informing the parties of the considerations regarding the social and economic situation and the general interest which the Government wishes to be taken into account; in order to respect fully the right to free negotiations the final decision must always belong to the parties to the agreement.

Regarding the restrictions on the exercise of collective bargaining by workers in export processing zones, the Committee invites the Government to refer on this point to its comments under Convention No. 87.

The Committee trusts that the Government will take the necessary measures in the near future concerning the matters mentioned above in order to give full effect to Articles 1 and 4.

#### Papua New Guinea (ratification: 1976)

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

The Committee recalls that it took note of a communication transmitted by the Government concerning Case No. 1267, approved by the Governing Body at its 228th Session (November 1984), in which a number of the legislative aspects raised had been the subject of its previous comments (section 52 of the Public Services Conciliation and Arbitration Act, amended by the Act of 1983, and section 42 of the Industrial Relations Act, covering the private sector).

In this communication the Government stated that it had taken steps to amend the legislation empowering the Government to reject, at its discretion, arbitration awards or agreements concerning wages, in order to bring it into conformity with Article 4 of the Convention.

With reference to the comments that it made concerning section 52 in a previous direct request, the Committee recalls that a system for the approval of collective agreements is only acceptable in so far as such approval can only be refused on grounds of form or where the provisions of a collective agreement do not conform to the minimum standards set out in the labour legislation.

The Committee once again expresses the hope that the necessary amendments will be made in the near future to bring the legislation into conformity with the Convention. It hopes that in its next report the Government will be able to supply information in this respect. It requests the Government to transmit a copy of the new texts upon their adoption; it also requests the Government to supply information on the practical application of the Convention (number of collective agreements, the sectors concerned, their duration, the number of workers involved, etc.).

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

#### Poland (ratification: 1957)

The Committee notes the information supplied by the Government to the 1987 Conference Committee on the Application of Standards and in its latest report in reply to the Committee's previous comments.

Its previous observation dealt with factual and legal questions. The factual questions concerned the comments made in 1985 by the International Confederation of Free Trade Unions (ICFTU) and the World Confederation of Labour (WCL) on the dismissal of workers allegedly for reasons connected with participation in social activities or protests against the authorities and the difficulties allegedly encountered by former trade unionists who have been interned, arrested or sentenced and then amnestied, in recovering their employment.

The legal questions concerned the Act of 24 November 1986 to amend Part XI of the Labour Code containing restrictive provisions with regard to the registration of collective agreements.

1. Factual questions concerning acts  
of anti-trade union discrimination

The Government indicated that there are no provisions restricting the rights of citizens to employment and to their choice of workplace in accordance with their vocational aptitudes. The Polish legislation enshrining the principle of freedom to work applies to all citizens, including those freed from prison establishments as a result of an amnesty. No legal restrictions are envisaged in respect of persons who have been sentenced to a period of detention. However, their re-employment in the establishment in which they previously worked, or their employment in any establishment is left exclusively to the wishes of the parties concerned. The Government admitted that there are cases in which a clean legal record is required for recruitment, although it indicated that this requirement is envisaged only for certain occupations and certain jobs. According to the Government, in the cases of workers whose contracts have not been terminated and who, once they have been freed from a detention centre or a prison establishment, proceed forthwith to their workplace, their employment contracts once again become valid under the former conditions. The establishment employing them is obliged to allow them to return to work in accordance with the contract signed between the parties. Furthermore, the Government emphasised that a regulation issued by the Council of Ministers on 8 August 1983 respecting the compulsory recruitment on social grounds of certain categories of persons in specific regions and also in the whole of the country, which remained in force until 31 December 1985, had made it compulsory for employers, on the recommendation of employment offices within the limits of the available job vacancies, to offer employment opportunities to persons freed from prison establishments, including those who had been amnestied. The Government also referred to the legal guarantees against anti-trade union discrimination contained in the October 1982 Trade Union Act, and it maintained that there are no legal provisions authorising discrimination against employees or former employees on the grounds of their affiliation to a trade union or their trade union activities.

The Committee also notes that section 4 of the Trade Union Act provides that membership and non-membership of a trade union shall not be prejudicial to the worker, and that the conclusion of employment contracts, continued employment and promotion shall not be subordinate to the above unless the law prohibits the worker, in a specific establishment or job, from joining a trade union. It also provides that the employment protection of workers exercising elected functions in trade unions is defined by the provisions of the Labour Code and the Trade Union Act. Section 39(1) of the Labour Code provides that an establishment may not terminate an employment contract, even with notice, if the person is a member of the works council or a trade union representative, and section 52(4) provides the guarantee to works council members and trade union representatives that their employment contracts can only be terminated with the consent of the immediately superior trade union body.

The Committee notes the indications provided by the Government in this connection, as well as the legislative provisions which improve

the application of the Convention. The Committee would, however, recall that the protection envisaged in Article 1 of the Convention that has been ratified by Poland, covers not only dismissal, but any other act of discrimination at the time of recruitment or during the course of employment.

In the opinion of the Committee, the legislative provisions currently in force guarantee to workers holding elected posts in trade unions and union representatives adequate protection against discriminatory dismissals. However, they only afford general guarantees to protect workers as a whole against acts of discrimination prejudicing their freedom of association in respect of employment without providing for measures to prevent these acts in practice. In its General Survey of 1983 on Freedom of Association and Collective Bargaining, the Committee of Experts noted in paragraph 280 that the effectiveness of legislative provisions depends to a large extent on the way in which they are applied in practice. It consequently invites the Government to re-examine the situation and, if necessary, to strengthen the machinery and the law protecting workers against acts of anti-union discrimination, including the adoption of sufficiently dissuasive civil remedies and penal sanctions in respect of employers, and of machinery for preventive protection.

2. Legal questions concerning restrictive legislative measures in respect of the freedom to bargain collectively

The Government agreed that under the terms of the Act of 24 November 1986, amending the Labour Code, which came into force on 1 January 1987, the Minister of Labour, Wages and Social Affairs is responsible for registering collective agreements after having verified that they are in conformity with legal provisions and with the State's economic and social policy, which is determined by the Diet within the framework of the national socio-economic plan. However, it indicated that this power already belonged to the Minister of Labour under the previous legislation. According to the Government, the examination of the conformity of collective agreements with the national legal rules is intended to ensure the observance of the Labour Code and other legal provisions that regulate the fundamental rights and obligations of workers, such as the provisions respecting the minimum wages of workers in the socialist economy. In cases where the Minister finds that the clauses of an agreement are not in conformity with the legal provisions, he can refuse to register it, not as an act of interference with the content of the agreement, but to oblige the parties to renegotiate it, or, if they contest the opinion of the Minister, to appeal to the Supreme Court whose decision is binding even on the body registering the agreement. The Government explained that it is necessary to conform to the State's socio-economic policy, which is adopted by the Diet for successive five-year periods, in the context of the planned economy. It indicated that the regulations concerning wages and workers' other benefits and rights, which are adapted to the central policy of wages fixed by the socio-economic plan, are issued through Orders after agreement has been reached with the national inter-union organisation

for each five-year plan, and that within the framework of these general decisions collective agreements determine basic minimum wages and the other components of earnings from employment, as well as the rules governing their award in the various occupations and sectors. The Government also emphasised that it has become essential for the authorities, enterprises, trade unions and society as a whole to respect the principles of the State's socio-economic policy at a time when the country is emerging from a serious social and economic crisis, particularly in order to eliminate inflation, to ensure a balanced market and to introduce a system that encourages productivity growth and improves the organisation of technological processes. Finally, the Government indicated that as of 30 June 1987 no collective agreement had been registered, particularly as a result of the fact that consultations were still under way with the unions concerning the amendments to be made to the Act of 26 January 1984 regarding the possibility of concluding wage agreements at the enterprise level.

The Committee notes the text of the Act of 24 November 1986 amending section 11 of the Labour Code of 26 June 1974, which came into force on 1 January 1987. It notes with interest that the Act enshrines the right to collective bargaining at the level of the branch of activity or occupation and the right to conclude wage agreements at the enterprise level. It notes, however, that collective agreements must be submitted to the Ministry of Labour, Wages and Social Affairs for registration and that, if they are not in conformity with the law or the social and economic policy of the State, the dispute is submitted to the arbitration of the Supreme Court or, at the request of one of the parties, to arbitration by a joint mixed commission whose members are appointed by the President of the Cabinet and by the competent body of the national inter-union organisation (section 241<sup>7</sup>, paras. 1-4, as amended). Enterprise-level wage agreements are also registered on condition that they are in conformity with the law and the collective agreement and after notification by the appropriate national trade union organisation. In the event of registration being refused, the parties to the agreement and the body responsible for registration shall enter into discussions in order to bring it into conformity with the law and the agreement and, in the event of their failure to do so, any of the parties can request recourse to a conciliation procedure before a commission chaired by an arbitrator, nominated by the two parties, which shall give a ruling within 14 days or longer if so agreed by the parties. In the event of the failure of the conciliation procedure, one of the parties may refer the dispute for a decision by the Labour Tribunal of the region in which the enterprise is situated (section 241<sup>13</sup>, paras. 2-4).

The Committee has always considered that such legislation is only compatible with the Convention in so far as the refusal to register a collective agreement can only be made on grounds of form, or where the clauses of a collective agreement are not in conformity with the minimum standards contained in the labour law. However, the possibility of justifying the refusal on grounds of incompatibility with the general policy of the Government is equivalent to requiring prior authorisation for the implementation of a collective agreement,

which is not in conformity with the principles of voluntary negotiation set out in Article 4 of Convention No. 98 (in this connection, see paragraph 311 of the General Survey of 1983).

The Committee recalls that in the event of economic difficulties, governments should prefer persuasion rather than constraint and that, in the event of any dispute, the final decision on the matter should rest freely with the parties to the agreement.

The Committee requests the Government to continue to supply information on the effect given to the Convention in practice, particularly on the measures taken to try to obtain the reinstatement of workers who have been dismissed for reasons related to their participation in trade union activities or to acts of social protest, and on any cases of refusal to register collective agreements that have been freely negotiated between the parties. It also requests the Government to indicate the measures taken or envisaged in order to strengthen the legislative protection against acts of anti-union discrimination both during the employment relationship and at the time of recruitment.

A member of the Committee, Mr. Gubinski, stated that, in his opinion the comments on the application of Convention No. 98 by Poland were not justified. He considered that the arbitration provided for by the legislation on collective bargaining constitutes a sufficient guarantee for the workers.

Another member of the Committee, Mr. Ivanov, associated himself with Mr. Gubinski's observations.

#### Singapore (ratification: 1965)

The Committee notes the Government's report and the information supplied in reply to its comments concerning Article 4 of the Convention.

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. The Government points out once again that, under the national industrial relations system, it is current practice to consult the unions on these aspects of conditions of employment when necessary.

Although taking into account the Committee's requests to bring the legislation into conformity with practice by the adoption of appropriate amendments, the Government notes that, since the current system works well, it considers that it would be inappropriate to introduce legislative amendments which might endanger the balance and harmony that reign in industrial relations that have long been based on co-operation and mutual trust.

Although the Committee takes due note of this point of view, it points out that it is incompatible with Article 4 to exclude certain aspects of conditions of employment from collective bargaining. It consequently urges the Government to ensure that the legislation is amended so as to give workers the possibility of negotiating on a voluntary basis all the aspects of their conditions of employment.

2. As in previous years, the Committee notes from the Government's report that the Industrial Arbitration Court has never refused to register the collective agreements of newly established enterprises (as it is empowered to do under section 25 of the Industrial Relations Act) on the grounds that the conditions of employment that they afford are more favourable than those set forth in Part IV of the Employment Act. The Committee recalls that in the past the Government has indicated that, as soon as the workers in these enterprises have established trade unions and concluded collective agreements, the restrictions laid down in section 25 are no longer applicable. The Committee once again requests the Government to report any changes in this respect; it also requests it to indicate the measures that it envisages taking to encourage and promote the development and utilisation of collective bargaining with a view to regulating the terms and conditions of employment of workers in enterprises where there are as yet no unions.

3. The Committee also notes the Government's statement to the effect that it envisages introducing a flexible wage system into the country and that in order to do so it is considering amending section 47 of the Employment Act. The Committee notes that the amendments to this section will be communicated to it as soon as they are adopted by the national Parliament.

United Republic of Tanzania (ratification: 1962)

The Committee notes the Government's reports and the information they contain in reply to its comments concerning the application of Article 4 of the Convention.

The Committee recalls that these concerned 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(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 information supplied by the Government reveals that the collective bargaining process has been improved in practice and, in particular, that the members of the Permanent Labour Tribunal are now employed on a full-time basis and that the Registrar and Economic Adviser have the specific task of drawing the attention of the negotiating parties to the economic situation of the country. The Committee notes that the proposals made by the parties for the conclusion of an agreement are the subject of discussions and consultations at all levels and that, in the final instance, the Labour Commissioner gives his opinion as to whether the agreement may be registered, and it is then registered by the Tribunal.

The Committee notes with interest that the parties are advised on matters of an economic nature. However, it notes that the legislative provisions referred to above empower the Permanent Labour Tribunal to approve collective agreements, with the consent of the Labour Commissioner, before they are registered. The Committee notes that the Government has stated its readiness on many occasions, and most



recently in its report dated June 1987, to revise these provisions in order to bring them into conformity with Article 4. It trusts that the Government will make every effort in this respect, since the right of workers to negotiate wages and conditions of employment freely with employers and their organisations is a fundamental aspect of freedom of association, and since a system whereby collective agreements are submitted for approval is acceptable in so far as approval can be refused only on grounds of form or where the clauses of a collective agreement do not conform to the minimum standards set out in labour law.

The Committee requests the Government to report any developments in the legislative situation in this respect.

Trinidad and Tobago (ratification: 1964)

In the comments that it has been making since 1973, the Committee has requested the Government to amend section 34 of the Industrial Relations Act in order to ensure that a union in a bargaining unit, whose members do not constitute more than 50 per cent of the workers in the unit, is entitled to negotiate collectively at least on behalf of its own members.

The Committee notes with regret the information supplied by the Government in its latest report which merely states that, under existing legislation, minority unions cannot negotiate collectively the employment conditions of workers.

The Committee can only urge the Government to amend its legislation in order to encourage and further the development and more widespread use of voluntary negotiation procedures for collective agreements between employers and employers' organisations, and workers' organisations, in order to determine conditions of employment in this way in accordance with Article 4 of the Convention.

It again requests the Government to indicate in its next report the measures that have been taken or are envisaged in order to ensure that unions whose members constitute the largest number of workers in a bargaining unit, even if these do not amount to 50 per cent of the workers, are entitled to negotiate collectively conditions of employment at least on behalf of their own members.

Turkey (ratification: 1952)

The Committee notes the Government's report and the information that it supplied to the Conference Committee in June 1987 and the subsequent discussion. The Committee also takes note of the conclusions of the Committee on Freedom of Association in the cases that it examined concerning Turkey (252nd Report, May 1987), in so far as they relate to the application of this Convention.

In its previous comments, the Committee raised the question of the restrictions imposed on the right to voluntary collective bargaining set forth in Article 4 of the Convention. On the one hand, section 12 of Act No. 2822 of 1983 on collective bargaining, strikes and lock-outs, requires trade unions to have a membership of at least

10 per cent of the workers employed in a specific branch of activity and more than 50 per cent of the workers employed in the enterprise or workplace before a certificate is granted authorising them to negotiate and, on the other hand, by virtue of section 33 of the same Act, if a legal strike appears such as to be harmful to public health or national security, it may be postponed by a Decree of the Council of Ministers for a period of 60 days, at the end of which time the Supreme Arbitration Board will resolve the dispute.

The Committee noted previously that the amendments made to Act No. 2822 by Act No. 3299 of June 1986, were designed mainly to overcome the procedural difficulties in the collective bargaining process, but that they did not resolve the issues of the numerical criteria required from unions and the existence in certain cases, of a compulsory arbitration procedure.

From the information supplied to it, the Committee notes that the Government has declared its determination to undertake other tripartite consultations, similar to those which took place in the first half of 1987, with the aim of adequately amending the legislation. The Committee notes that, according to the Government, the restrictions of a political nature have been lifted following the various elections that have been held and that this has delayed the preparation of draft legislation, although the studies that were under way in this respect will be recommenced as soon as possible.

Although noting these considerations, the Committee points out that, under Article 4, the Government shall take measures "to encourage and promote the full development and utilisation of machinery for voluntary negotiation ... of collective agreements" and that the legislative restrictions referred to above do not encourage this process. The Committee recalls the importance that it attaches to the fundamental aspect of freedom of association constituted by the right of workers to negotiate their wages and conditions of employment freely. Consequently, since the general situation would appear to permit this (particularly now that the state of emergency has been totally lifted and elections have been held), the Committee trusts that the necessary legislative amendments for the promotion of collective bargaining will be adopted in the very near future.

The Committee requests the Government to report any developments in the situation in this respect.

#### United Kingdom (ratification: 1950)

Further to its previous observation, the Committee takes note of the Government's reply to the comments made by the World Confederation of Organisations of the Teaching Profession (WCOTP) and the Trades Union Congress (TUC) on the application of the Convention.

In its communication dated 18 December 1986, the WCOTP complained that the Bill on Teachers' Pay and Conditions, which, at that stage, had only been submitted to Parliament in draft form by the Government, would result in the primary and secondary teachers of England and Wales losing their right to participate in the determination of their terms and conditions of employment by means of collective bargaining. In a communication dated 19 February 1987, the TUC referred to the

complaint before the Committee on Freedom of Association (Case No. 1391) alleging violation by the Government of the right of teachers to participate in the process of collective bargaining in order to determine their wages and terms and conditions of employment.

The Government replied on 23 October 1987 on the subject of both the industrial relations problems with regard to teachers which had led it to modify the previous system, and the application to the teaching profession of Convention No. 98 and Convention No. 151.

The Committee was informed that the Bill against which the complaint was made was adopted on 2 March 1987 and that orders issued thereunder on primary and secondary teachers' wages have already come into force. The new legislation repeals the 1965 Act, which only covered teachers' remuneration, and introduces temporary provisions (in force until 31 March 1990, although they may be extended from year to year by order of the Secretary of State) concerning remuneration and the other terms and conditions of employment of teachers.

By virtue of the new legislation, an advisory committee consisting of between five and nine members is to be set up by the Secretary of State in order to examine matters relating to pay and conditions of employment and to make recommendations on these questions to the Secretary of State. The Secretary of State may give directions on the matters which the advisory committee will examine, which may include financial and other constraints related to the matters before the committee of which account must be taken. Following a reference from the Secretary of State, the advisory committee will take evidence from all the interested parties: associations of local authorities, teachers' unions, any local education authorities (such as churches, for example) whom it is desirable to consult, and even individual teachers will be able to put forward evidence and representations on all matters under consideration (section 2 of the Act).

Once the advisory committee has reported to the Secretary of State he must then consult with the above parties before coming to a decision. In coming to that decision he is free to accept in their entirety, modify or completely reject the recommendations of the Committee (section 3 of the Act). His decision will take the form of an Order, which will have full legal effect but is subject to the approval of both Houses of Parliament. The local authorities have a legal obligation to give effect to measures that are laid before Parliament and not disapproved. The Committee notes that, for an interim period ending on 1 October 1987, the Secretary of State was able, without previously having requested the advisory committee to submit recommendations, but after consulting the parties set out above that he considered it desirable to consult and the teachers' organisations that appeared to him to be concerned, to issue two Orders containing provisions that he considered necessary on the pay and conditions of employment of teachers. These orders were submitted for approval to the two Houses of Parliament after 34 amendments had been made to the first Order, and some 200 to the second, as a result of various consultations. Since 1 October 1987, the Secretary of State may no longer issue an Order without first having received the recommendations of the advisory committee.

The previous statutory negotiating arrangements for determining teachers' pay were established by the Remuneration of Teachers Act 1965. That Act required the Secretary of State for Education and Science to establish one or more committees (known as the Burnham committees) on which management and teachers would be represented and which reviewed pay when they thought fit or when the Secretary of State instructed them to do so. When the committee made a recommendation, the Secretary of State was required to give statutory effect to it even if he considered the recommendation unacceptable. When the revised rates of pay had been promulgated and given effect by Order, they became binding upon local education authorities. In general, the Secretary of State had no power to vary the Burnham committee's recommendations or to issue an Order in the absence of such recommendations.

Where an agreement could not be reached, the Secretary of State was required to make arrangements for arbitration following consultation with the bodies represented on the committee. The 1965 Act required the Secretary of State to give statutory effect to any arbitration awards as though they were recommendations of the Burnham committee, unless both Houses of Parliament resolved that the national economic circumstances required that effect should not be given to the recommendations of the arbitrators, in which case the Secretary of State had then, after consultation with the relevant Burnham committee, to determine what, if any, changes in the relevant remuneration of teachers were appropriate and to issue an Order accordingly. It should be noted that the Burnham committee only negotiated pay; employers and teachers negotiated other conditions of employment directly in another non-statutory committee.

Following a number of serious difficulties that occurred in 1985 and 1986 in the system set up under the 1965 Act, the Government, considering that they constituted definitive proof of the failure of a now discredited system, took the initiative of introducing other machinery for determining pay and conditions of employment in which it would have a large measure of influence, but which would take due account of the opinions and wishes of the various interested parties.

The allegations of the teachers' trade union organisations concern the fact that the abolition of the Burnham committee system, and other voluntary procedures, and their replacement by the system of new procedures set forth in the 1987 legislation, under the Government's control, violate Article 4 of Convention No. 98. The WCOTP alleges that Convention No. 151 has also been infringed.

In its reply, the Government says that the matter comes under the Labour Relations (Public Service) Convention, 1978 (No. 151). The Government contends that teachers are "persons employed by public authorities" so as to come within the scope of Convention No. 151. It adds that the specific provisions in Convention No. 151 have overtaken the general provisions in Convention No. 98 so far as collective bargaining for public service workers is concerned. The Government accepts that Article 6 of Convention No. 98 does not exclude teachers from the scope of the Convention and that they are not public servants engaged in the administration of the State. Whilst it accepts that Convention No. 151 applies to persons employed by public authorities "to the extent that more favourable provisions in other international

labour Conventions are not applicable to them", the Government maintains that Article 7 of Convention No. 151 is not less favourable than Article 4 of Convention No. 98. In its opinion, Article 4 of Convention No. 98 is more apt to describe machinery for voluntary negotiations between private sector employers or employers' organisations and workers' organisations, while Article 7 of Convention No. 151 is more apt to describe procedures for determining terms and conditions of employment of persons in public sector employment.

The Committee notes that the sole category of workers involved in the present case are teachers employed by local authorities in England and Wales. In the view of the Committee, such teachers fall within the scope of Convention No. 98. They are also, in the opinion of the Committee, not "public servants engaged in the administration of the State" and so do not fall under the exclusion from the scope of Convention No. 98 set out in Article 6. Their position is secured by Article 4 which provides that "Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements". The Government, in its submissions, accepts this view. Public servants in general are defined in Article 1 of Convention No. 151 as "all persons employed by public authorities", which therefore includes public servants who were excluded from the scope of Convention No. 98 by Article 6 thereof; Convention No. 151 was adopted by the International Labour Conference in 1978 in order to guarantee these public servants protection of the right to organise, to afford them facilities for the exercise of their trade union activities and to provide for procedures for determining their terms and conditions of employment and the settlement of disputes. In the Committee's opinion, it is clear that Convention No. 151 is applicable to the category of workers involved in the present case.

As regards the right of workers freely to participate in the determination of their terms and conditions of employment and, in particular, the right of public servants to engage in such a process, the Committee would first observe that there is no contradiction between the terms of Article 4 of Convention No. 98 and those of Article 7 of Convention No. 151. The general principle of collective bargaining enunciated in Article 4 of Convention No. 98 has merely been more specifically defined in Convention No. 151, so as to render it more relevant to conditions applying generally to public servants. It should, however, be emphasised that under Article 1 of Convention No. 151, this Convention applies to public servants "to the extent that more favourable provisions in other international labour Conventions are not applicable to them".

In the case of a country that has ratified both Conventions, the Committee is of the opinion that Article 4 of Convention No. 98 offers more favourable provisions since it includes the concept of voluntary negotiation and the independence of the negotiating parties; it should therefore be applicable in preference to Article 7 of Convention No. 151, which calls upon the public authorities to promote



collective bargaining either by means of procedures that make such bargaining possible, or by such other methods as will allow public servants to participate in the determination of their terms and conditions of employment. It therefore appears that Article 7 of Convention No. 151 applies in part to the categories of public servants who are excluded from the scope of Convention No. 98, that is, public servants engaged in the administration of the State and, also to public servants in general who do not enjoy the protection afforded by Convention No. 98 because it has not been ratified by their Government. In the present case, the system that is currently in force for the determination of the terms and conditions of employment and the remuneration of primary and secondary teachers only enables them, through their organisations, to participate in the decision-making process, which corresponds to the terms of Article 7 of Convention No. 151. The Secretary of State is responsible for taking the initiative of holding consultations, giving directions to the advisory committee that he has appointed and giving effect to the final decision by means of an Order. The Committee notes the Government's statement to the effect that Parliament is responsible for ensuring that the Secretary of State has acted in good faith during the procedure. If Parliament doubts this and believes that the proposed changes have not taken into account the views of local authorities and teachers and that the introduction of new measures is liable to be against the interests of the teachers, it will not support the Secretary of State's changes. The Government asserts that by giving Parliament the final say on the determination of pay and conditions of employment it has given proof of its good faith.

However, it would appear to the Committee that, notwithstanding the double consultation of the parties concerned, and particularly of teachers and their organisations, by the advisory committee and the Secretary of State before he takes any decision, the process does not include free and voluntary negotiation of pay and terms and conditions of employment within the meaning of Article 4 of Convention No. 98. The Committee recalls that the principle of voluntary negotiation set forth in Article 4 implies the establishment of procedures to promote discussions between the parties with the aim of concluding agreements to which consent is freely given. However, the new legislation only affords teachers the opportunity to participate, to submit evidence and representations regarding the matters raised by the advisory committee (section 2(4)(b) of the Act), and a right of expression in the determination of their pay and terms and conditions of employment, rights which fall within the framework of the provisions of Article 7 of Convention No. 151 and not within that of Article 4 of Convention No. 98.

The Committee is of the view that the new legislation does not totally respond to the need to encourage and promote the full development and utilisation of machinery for the voluntary negotiation of collective agreements between the parties. The voluntary nature of the negotiation is nullified by the fact that it is not possible for teachers to take the initiative with regard to negotiations and by the process of unilateral decision-making by the public authority, even though a certain flexibility is introduced through the various consultation procedures. It appears to the Committee that such a

system, where the role of the teachers is reduced to the opportunity to be consulted, to participate (in ways that are determined in the final analysis at the discretion of the public authority) and to express their views, does not constitute true freedom of negotiation enabling these public servants to further their occupational interests and their claims on an equal footing with their employer, namely the public authority.

In these circumstances, and without expressing a view regarding the former system known as the "Burnham committees", the Committee requests the Government to reconsider the situation as a whole so that modifications may be made to the legislation in order to make it possible for primary and secondary teachers in England and Wales to negotiate on a voluntary basis their terms and conditions of employment and their remuneration in accordance with Article 4 of Convention No. 98. The Committee notes that, although it insists on the interim nature of the advisory committee, the Government has published a "Consultative Document" on the permanent arrangements to be established in this field.

The Committee notes that the new legislation is due to expire on 31 March 1990, although it may be extended from year to year by order of the Secretary of State (section 5 of the Act). The Committee trusts that the consultations that are under way and the discussions on a permanent system will give the Government the opportunity to make the necessary legislative amendments to give effect to the fundamental principle of the voluntary negotiation of collective agreements, as contained in Convention No. 98.

The Committee requests the Government to report any developments that may take place in this regard.

#### Venezuela (ratification: 1968)

Articles 1 and 3 of the Convention. With reference to its previous comments concerning the need to amend section 270 of the Labour Act in order to ensure that a sufficiently severe penalty is applicable to employers in order to guarantee adequate protection against acts of anti-union discrimination, the Committee notes with interest the Government's statement in its latest report to the effect that it hopes that the amount of the fine that may be imposed on employers who dismiss a worker in violation of the statutory trade union protection, or refuse to reinstate him, will be set much higher than its current rate.

The Committee requests the Government to indicate any progress achieved in this respect in its next report.

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In addition, requests regarding certain points are being addressed directly to the following States: Angola, Barbados, Cape Verde, Grenada, Haiti, Saint Lucia, Venezuela.

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

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

**Convention No. 100: Equal Remuneration, 1951**Argentina (ratification: 1956)

In several comments the Committee has noted the existence of discriminatory clauses in respect of the remuneration payable to women under certain collective agreements, and in particular in the tobacco and clothing sectors. For its part, the Government stated on several occasions that it intended to bring the Committee's comments in this respect to the attention of the signatories of the collective agreements.

The Committee notes that amendments to Act 14250 governing collective agreements were adopted in December 1987 and that the joint committees provided for in that Act may therefore convened.

The Committee hopes that in the near future the Government will take the necessary measures to co-operate with the employers' and workers' organisations concerned in the most appropriate manner, with a view to reaching amendment of the clauses that discriminate against women in the field of equal remuneration governed by the principle of the Convention, and that it will report the progress achieved in this respect.

Austria (ratification: 1953)

The Committee notes the information supplied by the Government in its report concerning the application of the Convention and the discussion which took place in the Conference Committee in 1987.

1. In its previous comments, the Committee referred to the Federal Act respecting equality of treatment of 23 February 1979 as amended by the Act of 27 June 1985, which provides, *inter alia*, that equal treatment shall apply to the fixing of remuneration, social benefits granted by the employer voluntarily and not as remuneration, and training and advanced training measures in the enterprise. The Committee requested the Government to provide information on the application of the Act as amended and on the activities of the Equal Treatment Committee at the federal level and within the different Länder.

The Committee notes the indication provided by the Government that the principle of equal treatment applied to social benefits such as occupational pensions even before the law was amended and that, in future, benefits of a non-monetary nature such as, for example, the promotion of sports activities and the use of sports facilities, are also subject to the principle of equality. The Committee also notes that the Equal Treatment Committee has dealt with 14 cases since it was instituted in 1979, some of which gave rise to a decision by it



while others were settled by withdrawal of the complaint following the elimination of the discrimination. Only one case was dealt with at the level of the Länder - by the Committee of the Land of Vienna. It concerned discriminatory provisions in the collective agreement of the agricultural workers of Vienna, Lower Austria and Burgenland. These provisions were abolished in the new collective agreement adopted in 1985. The Committee requests the Government to continue to supply information on the application of the law as amended, in particular on the activities of the Federal Equal Treatment Committee, the allegations of discrimination referred to that Committee, the proposals made by it to promote the principal of equal remuneration, and its publications on this subject.

2. With reference to its previous comments concerning the gradual elimination of discriminatory provisions in collective agreements, the Committee takes note of the information in the Government's report to the effect that the study on the updating of provisions discriminating between men and women in collective agreements has been completed and will be published shortly. The Committee notes with interest the indication that most of the discriminations noted during a study conducted in 1978 have been abolished and that only a few insignificant discriminatory provisions in a few areas still exist; these will be examined by the Equal Treatment Committee.

The Committee requests the Government to provide detailed information on the findings and conclusions of the study and to provide the text of the study as soon as it is published. It also requests the Government to provide information on the examination to be conducted by the Equal Treatment Committee any proposals it makes and the effect given to such proposals.

3. In its earlier comments, the Committee noted that wages relating to activities carried out exclusively or mainly by women are maintained at a lower level and that, according to the Austrian Congress of Chambers of Labour, substantial wage gaps were recorded between men and women. The Committee drew the Government's attention to Article 3 of the Convention, concerning the objective appraisal of jobs. The Committee noted the Government's statement that work is generally evaluated by means of a classification of activities according to relatively broadly defined characteristics, but that it is impossible to provide direct and objective evidence of the extent to which the social values implicit in the method of evaluation are influenced by the fact that certain activities are performed mainly or exclusively by women or men, since objective criteria are lacking. The value of certain work is thus primarily a social matter which cannot be determined by objective measurements or evaluation procedures.

The Committee notes the information supplied by the Government to the Conference Committee and in its report, to the effect that there are certain sectors of activity employing mainly women, in which wages are lower than in other sectors. However, it has not been proved that the determining factor is the fact that such jobs are held by women; other factors must be taken into account, such as the economic situation, competitiveness, productivity and the labour market. According to the Government, it appears to be difficult to introduce a

system for the objective evaluation of jobs, which would fix wages for different activities using a sexually neutral method. The Government considers that it is debatable whether, in a system in which the State is not empowered to fix wage scales since they are fixed in collective agreements, it is possible to lay down scientific criteria, and concludes that the system of establishing criteria in collective agreements should therefore be continued.

The Committee takes due note of these statements. It also notes that, according to the Austrian Congress of Chambers of Labour, there are still important wage gaps between men and women. It also notes the statement made by the Austrian representative before the Committee for the Elimination of Discrimination against Women (document GA, supplement No. 45 A 40/45, page 32) that there is a 40 per cent wage differential between men and women in the private sector. While noting the Government's observations regarding the economic factors influencing wage differences, the Committee considers that it is not possible to overlook indications that the work involved in jobs mainly held by women is undervalued compared with jobs performed mainly by men. An objective evaluation of jobs based on the work involved would facilitate the application of the Convention. The scope of the wages established and, consequently, the extent of the comparison to be made between different jobs may be influenced by whether wages and the explicit or implicit evaluation criteria reflected in them are fixed by public authorities or by the social partners in collective agreements; however, this does not change the fact that the criteria used should be as objective and neutral as possible and should not favour one or other sex. As the Committee pointed out, in particular in paragraphs 65 to 70 of its 1986 General Survey on Equal Remuneration, in certain countries the elimination of discrimination is concretely based, *inter alia*, on the formulation of criteria to identify and correct sexual prejudice in job evaluation. By adopting non-discriminatory evaluation criteria and applying them in a uniform manner, differences in wages resulting from traditional stereotypes with regard to the value of "women's work" are likely also to be reduced.

In this connection, the Committee notes with interest the Government's statement that the partners in collective bargaining should be encouraged to make a critical appraisal of the results of their activities in the light of the principle of equal treatment. Indeed, as the Committee also stated in its aforementioned General Survey, when classification systems based on collective agreements affect *de facto* the employees of one or other sex in a discriminatory manner, the social partners may be called upon to change and develop them so that they correspond better to the objectives of equality. The Committee therefore again requests the Government to supply information on the measures adopted or contemplated, in co-operation with employers' and workers' organisations, to promote a determination of remuneration based on an appraisal of jobs which treats men and women equally and objectively.

4. In its previous comments, the Committee referred to a Bill to protect remuneration and to declare null and void the provisions of collective agreements or individual contracts which are discriminatory in respect of remuneration. The Committee notes the Government's

statement that no instruments exist enabling collective agreements fixing different rates of remuneration on grounds of sex to be invalidated because this would violate the freedom of collective bargaining. Provisions concerning equal treatment are applicable both to individual contracts and collective agreements and they must be taken into account during the preparation of such contracts and agreements. In the event of discrimination, all women have the right to appeal to the Equal Treatment Committee or a labour tribunal. When a decision is handed down, any provision in an individual contract or collective agreement, which has been judged to be discriminatory, becomes null and void in respect of the female worker concerned. The employer in question will certainly cease to apply the annulled provision of the collective agreement to other female workers and will exert pressure on his organisation to have this provision of the collective agreement modified.

The Committee refers to paragraph 175 of its 1986 General Survey on Equal Remuneration in which it stated that, in many countries, the provisions of individual contracts or collective agreements which run counter to the principle of equal remuneration are deemed null and void according to legislation or jurisprudence and, in certain countries, the legislation provides that the lower rate of remuneration prescribed in the contract or agreement shall be replaced automatically by the higher rate. Furthermore, in paragraph 169 of the same survey the Committee noted that, for an effective application of the principle of equal remuneration, there must be guarantees against dismissal or other forms of reprisal against women workers who initiate legal action to enforce their right.

The Committee requests the Government to supply detailed information on complaints alleging discrimination in respect of remuneration during the contract period and on the court decisions handed down. It also requests the Government to provide information on the provisions protecting women workers against reprisals and, in particular, on the provisions as to the burden of proof.

The Committee has also noted that under the new provisions (section 6(a) of the Equality of Treatment Act) the Equal Treatment Committee may request an employer suspected of non-observance of the principle of equal treatment to submit a written report on the observance of the requirements concerning equal treatment, containing information enabling a comparison of the opportunities offered to men and women in the enterprise, whether in jobs, training, further training or promotion. The Committee notes the statement that no requests of this nature have been submitted to the Equal Treatment Committee, which has therefore requested no reports, and asks the Government to supply information on the effect given to these provisions.

#### Canada (ratification: 1972)

The Committee notes with interest from the detailed information supplied by the Government in its report and from the attached documents that further progress has been achieved, both on the federal and the provincial levels, in the implementation of the principle of

equal remuneration, through the proposal for reform of equal pay legislation, the adoption of new laws and regulations, the passage of new statutory instruments and the implementation of various practical measures.

1. With regard to the federal jurisdiction, the Committee notes that the Canadian Human Rights Commission has proposed reform of equal pay legislation (a) to introduce a regulatory pay equity model which places responsibility for action on employers with more than 100 employees; (b) to require employers to design and implement a pay equity plan; (c) to establish realistic time-limits for planning and, where indicated, adjusting wages; (d) to establish more vigorous enforcement procedures and penalties including fines for non-compliance and Commission-initiated complaints; (e) to improve monitoring of progress in achieving pay equity through analyses of reports submitted to meet requirements of the Employment Equity Act; (f) to establish a requirement that employers file a certificate of compliance; and (g) to grant a new power of inspection for the Commission.

2. Concerning provincial jurisdiction, the Committee notes with satisfaction that in New Brunswick delay with respect to inclusion in the Employment Standards Act of provisions dealing with equal pay has been overcome and that amendments to the Act became effective in June 1986. The Committee also notes that in Ontario the Pay Equity Act, 1987, received royal assent in June 1987 and will come into force soon. That Act applies to the public sector and those employers in the private sector with ten or more employees. It establishes institutional policies and procedures to provide equal pay for work of equal or comparable value in the same establishment and requires all employers in the public sector, and those in the private sector with 100 or more employees, to develop and initiate pay equity plans according to a legislated timetable. As regards the private sector, employers with 10 to 99 employees may voluntarily initiate a pay equity plan, or, in the event of justifiable employee complaints, must establish such a plan or have it imposed by a Pay Equity Commission. The Committee also notes the creation in Ontario of a Pay Equity Office whose mandate is to provide public education, including publication of informational materials and the conducting of workshops regarding the policies and requirements of the Pay Equity Act.

In Manitoba, the Committee notes with interest that pay equity wage adjustments commenced in the public service in 1985 and that during the first phase of this implementation process, the Manitoba Civil Service Commission and the Manitoba Government Employees' Association jointly agreed on a gender-neutral job evaluation system and the fixing of the classes to which the required job evaluation system would be applied. The Committee also notes with interest the coming into force in 1985 of Part III of the Quebec Charter of Human Rights and Freedom respecting affirmative action programmes as well as the adoption, in September 1986, of a Regulation establishing guide-lines for such programmes and setting forth their required contents. The above programmes are in principle voluntary actions undertaken to remedy the situation of any group subject to discrimination, in particular women, as prohibited by section 10 of the Charter. The Quebec Human Rights Commission can recommend that

such a programme be undertaken or, if discrimination has been proved with respect to an establishment, that it should be imposed by a tribunal.

In the Yukon Territory a Human Rights Act was proclaimed in force on July 1987 and provides, inter alia, for equal pay for work of equal value in the public sector (territorial and local governments and any government agencies).

3. As in previous observations, the Committee notes with interest the publications and the promotional activities of the Canadian Human Rights Commission as well as those of similar institutions on the provincial level. In particular, the Committee notes the information on the seminars held in 1986 by the Federal Women's Bureau of Labour, in co-operation with the Federal Labour Equal Pay Division, on equal pay for work of equal value, which was attended by senior executives of major employers under federal jurisdiction. It also notes that a similar seminar was held for workers' unions and employers' associations.

4. The Committee also notes with interest the Canadian Human Rights Commission's action concerning the dissemination of information to help employers, employee groups and others to understand the concept of equal pay by exploring the intentions of section 11 of the Canadian Human Rights Act and the Commission's approach to this effect: (a) by revising equal wage guide-lines; and (b) by providing information seminars and engaging in wide consultations in order to encourage employers to develop objective job evaluation plans. The Government states that similar promotional activities exist in the provinces and territories and indicates that, with regard to the concept of "equal remuneration for work of equal value", in addition to the federal and Quebec legislation, new legislation on the provincial level - the Pay Equity Act of Manitoba, the Pay Equity Act of Ontario, and the Yukon Human Rights Act - uses terminology corresponding to that of the Convention.

5. Regarding the reduction of differentials between wage and salary rates for men and women the Committee notes, from the statistical data supplied in the 1987 Government's report, that the earnings' position of women relative to men improved slightly for part-time workers, but did not improve in 1985 as compared to 1984.

The Committee hopes that the Government will continue to supply information on the action taken and the results achieved in the promotion and the application of the equal pay principle for work of equal value, together with statistical data showing any progress made in reducing wage differentials between men and women doing work of equal value.

#### Finland (ratification: 1963)

1. Referring to its previous comments, the Committee notes with satisfaction that the Civil Servants Act (No. 755 of 1986) came into force on 1 January 1988 and the Act (No. 609 of 1986) on Equality between Women and Men on 1 January 1987. It notes in particular that under section 7 of the Act (No. 609), which applied to both the private and public sectors, discrimination on the basis of sex is

prohibited, and that according to section 8, paragraph 2 item (1), of the same Act, discrimination is deemed to have occurred where an employer applies less favourable wage conditions or other conditions of employment to a worker than those such employer applies to a worker of the opposite sex for the same work or work of equal value, unless he can prove that his action was based on an acceptable factor, being a factor other than the worker's sex. The Committee looks forward to the Government's providing full information on the practical application of these two Acts.

2. The Committee also notes the detailed statistical data supplied by the Government on the public sector, which tend to show that remaining differences of average remuneration levels for men and women relate to different levels of duties; it also notes the comments made by the Central Organisation of Finnish Trade Unions (SAK) and the Confederation of Salaried Employees (TVK). It notes that, according to the SAK, there remain throughout the economy wage differentials by sex which are largest in the public sector, and that the SAK again states that differences indicating wage discrimination have occurred even when men and women have the same occupational title and when age, education and training, form of remuneration and the various supplements are constant. This point is examined further in a request addressed directly to the Government.

3. In an earlier comment the Committee noted the observations of the SAK, according to which in the very great majority of branches of activity, an actual division of labour remained between male and female jobs and the current criteria for the appraisal of jobs tended to undervalue the skills normally required for jobs that were in practice performed by women. The Committee pointed out in paragraphs 22 and 72 of the General Survey on equal remuneration in 1986 that, in spite of the difficulties associated with a broader comparison of jobs, the fact that women workers are more heavily concentrated in certain jobs and certain sectors of activity has to be taken into account so as to avoid or redress a biased evaluation of qualities traditionally considered as "peculiar to women". The above-mentioned section 8 paragraph 2 item (1) of the Act on Equality between Women and Men appears to limit the purview of the principle of equal remuneration to ensuring equality of treatment between persons employed by the same employer. The Committee hopes that measures will be taken, in co-operation with the employers' and workers' organisations, in order to give effect to the principle of equal remuneration for work of equal value when wage rates based on job classification systems are negotiated between such organisations.

#### Federal Republic of Germany (ratification: 1956)

The Committee notes with interest that with regard to supplementary pension schemes for part-time workers the Federal Labour Court has in several judgements established that indirect discrimination resulting from enterprise pension schemes is incompatible with the principle of equal remuneration. The Court referred in this connection to the case-law of the Court of Justice of the European Communities, which is based, inter alia, on a judgement

of 13 May 1986 (Case No. 170-84 Bilka/Weber von Hartz) which states that the principle of equal treatment is infringed by an enterprise which excludes part-time workers from its occupational pension scheme when that exclusion affects a far greater number of women than men, unless the undertaking shows that the exclusion is based on objectively justified factors unrelated to any discrimination on grounds of sex.

The Federal Court indicated that a company pension scheme is objectively discriminatory if, as a general rule, it excludes part-time workers or requires a waiting period of 15 years, which can be met only by full-time workers. The burden of proving that this differentiation arises from a genuine need of the enterprise and is therefore appropriate and necessary rests with the employer.

The Committee requests the Government to continue to provide information on the application of the principle of the Convention in respect of old-age pensions and wage supplements, including any relevant court decisions.

#### Guinea-Bissau (ratification: 1977)

The Committee notes the information supplied by the Government in reply to its previous comments and notes with satisfaction that the new Labour Code, which came into force on 1 May 1986, introduces in section 156 the principle of equal remuneration for men and women workers by forbidding the establishment of different occupational categories for each of the sexes and prohibiting the payment of lower wages to women performing similar or equivalent activities to those performed by men.

It requests the Government to supply information on the practical effect given to this provision and on the other points raised in the request being addressed directly to it.

#### India (ratification: 1959)

The Committee has noted the report supplied by the Government and the comments made by the Bhartiya Mazdoor Sangh (a workers' organisation), attached to the Government's report, as well as those communicated by the Centre of Indian Trade Unions (CITU) to the ILO in June 1986 following the Committee's 1986 General Survey on Equal Remuneration.

1. The CITU raises various points concerning difficulties in implementing the Equal Remuneration Act of 1976 in addition to what has been noted by the Committee in its previous observation. Namely, the CITU is of the opinion that the conditions laid down under section 12 of the Act concerning the cognisance and trial of offences make it difficult to impose punishment in cases of violation of the Act, and that, given the amount of the fine provided for in section 10, payment of a fine sometimes becomes more economical for an employer than compliance with the Act. It demands an amendment to the Act so as to confer on trade unions the right to file complaints.

The Committee further notes the comment by the Bhartiya Mazdoor Sangh which complains that in the private sector or in the unorganised labour sector, contractors and labour agents do as they please, cases of discrimination against women are very frequent, and women workers are paid lower wages than men for the same work. The organisation adds that women workers do not come forward to give information for fear of losing their jobs, and connivance of government officials supervising the work is a major cause for the discriminatory practices.

The Committee also notes the Government's statement in its report that the lack of organisation and awareness among workers in the unorganised or informal sectors is one of the reasons for the poor observance of the legislation and that it has been making efforts to encourage voluntary organisations to organise women workers or to make them conscious of their rights.

In this connection, the Committee notes with interest the Government's statement in its report that the Equal Remuneration (Amendment) Bill, 1987, was submitted to the Parliament in May 1987. This Bill, inter alia, seeks to amend (i) section 5 of the Act to prohibit discrimination against women not only in recruitment but also in relation to conditions of service such as promotions, training, transfers, etc; (ii) section 10 to enhance penalties; (iii) to permit voluntary organisations as well as the inspecting staff to file complaints regarding violations of the Act.

The Committee hopes that implementation of the equal remuneration principle will be facilitated through the adoption of these amendments and that the Government will supply a copy of the text adopted, as well as information on the enforcement of the Act in practice.

2. The Committee noted, in its previous observation, the cases raised by the CITU concerning the plantations sector in the State of Assam, the agricultural sector in general, the public construction and railway sectors in particular in the South Central Railway, the construction sector in most States, and the beedi industry in the State of Bihar. The CITU in its latest observations adds that, in Beawar (Rajasthan), women employed in traditional industries like beedi, carpets, garments, etc., are getting even less than the minimum wage and that the inequality of remuneration persists in the government sector in Tamilnadu and private and public construction sectors in Kerala, Assam, West Bengal and Maharashtra.

- (a) The Committee notes the Government's statement that, as to the plantations sector in Assam, according to the state government of Assam, the State Labour Commissioner has been directed to enforce the Equal Remuneration Act strictly. The Committee requests the Government to supply information as to the practical application of the Act in the plantations sector in Assam.
- (b) As regards the beedi industry in Bihar, the Government indicates that the beedi industry is a scheduled employment under the Minimum Wages Act 1948 and that by virtue of the notifications fixing the rates of wages men and women workers will be entitled to equal remuneration for the same work or work of a similar nature in this employment as well as in other scheduled employment such as construction and agriculture. The Committee requests the Government to supply information as to the practical application of the principle of equal remuneration in these kinds



of employment and also as to how many labour inspections have been carried out and with what results.

- (c) The Government also refers to the respective state governments' assurances that necessary legal action is taken whenever complaints about payment of lower wages to female workers are received, regarding the beedi industry in Bihar and the construction and agricultural sectors in the states of Madhya Pradesh and Uttar Pradesh. The Committee asks the Government to supply information as to how many complaints have been received and what action has been taken on such complaints and with what results.
- (d) Similarly, the Committee asks the Government to supply a copy of the notifications fixing the rates of wages applying to the beedi industry, which is a scheduled employment under the Minimum Wages Act 1948, and to indicate measures taken to ensure the application of the Equal Remuneration Act 1976 to wage rates above the legal minimum in the beedi industry in Bihar.
- (e) In respect of the female workers employed in the South Central Railway, who had been made casual following the introduction of equal remuneration standards and thus were denied the emoluments, social security and retirement benefits granted to their junior male colleagues, the Government states that out of 134 such workers, 117 have already been empanelled for absorption into permanent staff and a final decision on the remaining workers is likely to be taken soon. The Committee asks the Government to supply information as to how many out of 117 workers have been absorbed into permanent staff and how many of the remaining workers have been similarly absorbed or empanelled.
- (f) The Committee requests the Government to continue supplying information concerning the various points raised by the Centre of Indian Trade Unions, in particular the situation in Beawar (Rajasthan), Tamil Nadu, Kerala, Assam, West Bengal and Maharashtra.

#### Jamaica (ratification: 1975)

The Committee notes the reply to its earlier comments communicated by the Government in its report received in April 1987.

In comments made since 1980, the Committee has noted the existence of sex-differentiated job categories and pay rates in minimum wage orders; the Committee has referred in particular to the Minimum Wage (Printing Trade) Order, 1973, which provides for considerable wage differences both between male and female unskilled workers and between comparable categories of skilled jobs held by men or women. In its report, the Government indicates that the National Minimum Wage is applicable to all workers irrespective of sex, that the Minimum Wage Advisory Commission is now reviewing the Printing Trade Minimum Wage Order, and that the comments concerning different minimum wage rates for male and female workers employed in the same category in the printing industry will be considered.

The Committee recalls that the Convention provides for equal remuneration to be paid to men and women not only in respect of

minimum rates, but in respect of all payments made by the employer to the worker and arising out of the worker's employment, and that equal remuneration should be paid not only to men and women employed in the same category, but more generally to men and women performing work of equal value, even though it may be of a different nature. Inasmuch as the ongoing review of wages orders on the basis of comments under the Convention has been referred to by the Government in its reports for a number of years, the Committee trusts that the necessary measures will soon be taken to eliminate all wage differentials openly or indirectly based on the sex of the worker, both from the Printing Trade Minimum Wage Order and from other wage-fixing instruments, and that the Government will supply information on the action taken.

A more detailed request concerning certain questions arising in this connection is being addressed directly to the Government.

#### Japan (ratification: 1967)

The Committee notes the report supplied by the Government and the comments made by the Japanese Confederation of Labour (DOMEI).

1. The Committee notes that, according to the Basic Survey on Wage Structure undertaken by the Ministry of Labour in 1987, the difference between the starting salaries for male and female senior high school graduates has been increasing. Noting also the statement of DOMEI in its comments, that some improvement can be seen in the differences between men and women in the starting salaries for new graduates after the coming into force of the Equal Employment Opportunity Law, the Committee requests the Government to supply detailed information on the measures taken or contemplated to promote the application of the principle of equal remuneration in this regard and on the progress made.

2. DOMEI points out in its comments the existence of a new classification which distinguishes between "main or key work" and "supplementary work", i.e. different career courses (or tracks) for managerial employees, on the one hand, and clerical (or operative) employees, on the other.

In this connection, the Committee notes with interest the decision handed down by the Tokyo District Court on 4 December 1986, which nullified the collective agreement between the Japan Iron and Steel Federation and its secretariat's union providing for two different tables of wage increase rates and of bonus rates, one for men and the other for women. The Court rejected the Federation's argument that the category of "men" is in fact that of "nucleus employees" and that of "women" "supplementary employees" and that the difference in remuneration is based on the different categories of jobs. The Committee refers in this regard to paragraph 23 of its 1986 General Survey on Equal Remuneration, in which it pointed out that it is not sufficient to replace separate wage scales for "male" and "female" jobs by similar scales worded in neutral language but preserving both the inherited job profiles and existing wage differentials. The Committee requests the Government to supply further information on developments in law and practice with regard to separate wage scales existing under other collective agreements and on

any influence of the Equal Employment Opportunity Law observed in this regard.

3. DOMEI also observes that since the Equal Employment Opportunity Law came into force, requirements for entitlement to family allowances or dependant allowances have been reworded so that allowances previously payable for a "wife" are now paid for a "spouse" or "first dependant" or "second dependant". DOMEI further points out, however, that in many cases the conditions under which certain allowances are paid to "the head of household" differ for men and women.

The Committee notes with interest that section 10 of the Equal Employment Opportunity Law prohibits discrimination against a woman worker with regard to certain fringe benefits such as loans for housing or the allocation of rental accommodation by the company, as provided for by Ordinance No. 2 of 1986 of the Ministry of Labour (section 2). In a communication of 20 March 1986 issued by the Ministry of Labour regarding the application of the law, it is clarified that conditions for the granting of benefits to the "head of family" or the "main supporter of the household" are not discriminatory in themselves, but that if, due to less favourable conditions established for women compared to those for men in determining the "head of family" or "main supporter of household", women workers are in fact at a disadvantage, this would constitute discrimination on the basis of sex. The Committee also notes with interest a communication issued on 13 June 1985 by the Ministry of Health and Welfare concerning the entitlement of dependants to coverage by health insurance schemes (including the employees' health insurance schemes to which employers pay part of the premium). This communication introduces the principle that, when both husband and wife support the household, dependants should, in principle, be covered by the insurance of the spouse with the higher annual income, instead of presuming that, unless the wife's income is much higher than the husband's, they are dependants of the husband.

The Committee requests the Government to supply information on the application in practice of these communications, as well as on their influence upon the eligibility of women to such allowances as family or housing allowances.

4. In its previous comments, the Committee requested the Government to furnish information on any measures taken or under consideration to encourage the introduction of a wage-fixing system based on an objective appraisal of job content.

In the absence of details in this regard in the Government's report, the Committee requests the Government to supply information on the manner in which the principle of equal remuneration is applied in practice where men and women perform different work of equal value. In this connection, the Government may wish to refer to paragraphs 19 to 21 and 44 to 70 of the above-mentioned General Survey, concerning criteria for "work of equal value", and in particular, the role of an objective appraisal of jobs as a means of eliminating discrimination on the basis of sex in the fixing of rates of remuneration.

The Committee also raises a certain number of points in a request addressed directly to the Government.

Mozambique (ratification: 1977)

The Committee notes the detailed information supplied by the Government in reply to its previous comments and notes with satisfaction that section 75 of the new general Labour Act (Act No. 8 of 1985) lays down the principle of equal remuneration for work of "equal value" and forbids any discrimination whatsoever.

The Committee also notes with interest the adoption of Decree No. 5/87 of 30 January 1987, issued under the General Labour Act, regulating the wage system and providing for the establishment of a classification of jobs according to uniform and objective criteria intended, inter alia, to ensure "that work of equal value is rewarded by equal wages".

The Committee notes with interest that for the application of the above provisions the Ministry of Labour has undertaken an objective appraisal of the various jobs on the basis of the work to be performed and has established the qualifications required in order to perform them. This appraisal covers manual workers, employees and technical staff in the enterprises covered by the General Labour Act (employer establishments that are public, mixed or private, and social organisations).

The Committee also requests the Government to refer to the request being addressed directly to it.

Switzerland (ratification: 1972)

The Committee notes the information supplied by the Government in its report and the statement by the Government representative to the Conference Committee in 1986.

1. The Committee notes with interest the amendments made to the provisions concerning residence allowance and children's allowance in the Federal Act respecting the conditions of service of government employees. Henceforth, no distinction is to be made between male and female employees for the provision of these allowances.

2. The Committee notes that a working group on equal remuneration has been set up, composed of representatives of the various federal offices, scientific circles and central associations of employers and workers, with the task of examining the need for legislation to implement the principle of equal remuneration. The Federal Department of Justice and Police has been instructed to submit a report on the work of this group to the Federal Council in the spring of 1988. The Committee requests the Government to supply detailed information on the conclusions contained in this report.

3. With regard to the application of the principle of equal remuneration for work of equal value in collective agreements, the Committee notes with interest that, according to the statement by the Worker member to the Conference Committee in 1986, there are no longer any sex-based salary clauses in collective agreements which, however, in many cases cover only minimum wages; nevertheless, in certain sectors there is still opposition to the inclusion in collective agreements of implicit provisions referring to equal remuneration for men and women for work of equal value.

In certain sectors improvements have been recorded, although several problems remain to be resolved. In certain cases, the classifications adopted by collective agreements include, under another name, distinctions on grounds of sex; the fact that women are now generally recruited under individual contracts excludes them from the scope of collective agreements which should otherwise make it possible to implement the principle of equal remuneration for work of equal value; in cases where, due to the wishes of one party, the principle cannot be laid down in a collective agreement, as is the case in the machine industry, procedures for settling individual cases through arbitration or direct negotiation are not instituted. The Committee notes, in this respect, the original procedure of amicable appeal organised under the new agreement in the watch-making industry in the event of disputes regarding equal remuneration between an employer and women employees. The first appeal may be made by the local trade union secretary; in the event of disagreement between the latter and the employer, the dispute may be brought before the central trade union and employers' organisations and, as a last resort, before an arbitration tribunal. An expert appraisal may be carried out at the request of either party.

The Committee recalls the indications given in paragraphs 29 and 30 of its General Survey of 1986 on Equal Remuneration that the obligation to promote the application of the principle of equal remuneration, under Article 2, paragraph 1, of the Convention, calls for positive action. It requests the Government to supply full information on any progress achieved in this respect and measures taken or contemplated in order to promote the application of the principle of equal remuneration in accordance with the Convention.

4. The Committee notes the ruling given by the Federal Tribunal, dated 30 June 1987, overturning a ruling by a cantonal court that work performed by a woman was of comparable value to that performed by male colleagues with equivalent skills. The Federal Tribunal considered that the difference in treatment stemmed from the circumstances of her recruitment, because the woman employee had accepted a job as an urgent replacement although possessing higher skills than the person that she was replacing, without having first discussed the conditions under which she would replace that person. The Tribunal concluded that equal remuneration between men and women, as laid down in the Constitution, is guaranteed only if the discrimination is based on sex, while other grounds of distinction, such as fluctuations in the economic situation or the recruitment of new staff, are admissible.

The Committee recalls that in referring to "rates of remuneration established without discrimination based on sex", the Convention covers both cases of open discrimination and also cases in which apparently objective criteria result in discrimination based on sex, irrespective of the intention behind it. The Committee also notes the statement by the Swiss Workers' Union that the decision of 30 June 1987 amounts to a restriction on the principle of equal remuneration set out in section 4, paragraph 2, of the Federal Constitution, because it enables employers to invoke the most varied grounds in order to justify discrimination based on sex and once again lays the

burden of proof on women workers to demonstrate that the discrimination of which they are the victims is based on sex.

The Committee refers to the explanations given in paragraphs 166 to 174 of its General Survey of 1986 on Equal Remuneration regarding measures to facilitate the application of the principle of the Convention, which involve in particular channels of redress open to women employees whose rights are violated, legal protection for plaintiffs against any reprisal measure by the employer and placing the burden of proof on the employer. It requests the Government to indicate any measures that may have been taken or are contemplated in order to facilitate the application of the principle of equal remuneration without discrimination based on sex.

5. The Committee also notes the ruling by the Federal Tribunal, dated 14 May 1987, overturning the ruling by the Administrative Tribunal of Zurich on the grounds that the neutral expert evaluation requested by the nurses in the Zurich Cantonal Hospital had been arbitrarily denied and that they were entitled to demand that the comparative analysis to evaluate their wage levels in relation to those categories of public servants in which men were predominant should not be limited to ambulance drivers, who were the only category considered sufficiently close by the Administrative Tribunal. The Committee requests the Government to continue to supply any ruling handed down by the courts in this field.

#### United Kingdom (ratification: 1971)

The Committee notes the information supplied by the Government in its report and the discussion which took place at the Conference Committee in 1986, as well as the comments made by the Trades Union Congress (TUC) on the Government's report.

1. The Committee notes with interest the adoption of the following statutory instruments:

- the Wages Act, 1986, which, for workers aged 21 and over within its scope, restricts wages councils to setting a single minimum hourly wage and overtime rates (and the number of hours after which the overtime rate is due) applying equally to women and men;
- the Sex Discrimination Act, 1986, section 6 of which (in operation since 7 February 1987) provides for the automatic avoidance of any term in a collective agreement, whether or not legally enforceable, and of any rule made by an employer or a workers' organisation, which is unlawful under the Sex Discrimination Act, 1975, on the grounds of sex or being married, or which provides for breach of the Equal Pay Act, 1970.

The Committee has also noted with interest a Department of Employment leaflet, "Collective Agreements and Sex Discrimination", explaining the effect of section 6 of the Sex Discrimination Act, 1986, which is available free of charge to members of the public.

In its comments on the Government's report, the TUC expresses the view that the Sex Discrimination Act, 1986, is deficient because it provides no collective means of challenging a discriminatory term in a collective agreement, no enforcement machinery and no third party to decide whether a term in a collective agreement is in fact

discriminatory and if so, whether it is justifiable. Under the Act, that term will remain operative in individuals' contracts of employment, even if the term in the collective agreement is void, until the term is renegotiated. In cases where an employer refused to renegotiate a discriminatory term in a collective agreement covering several employees, there would be no mechanism for removing the discriminatory term. Every woman whose pay was affected would have to make an application to an industrial tribunal under the Equal Rights Act in order to have her individual contract amended. A discriminatory collective agreement could therefore give rise to multiple applications to tribunals. This would not constitute a serious inducement to the employer to renegotiate, however; in practice the claims of the women concerned would be frustrated by the sheer volume of applications and delays in the procedures. This problem is currently being illustrated by the equal value applications lodged in 1985-86 by 1,300 canteen staff employed by British Coal, which have yet to be heard, since UK legislation does not permit representative cases. In the view of the TUC, section 6 of the 1986 Act will have a limited impact on inequalities in women's pay unless an independent third party is given the power to require the removal of unjustifiable, discriminatory terms from collective agreements. The Sex Discrimination Act, 1986, removed the Central Arbitration Committee's limited role in this area. The TUC contends that far from being redundant this role of the CAC is crucial and should be extended.

The Committee notes these comments and trusts that the Government will supply full explanations as well as information on any measures taken or contemplated with regard to the shortcomings raised by the TUC.

2. The Committee previously noted the comments of the TUC to the effect that a complaint concerning equal remuneration for work of equal value can be rejected by an industrial tribunal, without the case being considered in its entirety or the work assessed by an expert, if an employer, availing himself of section 1(3)(b) of the Equal Pay Act, 1970, as amended, can show that the difference in pay is genuinely due to a material factor which is not the difference of sex. The Committee noted the indication by the Government that the justification of "material factor", envisaged in section 1(3)(b) of the 1970 Act, was introduced to cater for situations in which a difference in pay is due not to sex discrimination but to factors such as skill shortages. Furthermore, the Government indicated that the procedure whereby industrial tribunals have the possibility and not the obligation, under section 8(2E) of the Industrial Tribunal (Rules of Procedure) Regulations, 1985, to accept a material factor defence before a case is looked at by an expert, was intended to save time and money for the parties concerned when such a defence had a good chance of success. The Committee noted this statement and requested the Government to transmit any judgement concerning the application of section 1(3)(b) of the Equal Pay Act, 1970, as amended.

The Committee has noted a number of relevant tribunal judgements transmitted by the Government with its report. It notes that in the case of Clark and others v. Bexley Health Authority, the material factor upon which the employers relied was that they had no choice in the matter of salary, which was determined elsewhere, and that they

were bound to comply with the National Health Service (Remuneration and Conditions of Service) Regulations, 1974. The industrial tribunal held that it had no jurisdiction to interfere with these regulations. The Committee notes the Government's indication that the judgement in that case and certain other judgements communicated with its report are not necessarily final and may be the subject of appeal to a higher court. Referring also to the explanations in paragraphs 25 to 28 of its 1986 General Survey on Equal Remuneration regarding the scope of the State's obligation to ensure the application of the principle of equal remuneration, particularly to its own employees and when the State intervenes in the field of wage fixing, the Committee hopes that the Government will supply information on further developments regarding the cases mentioned, including copies of any decisions by higher courts, as well as more generally copies of further judgements defining or illustrating the scope of section 1(3)(b) of the Equal Pay Act, 1970.

3. The Committee previously noted the statement of the TUC to the effect that the Equal Pay Act, 1970, by establishing that a woman applicant would need to compare her job with that of a particular man, prevents women who work in establishments where the workforce is made up entirely of women from submitting a complaint concerning equal remuneration for work of equal value under section 1(2)(c) of the Act as amended. The Government had replied that if circumstances did not permit a comparison between workers of the opposite sex employed in the same employment, that is to say, working for the same employer or an associated employer, it would be impossible for an industrial tribunal to determine what a "hypothetical man" could earn without establishing a comparison between different industries and regions. This approach would not make it possible to determine whether the wage difference was the result of differences based on sex or the result of economic factors inherent in the industry or the region under consideration. The TUC had commented that the concept of a "hypothetical man" did not involve a comparison with the wages paid to men employed in other industries or regions; this concept would make it possible to establish the remuneration that a man in the same industry and in the same region as the applicant would receive for the work under consideration.

The Committee notes the Government's statement to the Conference Committee in 1986 that it could not accept that employees of different undertakings within the same industry, or even within the same geographical area, should necessarily receive the same pay without any account being taken of the differences in efficiency and profitability between enterprises. The Committee also notes the comments by the TUC that it is possible for a tribunal or court to consider what a man would be paid for doing the particular woman's job in cases in which no man is employed, using comparisons with other employers. According to the TUC, the issues of different markets and costs of living, different collective agreements and differing degrees of efficiency between employers, would not necessarily arise, and where one or more of them did arise they should feature in the court's deliberation, for example as part of an employer's material factor defence, or an independent expert's report.



In this regard, the Committee refers to the explanations provided in paragraphs 22 and 71 and following, of its 1986 General Survey on Equal Remuneration, in which it indicated that the reach of the comparison between jobs performed by men and women should be as wide as allowed by the level at which wage policies, systems and structures are co-ordinated (e.g. with regard to industry - wide collective agreements), taking into account also the degree to which wages fixed independently in different enterprises may be based on common factors unrelated to sex.

The Committee further notes the Government's indication in its report that information is not available on the number of women employed in workforces which are exclusively female. It also notes the statement made by the United Kingdom Employer member to the Conference Committee in 1986, that such enterprises were fairly rare in the United Kingdom (and where they existed they were more likely to pay proper rates to women than were enterprises in which the management was male). She added that in departments or types of work done by women in enterprises employing both men and women, job evaluation schemes, often managed with the co-operation of workers' representatives, were not all perfect but were capable of improvement and of providing an answer to the question posed by the concept of the "hypothetical" or "notional" man.

The Committee requests the Government to indicate any measures taken or envisaged, in pursuance of Article 2(1) of the Convention, in order to promote the application of the principle of equal remuneration for men and women workers for work of equal value to all workers including those working in exclusively or predominantly female establishments, departments or types of work and who therefore may have difficulties in finding male comparators when making complaints under section 1(2)(c) of the Equal Pay Act, 1970, as amended.

It also requests the Government to provide information on a number of points raised 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: Afghanistan, Algeria, Argentina, Austria, Bolivia, Burkina Faso, Byelorussian SSR, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Comoros, Costa Rica, Côte d'Ivoire, Czechoslovakia, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, Finland, France, Gabon, German Democratic Republic, Federal Republic of Germany, Ghana, Guinea, Guinea-Bissau, Guyana, Haiti, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Iraq, Italy, Jamaica, Japan, Jordan, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Malawi, Mali, Mexico, Morocco, Mozambique, Nepal, Netherlands, New Zealand, Niger, Nigeria, Norway, Panama, Peru, Poland, Romania, Rwanda, Sao Tome and Principe, Saudi Arabia, Senegal, Sierra Leone, Sudan, Swaziland, Switzerland, Syrian Arab Republic, Togo, Tunisia, Turkey, Ukrainian SSR, USSR, United Kingdom, Yemen, Yugoslavia, Zaire, Zambia.

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

A request regarding certain points is being addressed directly to Sierra Leone.

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

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

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

Greece (ratification: 1983)

Article 1 of the Convention. The Committee notes with satisfaction from the Government's report as well as from Circular No. A 21/296 of 7 January 1987 that all persons working at home in piece work for one or more undertakings are insured with the Social Insurances Institution (I.K.A) in conformity with this Article of the Convention. It also notes with interest the Government's statement that the I.K.A. now covers the whole of the country.

It wishes to draw the Government attention of a certain number of points in a request sent directly to the Government.

Italy (ratification: 1971)

Article 6 of the Convention. (Domestic workers). In its earlier comments, the Committee pointed out that section 2 of Act No. 1204 of 1971 on the protection of working mothers, which prohibits dismissal during the period of pregnancy and the three months following confinement, is not in conformity with the Convention as it does not apply to domestic workers. The Committee therefore requested the Government to take the necessary measures to make section 2 of the above-mentioned Act apply to women domestic workers as well.

The Committee notes from the information contained in the Government's report that no measure has yet been taken for that purpose but that a collective agreement for domestic work of 28 April 1987 provides for the prohibition of dismissal during the period between the production of the medical certificate of pregnancy and the moment of the compulsory interruption of work.

The Committee must once again point out that the protection against dismissal provided for in the aforementioned collective agreement is not in conformity with Article 6 of the Convention, which prohibits dismissal during the period while the woman is absent from work on maternity leave and any extension of such leave (in case of late confinement or of illness occurring out of pregnancy or confinement). Moreover, as the Government indicated, this collective agreement is not applicable erga omnes but only to members of the

contracting organisations. Therefore, the Committee reiterates its hope that the Government will do everything possible to bring the national legislation into conformity with the Convention on this point in the near future, as this was the case with the national legislation previously in force (Act No. 860 of 1950).

Mongolia (ratification: 1969)

The Committee notes with satisfaction that according to the Government's report maternity benefit for mothers who have been employed for less than seven months has been raised by Ordinance No. 6 of 21 January 1987 of the Council of Ministers to 70 per cent of their average monthly remuneration, in conformity with Article 4, paragraph 6 of the Convention.

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

**Convention No. 105: Abolition of Forced Labour, 1957**

Afghanistan (ratification: 1963)

Article 1(a) of the Convention. In comments made for a number of years, the Committee has noted that prison sentences involving an obligation to perform labour may be imposed under the following provisions of the Penal Code:

- (a) sections 184(3), 197(1)(a) and 240 concerning, inter alia, the publication and propagation of news, information, false or self-interested statements, biased or inciting propaganda concerning internal affairs of the country which reduces the prestige and standing of the State, or for the purpose of harming public interest and goods;
- (b) sections 221(1), (4) and (5) concerning a person who creates, establishes, organises or administers an organisation under the name of a party, society, union or group with the aim of disturbing and nullifying one of the basic and accepted national values in the political, social, economic or cultural spheres of the State, or makes propaganda for its extension or attraction to it, by whatever means it may be, or who joins such an organisation or establishes relations, himself or through someone else with such an organisation or one of its branches.

The Committee notes the indication in the Government's report supplied in 1987 that the obligation to perform prison labour provided for under section 3 of the Prisons Law covers persons convicted under the above-mentioned sections of the Penal Code as well as those convicted of other misdemeanours and crimes. It also notes the Government's indication that under section 13 of the Prisons Law,

those convicted under the above-mentioned sections of the Penal Code are kept in custody separately from ordinary prisoners, and that they are also engaged in different activities to keep themselves physically healthy and to provide themselves with gainful employment for which they are fully paid.

While noting the special status given to prisoners convicted under the above-mentioned sections of the Penal Code, the Committee must point out that the imposition of sanctions involving compulsory labour on these persons remains contrary to the Convention. The Committee, requests therefore, that the penal provisions referred to will be examined in the light of the Convention, with a view to ensuring that no sanctions involving forced or compulsory labour may be imposed as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system, and that the Government will indicate the measures taken to this end.

#### Algeria (ratification: 1969)

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

Article 1(a) of the Convention. In the comments that it has been making for many years, the Committee has referred to Ordinance No. 71-79 of 3 December 1971 on association, providing for the imposition of sentences of imprisonment involving compulsory labour in circumstances covered by the Convention.

The Committee notes that Act No. 87-15 of 21 July 1987, respecting associations, has repealed and replaced Ordinance No. 71-79 of 3 December 1971.

The Committee notes that section 3 of the Act provides that certain associations shall be subject to a procedure of prior approval; that by virtue of section 4 any association whose objectives are contrary to the "established institutional system" or "of such a nature as to threaten the fundamental options and choices of the country" is forbidden and shall be legally non-existent; and that under section 6, an association working towards an objective other than that set out in its by-laws shall stand dissolved. By virtue of section 7 of the Act, any person who directs, administers or is a member of an association that has been banned or dissolved, or any person who facilitates the meetings of members of an association that has been banned or dissolved is liable to a sentence of imprisonment of from one to five years involving, under the Penal Administration and Re-education Code, the obligation to work.

The Committee recalls that the Convention forbids use of forced or compulsory labour as a means of political coercion or education or as punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. The Committee is bound to point out that the new provisions that have been adopted have not brought the national legislation on associations into conformity with the Convention.

The Committee also notes that the Government states once again that prison labour only applies to persons convicted under laws of non-political nature as part of their re-education, training and social development.

The Committee recalls that sections 2 and 3 of the Inter-Ministerial Order of 26 June 1983, prescribing the procedure for the utilisation of prison labour by the National Agency for Educational Work, provide that, unless exempted on medical grounds, convicted prisoners (without distinction as to the nature of the conviction) shall be required to perform useful work as part of their re-education, training and social development.

The Committee notes the Government's statement that forced labour cannot be imposed on anybody under the provisions of the above-mentioned Act, and it requests the Government to indicate the measures that have been taken to ensure the observance of the Convention, either by lifting the restrictions on the right of association or the penalties laid down in the Act of 21 July 1987, or by exempting from prison labour persons who are convicted of offences under the Act or, more generally, for offences of a political nature provided that they have not committed acts of violence.

#### Angola (ratification: 1976)

The Committee notes the Government's indication that a full report on the application of the Convention could not be supplied because the analysis of the Committee's comments had not yet been completed. It must therefore repeat its previous observation:

Article 1(c) and (d) of the Convention. The Committee has pointed out in earlier comments that under title I of Act No. 11/75 of 15 December 1975 sentences of imprisonment in a production camp can be inflicted for various breaches of labour discipline, including failure to use the means of production, passive resistance to work, exceeding the time allowed to union committees and union delegates for performing union activities during working hours, the paralysis of work and strikes not called by the unions or workers' committees and any other acts seriously harmful to the production process, including any bargaining on wages carried out in the face of the prohibition laid down by the Order of 30 June 1976 to suspend all bargaining on wages. In the absence of explanations by the Government, the Committee understands that the provisions of title I of Act No. 11/75 of 15 December 1975, as amended by Act No. 6/82 of 13 February 1982, providing for the imposition of penal sanctions involving compulsory labour for breaches of labour discipline and participation in strikes, remain in force.

The Committee notes the statement by the Government that the examination of these comments has begun. Referring to the statement of the Government representative to the Conference Committee in 1984 that the necessary explanations, or indeed new texts amending the legislation, would be communicated within a short period, the Committee trusts that measures will be taken rapidly to bring the provisions of title I of Act No. 11/75 into

conformity with the provisions of Article 1(c) and (d) of the Convention and that the Government will indicate any action undertaken for this purpose.

Australia (ratification: 1960)

Further to its previous comments the Committee notes with satisfaction that section 2(16) of the Statute Law (Miscellaneous Provisions) Act (No. 1) 1986 repealed section 100 of the Navigation Act 1912 under which any seaman who conspired with another seaman to impede the navigation of his ship or the progress of a voyage of his ship was liable to imprisonment involving the obligation to work.

Bangladesh (ratification: 1972)

The Committee notes that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation.

Article 1(c) and (d) of the Convention

1. In its previous comments, the Committee observed that under sections 101 and 102 of the Merchant Shipping Act, 1923, seamen could be forcibly conveyed on board ship to perform their duties, and under sections 100 and 103(ii), (iii) and (v) various disciplinary offences by seamen, concerning cases where life, health or safety are not endangered, were punishable with imprisonment which may involve an obligation to work. The Committee noted from the Government's report for the period ending 30 June 1980 that the revision of the Merchant Shipping Act, 1923, was expected to cover Article 1(c) and (d) of the Convention.

The Committee notes with regret that the Bangladesh Merchant Shipping Ordinance, 1983, which has repealed the 1923 Act, again provides in sections 198 and 199 for the forcible conveyance of seamen on board ship to perform their duties, and in sections 196, 197 and 200(iii), (iv), (v), (vi) for the punishment, with imprisonment which may involve an obligation to work, of various disciplinary offences in cases where life, safety or health are not endangered. The Committee therefore is bound to request the Government to review the Ordinance adopted in 1983 and to indicate the measures taken or contemplated to bring it into conformity with the Convention.

2. A certain number of other legislative texts which call for comment under Article 1(a), (c) and (d) of the Convention are again dealt with in a direct request to the Government. The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Belgium (ratification: 1961)

Article 1(c) of the Convention. In comments it has been making for a number of years, the Committee has noted that under sections 10, 22, and 25 to 28 of the Disciplinary and Penal Code for the Mercantile Marine and the Fishing Fleet, penalties of imprisonment involving the obligation to work may be imposed for acts constituting breaches of labour discipline. The Committee noted the Government's indications on a draft Bill to amend these provisions.

The Committee notes the information supplied by the Government in its report to the effect that the new Bill has not yet been brought before Parliament. The Committee hopes that the Bill will be submitted to Parliament in the near future and that the Government will soon be able to report the adoption of an Act bringing the Disciplinary and Penal Code for the Mercantile Marine and the Fishing Fleet into conformity with the Convention.

Burundi (ratification: 1963)

Article 1(a) of the Convention. In its previous comments, the Committee noted that certain provisions of Legislative Order No. 001/34 of 23 November 1966 respecting the single national party and of Act No. 1/136 of 25 June 1976 respecting the press, as amended by Legislative Decree No. 1/4 of 28 February 1977, place restrictions on the freedoms of association and publication that are enforceable by imprisonment involving (under section 40 of Ministerial Order No. 100/325 of 15 November 1963 to organise prison labour) the obligation to work and therefore come within the scope of the Convention, which prohibits use being made of forced or compulsory labour, in particular as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. The Committee noted that the Government intended to review the prison legislation in order to bring it into conformity with the provisions of the Convention. It also noted the Government's intention to formally repeal the other texts mentioned, which have fallen into abeyance.

The Committee notes that the Government intends holding consultations to examine the possibility of bringing the prison legislation into conformity with the provisions of the Convention and trusts that measures will be adopted in the near future to ensure observance of the Convention and that the Government will indicate the provisions that have been adopted. It hopes that on this occasion other texts also coming within the scope of the Convention, which are the subject of a more detailed request being addressed directly to the Government, will likewise be examined.

Cameroon (ratification: 1962)

Article 1(c) and (d) of the Convention. In its previous comments, the Committee noted that, by virtue of sections 226, 229, 242, 259 and 261 of the Merchant Shipping Code, various forms of

breach of discipline may be punished by sentences of imprisonment (involving the obligation to work), even where these breaches have not endangered the safety of the vessel or of persons. It requested the Government to take the necessary measures to bring these provisions into conformity with the Convention.

In its latest report, the Government indicates that it will take the Committee's observations into account when the revision of the Merchant Shipping Code is undertaken. In view of the fact that since the Government's report for 1972-73 reference has been made to the envisaged repeal of the provisions in question, the Committee trusts that the necessary measures will be taken rapidly in order to ensure, in accordance with the Convention, that no sentence involving compulsory labour can be inflicted on a seaman for breaches of discipline or participation in a strike, unless his offences are likely to endanger the safety of the vessel or of persons.

Canada (ratification: 1959)

Article 1(c) and (d) of the Convention. Further to its previous comments, the Committee notes with satisfaction that Bill C-39, an Act to Amend the Canada Shipping Act, which received Royal Assent in March 1987, removed from section 242 of the Canada Shipping Act the penalty of imprisonment for the offences of desertion and absence without leave.

The Committee previously also referred to a certain number of other provisions of the Canada Shipping Act and to corresponding provisions in the Government Vessels Discipline Act.

With respect to sections 243(1), 244(2) and (4), 245(1) and 246(2) of the Canada Shipping Act, which provide for the forceable return on board ship of deserters or those absent without leave, the Committee notes with interest the Government's statement in its report that these provisions are obsolete and that it proposes to submit them to Parliament for deletion through the next Miscellaneous Statutes Amendment Act in 1988 or through a Bill to amend legislation in order to conform to the Canadian Charter of Rights and Freedoms. The Committee hopes that these amendments will be adopted in the near future and that the Government will indicate the action taken.

With regard to section 247(1)(b), (c) and (e) of the Canada Shipping Act, under which penalties of imprisonment involving compulsory labour may be imposed for breaches of discipline that do not endanger the safety of the ship or the life or health of persons, the Committee notes the Government's statement in its report that there are possible offences under these provisions for which a penalty of imprisonment may be appropriate, as disobedience of some lawful commands can immediately jeopardise life. The Government adds that it will continue to consider the possibility of suitable amendment of these provisions.

The Committee notes that the offences in section 247(1)(b), (c) and (e) are broadly drawn, referring respectively to "wilful disobedience to any lawful commands", "continued wilful disobedience to lawful commands or continued wilful neglect of duty", and combination "to disobey lawful commands, or to neglect duty, or to



impede the navigation of the ship or the progress of the voyage". The Committee accordingly hopes that amendments presently under consideration will restrict the scope of these provisions to the situations mentioned by the Government, or will ensure in some other way that no penalties of imprisonment involving any form of compulsory labour may be imposed as labour discipline for breaches that do not endanger the safety of the ship or the life or health of persons, and that the Government will indicate the measures taken to this end.

Finally, the Committee hopes that similar amendments will be made in the Government Vessels Discipline Act, and that the Government will report also on the action taken in this regard.

Central African Republic (ratification: 1964)

The Committee notes the information supplied by the Government to the Conference Committee in 1987.

Article 1(a) of the Convention. In the comments it has been making for many years, the Committee has noted that sentences of imprisonment involving compulsory labour may be imposed under the following legislative provisions:

- Act No. 63/411 of 17 May 1963 (political activities undertaken outside the "MESAN" national movement);
- Act No. 60/169 of 12 December 1960 (the dissemination of publications that are banned on the grounds that they are likely to prejudice the edification of the African nation);
- Order No. 3-MI of 25 April 1969 and Decree No. 70/238 of 19 September 1970 (dissemination of foreign periodicals or news that has not been approved by the censor).

The Committee noted the statements by the Government representatives at the Conference Committee in 1982 and 1985 respectively, that a draft Ordinance and a draft Decree had been submitted to the Minister of Justice and that legislative amendments had been adopted by the National Legislative Committee and were to be quickly signed by the Head of State. In its report for the period ending 30 June 1986, the Government indicated that the drafts had been submitted to the Council of Ministers for adoption and that, in addition, the provisions of Act No. 63/411 of 17 May 1963 had fallen into abeyance following the dissolution of the MESAN.

The Committee notes that a new Constitution was adopted in November 1986 and trusts that the Government will indicate in the near future that the measures necessary to ensure observance of the Convention have been taken and that the relevant texts, including those relating to the dissolution of the MESAN, and the text of the new Constitution, will be transmitted.

[The Government is asked to report in detail for the period ending 30 June 1988.]

Chad (ratification: 1961)

The Committee takes note of the information supplied by the Government. It notes with interest that Act No. 35 of 8 January 1960

respecting subversive publications is currently being repealed, and that the Government also proposes to repeal Ordinance No. 30/CSM of 26 November 1975 and Act No. 15 of 13 November 1959 which permit the punishment by imprisonment involving compulsory labour of any person participating in strike action. The Committee hopes the Government will soon be able to report the provisions adopted to this effect.

Dominican Republic (ratification: 1958)

The Committee notes the Government's report and the information supplied by the Government representative to the Conference Committee in 1987.

1. Arrangements for the engagement of workers from Haiti.

In its previous observation the Committee noted that the arrangements for the engagement of workers from Haiti to work in State sugar-cane plantations had ceased and requested information concerning the new arrangements.

The Committee notes that in his statement to the Conference Committee in 1987 the Government representative indicated that in 1987, as in the previous two years, workers from Haiti had not been engaged and that contacts were being conducted between the Governments of Haiti and the Dominican Republic in order to make an overall in-depth revision of the process of engaging workers from Haiti.

The Committee requested the Government to supply information concerning the measures referred to and copies of any new arrangements governing the engagement of Haitian labour for the sugar-cane harvest.

2. Round-ups of Haitians obliged to work in plantations and clandestine labour by Haitians who illegally cross the frontier.

In previous comments the Committee noted the allegations made by the Central Unitaria de Trabajadores (CUT) to the effect that, with the complicity of the Dominican authorities, Haitian workers who are resident in the Dominican Republic have been rounded up and supplied in return for payment to state-owned plantations. The Committee requested the Government to supply information on the type of inquiry initiated by the public authorities concerning these allegations and on the outcome of such investigations.

The Committee notes that in his statement to the Conference Committee in 1987 the government representative indicated that there is no forced labour in his country, that Haitians who work in the Dominican Republic have the same rights as Dominican workers, but that there is indeed clandestine labour by Haitian workers who cross the frontier illegally.

The Committee notes the information contained in the social and economic study of sugar plantations "El Batey", undertaken in 1986 at the request of the State Sugar Board (CEA), with a view to formulating specific projects to improve the social and economic conditions in sugar plantations. In this report (pages 71-74) proof is given of the existence of such round-ups of Haitian citizens, which take place in urban centres and in agricultural areas other than sugar-cane producing areas. The report adds that "this method is employed in order to make up for the shortage of labour for cutting the cane at the beginning of the cane-harvesting period and for the financial

reward received by those who participate in this practice and those who organise it in exchange for each worker that is caught".

According to the same report "closely connected with the round-ups is the illegal crossing of the frontier by Haitian workers who become the lowest grade workers in the plantations (in Creole "am bas fil"). The report adds that clandestine labour groups are contacted either in Haiti or in Dominican territory by recruitment agents of the CEA and that "at all times during the round-ups, recruitment and capture of Haitian workers, there is always close collaboration with private individuals, members of the armed forces, police officers and officials of the CEA". According to the same report the financial gain for soldiers and police officers involved in the round-ups varies between RD\$5.00 and RD\$30.00 per head, which is paid by the administrators of the plantations receiving the Haitian workers.

The Committee trusts that the Government will take the measures that are necessary in order to ensure the observance of the Convention, using all the means at its disposal to prevent that situations of such gravity occur again and, where they do, to impose appropriate penalties. The Committee requests the Government to report the measures taken to this effect.

3. The Committee has referred in previous comments to the recommendations made by the Commission of Inquiry in paragraphs 516 and 527 of its report, on the measures that should be taken in order to stabilise, in so far as possible, the labour force employed on sugar plantations in the Dominican Republic and to regularise the status of Haitians who have lived and worked in the Dominican Republic for a given period of time.

The Committee notes that the recommendations made in the study undertaken at the request of the CEA indicate that it is necessary to "consider the Dominicanisation of sugar-cane, which implies no longer needing to import legal and illegal workers and that a plan should be formulated in order to attract to the sugar-cane harvest, in the medium-term, in place of imported labour, 'arellanos' (persons who have one parent born in Haiti) and persons with dual Dominican-Haitian nationality by birth or by residence, and to give them a legal and social status similar to that of Dominicans".

The Committee notes that in its report the Government indicates that the sugar-cane industry will undergo a process of diversification which will result in changes in the way that sugar-cane workers are engaged.

In this connection the Committee requests the Government to supply information concerning the measures that are taken and the results that are obtained.

4. In its previous observation, the Committee requested the Government to supply information concerning the implementation of the recommendations contained in paragraphs 522 and 526 of the 1983 report of the Commission of Inquiry established under article 26 of the ILO Constitution, namely:

(a) to determine the number of workers whose engagement by the various employers would be authorised;

- (b) to establish placement offices at appropriate locations where such workers seeking employment in the Dominican sugar harvest may be hired, given a medical examination and issued with the necessary documentation (residences and employment permits);
- (c) to provide clear information to the workers concerned on their conditions of work, by means of individual contracts of employment or a written statement of their conditions of employment (which should also be available in Creole);
- (d) to arrange for the transport of the workers concerned to their places of employment.

With regard to the copy of the contract that the workers should receive, the Committee notes that the report mentioned above, which was undertaken at the request of the CEA, indicates that the copy received by the workers contains only 50 per cent of the clauses of the original document, which is written in French, a language that probably less than 2 per cent of the workers read adequately for this purpose, and that the above copy is taken from them only two hours after they have received it. After examining the documents of more than 3,000 workers, the researchers found no cases in which the folded and stapled contract had been opened.

The Committee requests the Government to supply information on the measures that have been taken in order to implement the recommendations contained in paragraphs 522 and 526 of the report of the Commission of Inquiry.

5. In its previous observation the Committee also referred to the recommendation contained in paragraph 544 of the report of the Commission of Inquiry which concerned action by the labour inspection services of the Ministry of Labour to ensure the observance of labour laws and of workers' rights on sugar plantations, and requested information in this respect, including details of the inspection visits undertaken in the plantations, the complaints and irregularities investigated and the penalties imposed.

The Committee notes that in the report "El Batey", referred to above, the attention of the authorities is drawn to a series of cases in which the labour laws are not observed and in which nearly all the Haitians work in sub-human conditions. Reference is made, among other points, to excessively long working days, "at times of up to 16 hours under the supervision of armed guards", and to the wages, which, according to the same report "are the lowest wages paid in Dominican agriculture and do not even attain the minimum subsistence level".

The Committee requests the Government to supply information on the measures that have been taken in order to ensure that labour legislation is applied to sugar-cane workers, in accordance with the provisions of Basic Principle No. III of the Labour Code which establishes that the legislation respecting labour is of a territorial nature and applies to citizens of the Dominican Republic and aliens without distinction.

With reference to the point concerning the wages received by Haitian workers in plantations, the Committee refers to its comments on the application of the Protection of Wages Convention, No. 95.

Other matters

Article 1(c) of the Convention. Under Act No. 3143 of 11 December 1951 (as amended by Act No. 5224 of 1959) sentences of imprisonment involving compulsory labour may be imposed on persons who fail to complete a task by the agreed date or within the period allowed for carrying it out, when payment has been made in advance.

The Committee notes that amendments to the Labour Code are being prepared by workers' organisations and the administrative labour authorities in order to bring the national legislation into conformity with the Convention. The Committee trusts that measures will be adopted concerning these provisions in order to ensure that no form of forced labour is imposed as a disciplinary measure in the field of labour.

Article 1(d) of the Convention. Under sections 370, 373, 374, 378, paragraph 16, and 679, paragraph 3, of the Labour Code, sentences of imprisonment involving compulsory labour may be imposed for participation in strikes. The Committee has noted the Government's statement in the Conference in 1986 that these provisions have fallen into abeyance. It observes, however, that in Case No. 1179 examined by the Committee on Freedom of Association in 1984, the Government referred to a number of these provisions. The Committee notes that the Government's report contains no information on this matter. Consequently, it once again expresses the hope that in order to eliminate all uncertainty in this respect, the provisions in question will be repealed or amended so as to bring the law into conformity with the Convention.

[The Government is asked to supply particulars to the Conference at its 75th Session and to report in detail for the period ending 30 June 1988.]

Ecuador (ratification: 1962)

The Committee notes the Government's report and the statements of the government representative to the Conference Committee in 1987.

Article 1, (c) and (d) of the Convention

1. In comments that it has been making for some years, the Committee has referred to Decree No. 105 of 7 June 1967, under which sentences of imprisonment of from two to five years can be imposed on any person who foments, or takes a leading part in, a collective work stoppage. The sentence laid down by the Decree for a person who participates in a work stoppage without fomenting or taking a leading part in it, is correctional imprisonment of from three months to one year. For the purposes of this provision "there is a work stoppage when a collective cessation of activity, the imposition of a lock-out outside the cases permitted by law, the paralysing of ways of communication and similar anti-social acts occur". Sentences of imprisonment involve compulsory labour by virtue of sections 55 and 66 of the Penal Code.

The Committee notes that the Committee on Freedom of Association in its 248th Report, approved by the Governing Body at its 235th Session in March 1987, Case No. 1381, paragraph 420, recommended that the Government repeal Decree No. 105.

The Committee notes the Government's statement in its report that Decree No. 105 has not been repealed and remains in force. The Committee also notes that the Government's report does not contain information regarding the measures that have been taken or are contemplated in order to repeal the above Decree.

The Committee hopes that the measures that are necessary to bring the legislation into conformity with the Convention will be taken in the very near future and that the Government will report the progress achieved in this respect.

2. In previous years, the Committee has commented on section 165 of the Maritime Police Code, which prohibits crew members of an Ecuadorian vessel from disembarking in any port other than the port of embarkation except with the agreement of the master. It also provides that if a crew member deserts he shall forfeit his pay and belongings to the vessel and that if he is captured he shall pay the cost of his arrest and be punished in accordance with the navy regulations in force.

In its previous comments the Committee noted the statement made by the Government on various occasions concerning the possibility of amending this provision in order to give the worker full freedom to leave his employment, after a reasonable period of notice.

The Committee notes that in its last report the Government once again states that the possibility of enacting a new Maritime Police Code is under study.

In view of the fact that the Committee has been making comments on this point since 1971, it hopes that measures to bring section 165 of the Maritime Police Code into conformity with the Convention will be taken as rapidly as possible.

#### Egypt (ratification: 1958)

##### Article 1(d) of the Convention

1. In previous comments, the Committee referred to sections 124, 124(a), 124(c), and 374 of the Penal Code, under which strikes by any public employee may be punished with imprisonment. The Committee noted that the maximum penalty is one year of imprisonment under section 124 and two years under section 124(a), which also apply in conjunction with sections 124(c) and 374, and that under section 19 of the Code, imprisonment with labour will be imposed in all cases where persons are sentenced to imprisonment for one year or more. The Committee expressed the hope that measures would be taken in this connection to ensure the observance of the Convention.

The Committee notes the Government's indication in its report that by virtue of section 151 of the Constitution and section 23 of the Civil Code, national laws become ineffective to the extent that their provisions are incompatible with the international treaties to which Egypt is a party. The Government cites in this context the



judgement of the Supreme Court of State Security of Cairo dated 16 April 1987 which acquitted the persons prosecuted in relation to strike action of railway workers by applying article 8 of the International Covenant on Economic, Social and Cultural Rights ratified by Egypt. Section 8 of the Covenant provides that the ratifying State has to ensure "the right to strike, provided that it is exercised in conformity with the laws of the particular country". The Government states that the Court did not apply the penal provisions concerning the punishment for participating in strikes but gave priority to international instruments duly ratified over national laws which conflict with the former.

The Committee notes with interest these indications of the Government. It hopes that the Government will consider adoption of the necessary measures with a view to amending, at an appropriate occasion, the sections of the Penal Code in question, in conformity with the findings of the Supreme Court of State Security. Pending legislative action, the Committee requests the Government to continue supplying information on the practical application, or inapplication, of the various provisions of the Penal Code referred to, including copies of any relevant court decisions, and on any measures taken to draw the attention of all concerned to the legal situation as interpreted by the Supreme Court of State Security.

2. The Committee previously expressed the hope that measures would be taken to ensure the observance of the Convention in respect of sections 13(5) and 14 of the Maintenance of Security, Order and Discipline (Merchant Navy) Act, under which sentences of imprisonment involving the obligation to work can be imposed on seamen who together commit repeated acts of insubordination. In this connection, the Committee pointed out that Article 1(c) and (d) of the Convention prohibits the imposition of forced or compulsory labour as a means of labour discipline or as a punishment for having participated in strikes, but authorises such punishment in cases of insubordination that endanger or are likely to endanger the safety of the vessel or the life of persons.

The Committee notes the Government's indication in its report that the Act applies in cases which endanger the safety of persons and, therefore, is outside of the scope of the Convention. The Committee notes, however, that subsections 1 to 4 of section 13 of the Act deal with breaches of discipline of an apparently serious nature defined with reasonable precision, while subsection 5 of section 13 as well as section 14 can be applied to cases in which participation in a strike is punished even if the strike has not endangered the safety of the ship in any way. As the Government indicated in its report supplied in 1985 that the Committee's comments had been transmitted to the competent authorities with a view to changing all the provisions in question to ensure compliance with the Convention, the Committee hopes that the necessary measures will soon be taken and the Government will be in a position to report that the problem has been finally settled.

Article 1(a)

3. In comments made for many years, the Committee referred to the following provisions of the Penal Code and other enactments under which persons may be punished with imprisonment involving compulsory labour:

- (a) section 80(d) of the Penal Code (as amended by Act No. 112 of 19 May 1957) - in so far as it applies to the wilful dissemination abroad by an Egyptian of tendentious rumours or information relating to the interior situation of the country for the purpose of reducing the high reputation or esteem of the State, or the exercise of any activity which will prejudice the national interests of the country;
- (b) sections 98(a) bis and 98(d) of the Penal Code (as amended by Act No. 34 of 24 May 1970) - advocacy by any means of opposition to the fundamental principles of the socialist system of the State, encouraging aversion or contempt for these principles, encouraging appeals against the union of the people's working forces, constituting, or participating in, any association or group pursuing any of the foregoing aims, or receiving any material assistance for the pursuit of such aims;
- (c) section 102 bis of the Penal Code (as amended by Act No. 34 of 24 May 1970) - dissemination or possession of means for the dissemination of news or information, false or tendentious rumours, or revolutionary propaganda which may harm public security, spread panic among the people or prejudice the public interest;
- (d) section 178(3) of the Penal Code (as amended by Act No. 536 of 12 November 1953) - production or possession with a view to distribution, sale, etc. of any images which may prejudice the reputation of the country by being contrary to the truth, giving an inexact description, emphasising aspects which are not appropriate or in any other manner;
- (e) sections 1, 2 and 11 of Act No. 156 of 1960 concerning the reorganisation of the press - under which imprisonment with compulsory labour may be imposed on anyone who issues a periodical publication or engages in journalism without the permission of the National Union, which may be granted or withheld at the discretion of the latter body - and sections 2, 15 and 16 of Act No. 430 of 31 August 1955 - imposing similar penalties on anyone who makes, publishes or produces any song, play or recording without the authorisation of the Ministry of National Orientation;
- (f) sections 2, 12 and 92 of Act No. 32 of 12 February 1964 concerning associations and private foundations - under which no association may be established if its object is to impair the social system of the Republic, wide discretionary powers are granted to the competent administrative authorities to refuse the establishment of any association, and imprisonment with compulsory labour may be imposed on anyone who undertakes any activity on behalf of an association not duly established;



- (g) Public Meetings Act, 1923, and the Meetings Act, 1914 - granting general powers to prohibit or dissolve meetings, even in private places, subject to penalties of imprisonment with compulsory labour.

In its earlier comments the Committee noted the Government's repeated indications that political prisoners are not obliged to work but may work if they so request and will in that case be remunerated. In 1984, noting the Government's statement that it had begun to re-examine the various texts referred to, the Committee asked for further details on the legislative revision in question and for copies of any enactment granting political prisoners a particular status exempting them from the obligation to perform labour.

In its report supplied in 1985, the Government indicated that political prisoners are subject to the same provisions as prisoners in general, i.e. the 1956 Act on the Prisons Organisation. The Government, however, considered that the aim of the penalty is not forced labour, but the re-education of the prisoner with a view to enabling him to acquire occupational experience and qualifications subject to equitable remuneration so that after liberation he may become a useful healthy citizen and not a citizen mentally disturbed by his detention.

In its previous observation, the Committee referred to paragraphs 102-109 of its 1979 General Survey on the Abolition of Forced Labour, and indicated that if a person is in any way forced to perform labour, including prison labour, because he holds or has expressed particular political views, has committed a breach of labour discipline or has participated in a strike, the situation is covered by the Convention.

The Committee notes the indication in the Government's latest report that there are no political prisoners, that the freedom of expression is guaranteed by article 47 of the Constitution and that there are a great number of daily newspapers which freely disseminate their views. The Government adds that the delay in the amendment of the legislation does not mean that the Convention is not applied.

The Committee takes due note of these indications. The Committee hopes that, having regard to the Government's indications concerning actual practice, a solution will be found to bring the law into conformity with the Convention. In order to bring penal legislation falling within the scope of Article 1 into conformity with the Convention, measures may be taken either to redefine the punishable offences so as to remove them from the purview of Article 1, or to modify the nature of the penalty, e.g. by replacing imprisonment with fines, or by granting prisoners convicted of certain offences a special status, under which they are free from prison labour imposed on common offenders, but allowed to work on their own initiative.

The Committee requests the Government to indicate all measures taken in this regard.

#### El Salvador (ratification: 1958)

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

1. Article 1(a) of the Convention. In its previous comments the Committee had referred to a series of provisions in the Penal Code that allow the imposition of sentences involving compulsory labour under section 49 of the Act concerning the organisation of prisons and rehabilitation centres for activities relating to the expression of political opinion or of opposition to the established system, which is contrary to the provisions of the Convention. The provisions in question are the following:

Section 376, subsections 2 and 3, on associations whose aims are teaching or disseminating or propagating doctrines that are anarchical or contrary to democracy. Section 377, under which imprisonment may be imposed on any person who promotes, establishes, organises or directs sections or branches of foreign organisations or bodies advocating doctrines that are anarchical or contrary to democracy and on those taking part in such sections or branches. Section 378, punishing those who disseminate or propagate doctrines that are anarchical or contrary to democracy. Section 379, concerning the possession of subversive material (printed matter, tapes, photographs or films) serving for the dissemination of the doctrines mentioned in the preceding section. Section 380, concerning persons who co-operate in subversive propaganda, and section 407, concerning participation in associations existing for the purpose of committing an offence.

The Committee takes note of the promulgation of Decree No. 50 of 24 February 1984, the Act on the criminal procedure applicable on the suspension of constitutional guarantees. The Committee notes that this Act lays down that persons charged with committing offences against the legal personality of the State shall be judged by military courts (sections 373 to 380) if the constitutional guarantees are suspended. The offences laid down in the Code of Military Justice also come within the competence of these courts. The Committee notes from the report of the Government that forced labour is not imposed on political offenders coming under military jurisdiction. The Committee points out, however, that the Act concerning the organisation of prisons does not provide for the exemption from prison labour of those sentenced for political offences.

The Committee requests the Government for information on the practical application of Decree No. 50, particularly in respect of the number of sentences pronounced by the military courts under the sections of the Penal Code which have been the subject of comments by the Committee for some years, and to supply a copy of any particularly relevant sentences. Since the suspension of the constitutional guarantee has been extended for several years, the Committee requests the Government to take the necessary measures to ensure the observance of the Convention in respect of the imposition of forced labour as a punishment for holding or expressing certain political opinions and to inform it of the progress made to this end.

2. Article 1(c) and (d). In its previous comments the Committee had referred to section 291 of the Penal Code, under which penalties of imprisonment involving compulsory labour may

be imposed on any person who, without creating a situation of public danger, prevents, hinders or paralyses the functioning of any class of transport or public utility service and on workers in a public utility undertaking or service who stop or suspend the service without just cause so as to disturb its regular operation.

The Committee takes note of the statement by the Government to the effect that the only case in which this section has been applied was that of the trade unionists of the River Lempa Hydro-electric Board in 1980, who were involved in the interruption of the power supply that endangered national security. The Committee observed that these persons were placed at the disposal of the military justice under the provisions of the Code of Military Justice.

The Committee observes once more that provisions imposing restrictions on the peaceful exercise of the right to strike and those referring to labour discipline are contrary to the Convention when they impose penalties involving the obligation to work, and that only strikes in essential services in the strict sense of the term fall outside the scope of the Convention, that is to say, services whose interruption would endanger the life, personal safety or health of the whole or part of the population.

The Committee requests the Government to take the necessary steps to ensure that sentences involving the obligation to work cannot be imposed as a punishment for having participated in strikes or for breaches of labour discipline.

The Committee requests the Government to supply a copy of the Code of Military Justice.

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

#### Gabon (ratification: 1961)

Article 1(c)(d) of the Convention. In the comments that it has been making for many years, the Committee noted that under section 153, paragraphs 1, 4, 5 and 9 (read in conjunction with section 156), and sections 169, 186 and 188 of the Merchant Shipping Code (Act No. 10/63 of 12 January 1963) certain breaches of discipline by seafarers are punishable by imprisonment involving compulsory labour by virtue of Act No. 22/84 of 29 December 1984 to organise prison labour.

The Committee notes the Government's reiterated statement that the procedure for the amendment of the above provisions is well under way. The Committee once again expresses the hope that the draft texts being prepared will ensure that sentences of imprisonment involving compulsory labour cannot be inflicted on seafarers for breaches of discipline that do not endanger the safety of the vessel or the persons, and that the Government will soon report that the legislation has been thus amended.

Greece (ratification: 1962)

The Committee takes note of the information supplied by the Government.

1. Article 1(c) and (d) of the Convention. The Committee again draws the Government's attention to the provisions of sections 205, 207, subsection 1, 208, 210, subsection 1, and 222 of the Code of Public Maritime Law under which sentences of imprisonment (involving, under section 55 of the Prison Code, compulsory labour) can be imposed on seamen for breaches of labour discipline that do not endanger the safety of the ship or the lives or health of persons. Where breaches involve such danger, the seamen are punishable under sections 206, 209 and 210, subsection 2, of the same Code, which have not been the subject of comments.

In its report, the Government again refers to the fact that the breaches at issue directly or indirectly endanger the safety of the ship and the life or health of persons on board and states that these provisions are identical to those in force in other seafaring countries. In this connection, the Committee recalls the indications contained in paragraph 118 of its 1979 General Survey on the Abolition of Forced Labour and, in particular, the list of countries that have repealed similar provisions which were contrary to the Convention.

The Committee hopes that the necessary measures will be taken in the near future to bring into conformity with the Convention the provisions of sections 205, 207, subsection 1, 208, 210, subsection 1, and 222 of the Code of Public Maritime Law providing for the imposition of prison sentences involving compulsory labour under section 55 of the Prison Code, and that the Government will report on action undertaken to this end.

2. The Committee notes that its previous observations concerning section 4, subsection 1, of Act No. 3276 of 26 June 1944 respecting collective bargaining in the merchant marine and section 15 of Act No. 299 of 25 October 1936 respecting collective labour disputes in shipping have been submitted to the Ministry of Justice and Ministry of the Merchant Marine so that they may examine them and reply. The Committee recalls that, under these Acts, violations of a clause of a collective agreement or of an executory decision concerning pay are punishable by sentences of imprisonment with compulsory labour. It points out that, according to the Government, these Acts are no longer enforced but that they have never been repealed.

The Committee hopes that the Government will take the necessary measures to ensure that the provisions of section 15 of Act No. 299 of 25 October 1936 and section 4, subsection 1, of Act No. 3276 of 26 June 1944 are brought into conformity with the Convention and that it will state the measures taken to this end.

3. The Committee refers to its observation under Convention No. 29, concerning the situation of pilots and flight engineers dismissed or imprisoned after they had given notice of a strike, in June 1986.

Guinea (ratification: 1961)

The Committee notes the indication by the Government in its report that there are no further developments since its last report, but that the complete revision by stages of the whole of the legislation and regulations is under way. In this connection, the Committee notes with interest Ordinance No. 003/TRG/SGG/88 of 28 January 1988, to issue the Labour Code.

1. In its previous comments, the Committee noted the Government's statement that certain legal texts that had been the subject of its comments for many years and had fallen into abeyance because of the change of political regime in Guinea, are to be revised or repealed under the programme for the complete revision by stages of all laws and regulations, in accordance with Ordinance No. 009/PRG/84 of 18 April 1984, in the interests of peace and internal discipline. The Government indicated that this procedure would be applied to the following texts:

- Decree No. 416/PRG of 22 October 1964, under which all persons between 16 and 25 years of age are placed in the service of the Organisation for Work Centres of the Revolution, whose purpose is to overcome the technical and economic underdevelopment of the Republic;
- Act No. 45/AN/1969 of 24 January 1969 relating to the disclosure of professional secrets and the unlawful communication of State and Party documents;
- Act No. 64/AN/66 of 21 September 1966 to issue the Code of Criminal Procedure;
- all legislation relating to prison labour, the maintenance of law and order, the press and publications, meetings and associations, vagrancy and idlers and the discipline of seafarers.

The Committee trusts that the Government will soon be in a position to report the progress achieved in bringing the texts it has been commenting on, including sections 71(4), 110, 111, 176 and 177 of the Penal Code, into conformity with the Convention.

2. The Committee also referred to its earlier comments concerning Ordinance No. 52 of 23 October 1959 laying down compulsory service, which may be of a military or non-military nature, for all male citizens. It noted the Government's statement to the effect that there is no compulsory military service for all male citizens, but that in accordance with an established practice of the Ministry of National Education, all students of both sexes, when they leave national or foreign universities, must perform one year's military service that is devoted entirely to military tasks and not to economic purposes. The Committee also noted that the revision of Ordinance No. 52 of 23 October 1959 was under consideration. The Committee hopes that the Government will soon be in a position to report measures taken to bring the law into conformity with the Convention.

Haiti (ratification: 1958)

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 given by a Government representative to the Conference Committee in 1986, that all recruitment of Haitian workers for work in the Dominican Republic had been prohibited that year. It also notes the statement made in October 1986 by the Minister of Social Affairs to an ILO mission, that it was not intended to organise any migration of Haitian workers for seasonal work in the sugar cane harvest in the Dominican Republic.

In the circumstances, the principal question raised in earlier observations (namely, the association of the Haitian authorities in measures of coercion to oblige Haitian workers recruited for harvest work in the State-owned sugar plantations of the Dominican Republic to remain at their place of work throughout the period of the harvest) no longer calls for comment.

The Committee would however appreciate information on any arrangements which now exist to enable representatives of the Haitian Government to be informed of conditions of Haitian nationals working in the Dominican Republic and to intervene for the protection of the rights and interests of such workers, particularly as regards free choice of work.

Iceland (ratification: 1960)

Article 1(c) and (d) of the Convention. In previous comments, the Committee had noted with regret that, under section 81 of the Seamen's Act, 1985, as well as under earlier legislation, a seaman found guilty of insubordination is liable, in aggravating circumstances, to detention (involving, by virtue of section 44 of the Penal Code, an obligation to perform labour). As the scope of section 81 of the Act is not limited to acts endangering the ship or the life or health of persons, the Committee had expressed the hope that this provision would be amended in order to ensure that no sanctions involving compulsory labour may be inflicted upon seamen in circumstances falling within the Convention.

In its latest report the Government indicates in reply that section 81 of the Seamen's Act No. 35/1985 is principally based on the prevailing view in Icelandic society that the safety of seamen and other seafarers should be safeguarded as far as possible. The provision is primarily intended to ensure that the captain (or the officer replacing him) can bring the ship to safe harbour or shelter in times of danger or in other ways save the ship and crew from danger. According to accepted views on legal interpretation, the section does not apply to ordinary work under normal conditions. As far as known, the said section has never been applied. In this connection the Government points out that during preparation and parliamentary debate of the Bill for the Seamen's Act none of the numerous opinions received from interested organisations and experts

made any observation on section 81 of the Bill. For these reasons, the Government considers this section not to involve forced labour, and the Convention to be applicable to other instances and other circumstances than those mentioned.

The Committee takes due note of these indications. It again refers to the explanations provided in paragraphs 117 and 125 of its General Survey of 1979 on the Abolition of Forced Labour, where it has indicated that the Convention does not cover sanctions even involving compulsory labour if they are limited to acts endangering the ship or the life or health of persons on board, but that such sanctions when relating more generally to breaches of labour discipline such as insubordination, and then generally applying to strikes as well, are incompatible with both Article 1(c) and (d) of the Convention and have therefore been repealed from the legislation governing conditions of work of merchant seamen and fishermen of a considerable number of countries.

Having regard to the intention of section 81 as explained by the Government and the fact that the provision has never been applied, the Committee trusts that appropriate measures will soon be taken to bring national law on this point into conformity with the Convention and that pending amendment of the Seamen's Act the Government will report on any cases of section 81 being applied, and supply copies of any court decisions or authoritative interpretations defining its scope of application.

#### Ireland (ratification: 1958)

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

Article 1(c) and (d) of the Convention. In comments made since 1963, the Committee pointed out 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, under section 42 of the Rules for the Government of Prisons, 1947, an obligation to work), and that under sections 222, 224 and 238 of the Merchant Shipping Act, seamen absent without leave may be forcibly conveyed on board ship. The Committee likewise 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 also noted the Government's indications over a number of years that there had been no practical application of these provisions and that the amendment of the merchant shipping legislation was proceeding.

In its latest report, the Government expresses the view that the application of the Convention to seamen is excluded by virtue of Resolution No. 8 adopted by the International Labour Conference in 1921, and that sanctions for breach of a



contractual obligation freely entered into cannot be regarded as forced or compulsory labour, provided the conditions referred to in Article 2, paragraph (2)(c) of Convention No. 29 are met. The Government reiterates that since the Convention was ratified, there has been no case in which a man was tried or punished for any of the offences referred to. As regards work in prisons, in actual fact prisoners have freedom of choice whether to work or not; it is accepted that the 1947 Prison Rules need to be rewritten in order to have them reflect present practice, but the process of revising the Rules is likely to be a long-term one.

The Government furthermore points out that the courts are empowered to strike down as void laws which are inconsistent with the Constitution. While statutes enacted after 1937 enjoy a presumption of constitutionality, there is no presumption that pre-1922 British statutes (such as the provisions of the 1894 Merchant Shipping Act referred to by the Committee) are consistent with the Constitution. In view of the widespread recognition of the right not to be required to perform forced or compulsory labour as a fundamental human right, it may be regarded as virtually certain that the courts would regard it as a personal right guaranteed under the Constitution. That the courts have never been called upon to determine whether the provisions concerned of the 1894 Merchant Shipping Act are inconsistent with that right is because the provisions in question have not in practice been used in recent times. Finally, the Prison Rules must be read in the light of the Constitution and are so administered by the prison authorities and notwithstanding anything contained in the Rules, prisoners are not in fact compelled to work.

The Committee takes due note of these indications. It also has noted the assurances given by the Government to the Conference Committee in 1985 that any conflict which exists between Irish statute and the Convention is purely a legal technicality and does not affect in any way the effective implementation of the Convention, that the Minister for Labour continues to press for legislative changes in this matter as soon as possible, and that in the meantime crew agreements in merchant shipping which are vetted by the Department of Communications in effect preclude forced labour.

In view of the more general questions raised by the Government in its latest report with regard to the scope of application of the Convention, the Committee is bound to observe the following.

As indicated on page 756 of Vol. I of the International Labour Code, the effect of Resolution No. 8 adopted by the Conference in 1921 was to create a presumption as to the scope of Conventions and Recommendations not adopted at maritime sessions of the Conference or after consideration by the Joint Maritime Commission. Such a presumption can however be rebutted, and as the Committee pointed out in paragraph 26 of its 1962 General Survey on Forced Labour, the Abolition of Forced Labour Convention, intended to guarantee respect for certain fundamental



human rights, is of general application and designed to protect the entire population of the countries where it is in force.

As regards sanctions for breach of a contractual obligation, imposed in the conditions referred to in Article 2, paragraph (2)(c) of Convention No. 29, the Committee has recalled in paragraphs 102 to 110 of its 1979 General Survey on the Abolition of Forced Labour that the exceptions to the 1930 Convention, and specifically the exclusion of prison labour, do not automatically apply to Convention No. 105 which was designed to supplement the 1930 Convention. While in most cases, labour imposed on persons as a consequence of a conviction in a court of law will have no relevance to the application of the Abolition of Forced Labour Convention, compulsory labour in all its forms, including compulsory prison labour, is covered by the 1957 Convention in so far as it is exacted in the five cases specified by that Convention, including the case where a person is in any way forced to work because he has committed a breach of labour discipline.

Moreover, as the Committee pointed out in paragraph 110 of its 1979 General Survey, forced or compulsory labour as a means of labour discipline may be of two kinds. It may consist of measures to ensure the due performance by a worker of his service under compulsion of law (in the form of physical constraint or the menace of a penalty) or of a sanction for breaches of labour discipline with penalties involving an obligation to perform work. Both kinds are provided for in the 1894 Merchant Shipping Act, and in so far as seamen absent without leave may be forcibly conveyed on board ship, the legislation cannot be brought into conformity with the Convention through a change in the Prison Rules, but only through an amendment of the Merchant Shipping Act.

As the Committee noted in paragraphs 117 and 118 of its 1979 General Survey, a considerable number of countries in which the 1894 Merchant Shipping Act had remained in force, including the United Kingdom itself, have repealed or amended this legislation, so that provisions permitting the forcible return of seamen to their ship were abolished, and penalties of imprisonment which could be imposed for desertion, absence without leave or disobedience were also repealed or, in certain cases, restricted to offences that endanger the safety of the ship or the life or health of persons. Since the relevant provisions of the 1894 Merchant Shipping Act have not, so far, been declared unconstitutional or otherwise abolished in Ireland, similar amendments are called for to bring the legislation into conformity with the Convention.

In view of the assurances to this effect again given by the Government to the Conference Committee in 1985, the Committee trusts that the Government will soon be in a position to indicate that the necessary amendments have been made.

Pending legislative action, the Government is requested to supply specimen copies of the crew agreements to which it has referred.

Kenya (ratification: 1964)

In previous comments, the Committee referred, inter alia, to various provisions of the Penal Code, the Public Order Act, the Prohibited Publications Order, 1968, the Merchant Shipping Act, 1967 and the Trade Disputes Act (Cap. 234) under which imprisonment (involving an obligation to perform labour) may be imposed as a punishment for the display of emblems or the distribution of publications signifying association with a political object or political organisation, for various breaches of discipline in the merchant marine and for participation in certain forms of strike.

The Committee notes the Government's statement in its report that discussions are at an advanced stage for the introduction of the necessary amendments in relevant legislation, i.e. the Chief's Authority Act, in order to bring the legislation into conformity with Conventions Nos. 29 and 105. The Committee looks forward to learning of the amendments introduced in the Chief's Authority Act called for under Convention No. 29. It must, however, point out that the Government has not supplied any indication on measures taken with regard to the above-mentioned legislative provisions under Convention No. 105, nor information in reply to a direct request under this Convention. Recalling the Government's earlier assurances that, in view of the difficulties faced in effecting changes concerning the legal provisions inconsistent with the Convention, proposals for solutions had been forwarded to the Kenya Law Commission for action, the Committee trusts that the necessary measures will soon be adopted and that the Government will supply detailed information on the action taken, having regard also to the various points raised in a more detailed request which is again being addressed directly to the Government.

[The Government is asked to report in detail for the period ending 30 June 1988.]

Liberia (ratification: 1962)

1. Article 1(a) of the Convention. The Committee notes the entry into force on 6 January 1986 of the new Constitution which guarantees fundamental rights, in particular the right to freedom of expression (article 15), the right to assemble and to associate (article 17), and provides for the free establishment of political parties, subject to their being registered (articles 77 and 79). The Committee notes that under article 95 of the new Constitution any enactment or rule of law in existence immediately before the coming into force of the Constitution, whether derived from the abrogated Constitution or from any other source shall, in so far as it is not inconsistent with any provision of the new Constitution, continue in force as if enacted, issued or made under the authority of the Constitution. The Committee again refers to its previous comments in which it observed that prison sentences (involving, under Chapter 34, section 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 or revive certain political parties). The Committee once more requests the Government to state whether the above provisions continue in force and, if so, to indicate the measures taken or contemplated with a view to their repeal. The Committee also requests the Government to provide a copy of the Decree No. 88A of 1985 relating to criticism of the Government.

2. Article 1(c) and (d). In earlier comments the Committee also referred to various provisions of the Maritime Law punishing breaches of labour discipline and of Decree No. 12 of 30 June 1980 prohibiting strikes. In the absence of a reply, the Committee again addresses a direct request on these matters to the Government.

[The Government is asked to report in detail for the period ending 30 June 1988.]

#### Malaysia (ratification: 1958)

1. Article 1(a) of the Convention. For many years the Committee has drawn the attention of the Government to 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, which 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.

The Committee notes the Government's indication in its report that its stand on the various issues raised by the Committee in its past observations remains as it is described in its report supplied in 1985. The Government's position is that the 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 Sabah Printing Presses Ordinance (Cap. 107) and the Societies Act, 1966, raised by the Committee are continued in force because they are considered necessary to maintain peace and stability. The Government indicates that extreme care has been taken to ensure that only offenders with the proven evidence of indulging in activities that threaten public order or national security are charged under the respective Acts. The Committee notes that the Government has omitted reference to the States of Malaya Printing Presses Ordinance, 1948, as amended, in its latest report. The Committee asks the Government to indicate whether this law is still in force.

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 normal political processes, including the advocacy of political and ideological views, contravenes the provisions of Article 1(a) of the Convention. It is the very fact that, under these laws, the Government may prosecute persons who

indulge in activities which oppose the established political, social or economic order which brings these laws within the prohibition of the Convention. Although the Government indicates that these Acts are directed at unlawful physical acts which will cause or are likely to cause violence or public disorder, the Committee must point out:

- (a) with respect to the Internal Security Act of 1960, the Committee has called attention to provisions which grant broad discretionary powers to administrative authorities to prohibit publication of views and various other political activities, and under which the competent minister may prohibit the publication, distribution or possession of any document if he is of the opinion that such document is prejudicial to the national interest;
- (b) with respect to the States of Malaya Restricted Residence Ordinance, the Committee has called attention to provisions under which persons may be forbidden to make any public speech or address any meeting without permission of the Chief Police Officer;
- (c) with respect to the Sabah Undesirable Publications Ordinance, States of Malaya Printing Presses Ordinance, 1948, and Sabah Printing Presses Ordinance, the Committee has called attention to provisions prohibiting publication and distribution of publications and use of printing presses or distribution of any newspaper without a licence, which the competent minister may revoke at his discretion; and
- (d) with respect to the Societies Act, 1966, the Committee has called attention to provisions under which the authorities enjoy wide discretionary powers to prohibit and refuse or cancel the registration of societies.

The Committee looks forward to the Government reconsidering its position and taking appropriate action to ensure the observance of the Convention. Since these matters have been the subject of comments for over 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 previously 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.

The Government reports that it has taken steps to carry out an overall review of the legislation and expresses the hope that the Ministry responsible for shipping matters will proceed with the review with much progress. The Committee joins the Government in this hope, as it has expressed for many years, and looks forward to learning that the necessary amendments have been adopted.

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. The Government indicates that the rationale for the provision is to avoid protracted disputes undermining the industrial relations climate and that the provision is only applied to disputes that are likely to cause disruption to services thereby endangering the well-being of the workers and the management, as well as causing difficulties to the general public. Despite this, 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. The Committee hopes that the necessary measures to ensure the observance of the Convention will be taken in the near future.

#### New Zealand (ratification: 1968)

Article 1(c) and (d) of the Convention. In previous comments, the Committee has referred to various provisions of the Shipping and Seamen Act, 1952, under which disciplinary offences may be punished with imprisonment (involving an obligation to perform labour) and seamen absent without leave may be forcibly returned on board ship.

In its report for 1983-85, the Government indicated that a tripartite Maritime Review Committee had been established to investigate and resolve a range of problems facing the maritime industry and was to consider in its deliberations, inter alia, those provisions of the Shipping and Seamen Act which must be amended to bring the legislation into conformity with the Convention.

The Committee notes with regret that the Shipping and Seamen Amendment Act, 1987, which became law on 1 August 1987 has not introduced any changes in the provisions which are contrary to the Convention. The Committee notes however, with interest, the Government's indication in its latest report that amendments addressing the issues of concern here are intended to be included in the next major amendment of the Shipping and Seamen Act and that tripartite negotiation and preliminary drafting of such amendments will follow close behind passage of the 1987 amendments. As the provisions in question have been the subject of comment for a number of years, the Committee hopes that the Government will soon be able to indicate that the necessary measures have been taken to ensure observance of the Convention.

#### Nigeria (ratification: 1960)

Article 1(a) of the Convention. 1. In its previous comments the Committee observed that by virtue of the Constitution (Suspension and

Modification) Decree 1984 and the Constitution (Suspension and Modification) (Amendment) Decree 1985 certain provisions of the 1979 Constitution, including provisions on fundamental rights relating to detention and the right of peaceful assembly and association were suspended or modified. The Committee noted in particular that political parties are prohibited and that under the State Security (Detention of Persons) Decree No. 2 of 1984 (as amended) persons may be detained for successive periods of three months, subject to a review every three months, and that the guarantees of the Constitution in this matter are suspended. The Committee requested the Government to provide information on any sanctions provided for in case of non-compliance with the provisions suspending fundamental rights and on the conditions of detention of persons detained under the above-mentioned Decree.

The Committee notes the information provided by the Government in reply that all Decrees were promulgated under military regimes which could be regarded as periods of emergencies and that democratic rule would be restored in 1992 when it is hoped that all the decrees would be reviewed and the ban on political activities and freedom of association and assembly be lifted. The Committee has also noted that a timetable for the political transition has been adopted and a constitutional review committee been established.

Referring to paragraphs 66 and 134 of its 1979 General Survey on the Abolition of Forced Labour, the Committee recalls that under the Convention the nature and duration of measures taken under an emergency, such as the suppression of fundamental rights and freedoms enforced by sanctions involving compulsory labour should be limited to what is strictly required in order to cope with circumstances endangering the life, personal safety or health of the whole or part of the population. The Committee expresses the hope that in the preparation of the new Constitution and of other enactments due regard will be given to the provisions of the Convention so that no penalties involving an obligation to work be imposed as a means of political coercion or education or as punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system, in particular with regard to expression of views through the press, political activities, freedom of association and of assembly.

Pending the restoration of democratic rule referred to by the Government the Committee again requests the Government to provide full information on any sanctions provided for in case of non-compliance with the provisions suspending or modifying fundamental rights and on any provisions adopted under the Constitution (as amended) and falling within the scope of the Convention - in particular with regard to the expression of views, political activities, freedom of association and assembly and on any measures taken or contemplated to ensure the observance of the Convention in this respect. It again requests the Government to provide copies of any Act or regulation concerning the conditions of detention of persons detained under Decree No. 2 of 1984.

Article 1(c) and (d). 2. In previous comments, the Committee noted that under section 81(1)(b) and (c) of the Labour Decree, 1974, a court may direct fulfilment of a contract of employment and posting of security for the due performance of so much of the contract as

remains unperformed, and a person failing to comply with such direction may be committed to prison. The Committee had noted the Government's indication that committal to prison in such circumstances does not usually involve an obligation to perform work. The Committee notes the Government's statement communicated in June 1987 that the situation had not yet changed but that however efforts would be made to submit section 81(1)(b) and (c) of the Labour Decree, 1974 to the National Advisory Council for necessary amendments. The Committee hopes that the necessary measures will soon be adopted with regard to section 81(1)(b) and (c) of the Labour Decree, 1974, to ensure that no sanctions which may involve an obligation to perform work are provided for breaches of labour discipline or for taking part in a strike and that the Government will indicate the action taken to this end.

3. In previous comments, the Committee referred to section 117(b), (c) and (e) of the Merchant Shipping Act, under which seamen are liable to imprisonment involving an obligation to work for breaches of labour discipline even in the absence of a danger to the safety of the ship or of persons. The Committee hopes that in this regard too, the necessary measures will be taken to ensure the observance of the Convention, and that the Government will soon be able to indicate the amendments adopted.

Article 1(d). 4. The Committee previously noted that under section 13(1) and (2) of the Trade Disputes Decree, No. 7 of 1976, participation in strikes may be punished with imprisonment involving an obligation to work in the following cases: (a) where the mediation and reporting procedure imposed by sections 3 and 4 of the Decree for all industrial disputes has not been complied with; (b) where arbitration procedures under sections 7 to 9 of the Decree, which shall be initiated by the Federal Commissioner whenever conciliation attempts have failed, have led to an award by the arbitration tribunal and that award has become binding; (c) when the Federal Commissioner has referred the dispute to the National Industrial Court; (d) when the National Industrial Court has issued an award on the reference.

The Committee noted the Government's statement that section 13 merely imposes on an employer or worker an obligation to observe and exhaust prescribed procedures before engaging in a strike or lock-out. In this connection, the Committee referred to paragraph 130 of its 1979 General Survey on the abolition of forced labour, where it explained that the imposition of a temporary restriction on the right to strike until all facilities for negotiation and conciliation have been exhausted and while voluntary arbitration procedures are in progress, are to be distinguished from compulsory arbitration systems which result in binding awards allowing practically all strikes to be prohibited or rapidly stopped. When such systems provide for sanctions involving compulsory labour, they should be limited to sectors and types of employment where restrictions may be imposed on the right to strike itself, that is to essential services in the strict sense of the term (that is, services whose interruption would endanger the life, personal safety or health of the whole or part of the population). The Committee further noted that the list of essential services included in Schedule 1 to Decree No. 7 of 1976 and in section 8 of the Trade Disputes (Essential Services) Decree No. 23 of 1976 is wider and covers for example the Central Bank and banking

business. The Committee once again expresses the hope that the necessary action will soon be taken to ensure the observance of the Convention in this regard and that the Government will indicate measures taken or contemplated to amend the legislative provisions referred to.

[The Government is asked to report in detail for the period ending 30 June 1988.]

#### Pakistan (ratification: 1960)

The Committee notes the report supplied by the Government as well as the discussion held at the Conference Committee in 1987.

#### Article 1(a) of the Convention

1. In comments made for a number of years, the Committee has referred to certain provisions in the Security of Pakistan Act, 1952 (sections 10-13), the West Pakistan Press and Publications Ordinance, 1963 (sections 12, 36, 56, 59, and 23, 24, 27, 28 and 30) and the Political Parties Act, 1962 (sections 2 and 7) which give the authorities wide discretionary powers to prohibit the publication of views and to order the dissolution of associations, subject to penalties of imprisonment which may involve compulsory labour.

The Committee notes that the Government again expresses the view put forward in its earlier reports and statements at the Conference Committee that conviction of offenders by courts of law for specific offences does not fall within the scope of the Convention, having regard also to the discretion of the courts in awarding "rigorous" imprisonment, which was very infrequent and was often used as a means of education for the prisoners. The Committee is bound to refer again to the explanations provided in paragraphs 102 to 109 of its 1979 General Survey on the Abolition of Forced Labour, where it is indicated that compulsory labour in any form, including compulsory prison labour, falls within the scope of the Convention in so far as it is exacted in one of the five cases specified in Article 1 of the Convention and, in the case of persons convicted for expressing certain political views, an intention to educate them through labour would in itself be covered by the express terms of the Convention. The Committee again expresses the hope that the necessary measures will soon be taken to bring the above-mentioned provisions into conformity with the Convention.

Pending action to amend these provisions, the Committee once more requests the Government to supply information on their practical application including the number of convictions and copies of court decisions defining or illustrating the scope of the legislation.

#### Article 1(c)

2. In comments made for many years, the Committee has referred to sections 54 and 55 of the Industrial Relations Ordinance (No. XXIII of 1969) under which whoever commits any breach of any term of any



settlement, award or decision or fails to implement any such term may be punished with imprisonment which may involve compulsory labour.

The Committee notes the renewal by the Government of its earlier statements that nobody was punished in the recent past under the Industrial Relations Ordinance, that the penalties provided for were to ensure that employers and workers respected the agreements they had concluded and that it depended upon the courts to decide whether the penalty would be a fine, simple imprisonment or rigorous imprisonment. The Committee again observes that, under the provisions referred to, breaches of labour discipline such as non-compliance with obligations under a settlement, award or decision are punishable with sanctions involving compulsory labour, contrary to Article 1(c) of the Convention. In view of the Government's indications concerning actual practice, the Committee again expresses the hope that the Government will take the necessary measures to bring the Industrial Relations Ordinance into conformity with the Convention, by repealing sections 54 and 55 of the Ordinance or by repealing the penalties which may involve compulsory labour, or by limiting their scope to circumstances endangering the life, personal safety or health of the population.

#### Article 1(c) and (d)

3. The Committee notes with interest the Government's statement in its report that amendments to sections 100 to 103 of the Merchant Shipping Act, under which various offences against discipline by seamen may be punished with imprisonment which may involve liability to compulsory labour, are under consideration in order to meet the requirements of the Convention. The Committee hopes that the necessary amendments will soon be adopted either by repealing the penalties involving compulsory labour or by limiting their scope to offences committed in circumstances endangering the safety of the ship or the life, personal safety or health of persons, and that the Government will indicate the action taken in this regard.

#### Article 1(e)

4. In previous comments, the Committee has referred to sections 298B and C of the Penal Code, inserted by the Anti-Islamic Activities of the Qadiani Group, Lahori Group and Ahmadis (Prohibition and Punishment) Ordinance, 1984. Under section 298B(1), "any person of the Qadiani Group or the Lahori Group (who call themselves 'Ahmadis' or by any other name) who by words, either spoken or written, or by visible representation - (a) refers to or addresses any person, other than a Caliph or companion of the Holy Prophet Muhammad (peace be upon him), as 'Ameer-ul-Mumineen', 'Khalifa-tul-Mumineen', 'Khalifa-tul-Muslimeen', 'Sahaabi' or 'Razi Allah Anho'; (b) refers to, or addresses, any person, other than a wife of the Holy Prophet Muhammad (peace be upon him), as 'Umul-Mumineen'; (c) refers to, or addresses, any person, other than a member of the family ('Ahle-bait') of the Holy Prophet Muhammad (peace be upon him) as 'Ahle-bait'; or (d) refers to, or names, or calls his place of worship as 'Masjid' - shall be punished with imprisonment of either description for a term which may extend to three years".

Under section 298B(2), any person of the same groups "who by words, either spoken or written, or by visible representation, refers to the mode of form of call to prayers followed by his faith as 'Azan', or recites 'Azan' as used by the Muslims, shall be punished with imprisonment of either description for a term which may extend to three years".

Under section 298C, any person of the same groups "who, directly or indirectly, poses himself as a Muslim, or calls or refers to his faith as Islam, or preaches or propagates his faith, or invites others to accept his faith, by words, either spoken or written, or by visible representations, or in any manner whatsoever outrages the religious feelings of Muslims, shall be punished with imprisonment of either description for a term which may extend to three years".

The Committee notes the indication in the Government's report that forced labour as a result of religious discrimination is non-existent and forbidden under the Constitution of Pakistan, that any law, custom or usage having the force of law, so far as it is inconsistent with the rights conferred by the Constitution is void to the extent of such inconsistency and that the superior courts have been given the power of judicial review so that any party aggrieved of discrimination on the basis of religion can challenge the validity of such law in the court.

The Committee has taken due note of this indication. It hopes that consequently sections 298B and C of the Penal Code will be reviewed and amended so as to ensure the observance of the Convention. Pending completion of the necessary action, the Committee requests the Government to supply information on the practical application of these provisions, including the number of persons convicted thereunder and copies of the judicial decisions made.

#### Panama (ratification: 1966)

The Committee notes with regret that the Government's report has not been received for a third consecutive year. It must therefore repeat its previous observation which read as follows:

Article 1(c) of the Convention. In its previous comments the Committee has for some years been referring to section 1120 of the Commercial Code, under which any seafarer abandoning his vessel may be required, on pain of imprisonment, to complete the term of his contract and to work for one month without payment. The Committee had taken note of the submission to the National Legislative Council of a bill to repeal this section and of a bill respecting employment in the merchant marine, both prepared with the assistance of the ILO.

The Committee notes the indication provided by the Government in its report received in 1984, that the bill to repeal section 1120 of the Commercial Code has not been discussed by the National Legislative Council and is not on the list of bills for examination during the period 1982-83 but that the Government will take the necessary steps to ensure that it is included in the list for 1983-84. The Committee also notes that the discussion of the bill respecting the labour relations of

seafarers will remain suspended until a committee submits a report on it.

The Committee hopes that measures will shortly be adopted to bring the legislation on the merchant marine into conformity with this provision of the Convention, and that the Government will indicate any progress made to this end.

Peru (ratification: 1960)

For many years the Committee has been referring 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 unspecified period of up to 20 years, irrespective of the maximum duration of the sentence that the offence would entail if it had been committed by a "civilised man".

In its previous observation, the Committee noted the draft Penal Code published in the Official Gazette of 19 August 1985, in which the above provision does not appear.

The Committee also noted with interest section 21 of this Bill, under which the judge may declare a person legally incompetent or reduce the sentence below the legal minimum where this person, by reason of his culture or customs, commits a punishable act without being capable of a proper understanding of the illegal nature of his act or of deciding in accordance with such an understanding.

The Committee notes that a new draft Penal Code has been published in the Official Gazette of 31 March 1986, which maintains section 21 in the same terms as the previous draft.

In view of the fact that this point has been the subject of the Committee's comments for more than ten years, the Committee hopes that the new Code will be adopted rapidly and requests the Government to supply a copy of it once it has been adopted.

[The Government is asked to report in detail for the period ending 30 June 1988.]

Senegal (ratification: 1961)

Article 1(c) and (d) of the Convention. In its earlier comments, the Committee noted that under sections 223 and 243 of the Merchant Navy Code seafarers are punished for breaches of labour discipline (irregular absence from the vessel, refusal to obey after formal order) with sentences of imprisonment involving under section 40 of the Penal Code compulsory labour.

The Committee noted the Government's statement that, in practice, no sentence of imprisonment involving compulsory labour had been passed by judges on a seafarer committing a breach of labour discipline, and that it could be considered that sentences of imprisonment with compulsory labour were applied by judges only in cases of mutiny or where the safety of the vessel was endangered.

The Committee notes the statement reiterated by the Government in its report that the competent Minister has been seized of the matter and that a definitive solution is being sought.

The Committee hopes that the appropriate measures will shortly be taken to give statutory effect to the above-mentioned practice in order to bring the provisions concerning discipline in the Merchant Navy into conformity with the Convention, and that the Government will indicate the measures adopted.

Sierra Leone (ratification: 1961)

Article 1(a) of the Convention. The Committee notes the information provided by the Government in June 1987 in reply to earlier comments and, in particular, the Government's statement that it is not aware of any cases where forced labour has been imposed in contravention of the Convention and of the national Constitution and legislation, and that it hopes to continue its efforts to ensure the application of the Convention throughout the country.

The Committee must point out that in order to be able to ascertain the compliance of national legislation with the Convention, it has been asking for information on several points which have not been answered so far.

1. In comments made for a number of years, the Committee has asked for information on the practical application of sections 24, 32 and 33 of the Public Order Act (concerning public meetings, the publication of false news and seditious offences), including the number of convictions for offences thereunder and particulars of relevant court decisions defining or illustrating the scope of these provisions. The Committee noted from the Government's report received in 1983 that the information requested was being collected. It hopes that this information will shortly be supplied by the Government.

2. In its previous comments, the Committee noted that articles 15, 16 and 17 of the Constitution of Sierra Leone, 1978, exclude from the protection of the freedoms of conscience and of assembly and association and from the protection against discrimination, anything contained in, or done under, the authority of any law that makes provision which is reasonably required for safeguarding the proper functioning of the Recognised Party, or which imposes restrictions on the establishment of political parties other than the Recognised Party, or regulates the behaviour of members of that Party, except in so far as that provision is shown not to be reasonably justifiable in a democratic society. The Committee requested the Government to supply copies of all statutory provisions relating to the establishment of political parties, the functioning and interest of the Recognised Party and the behaviour of its members.

Recalling the Government's statement in its 1983 report that it was expecting a reply from the Law Officers Department, the Committee hopes that copies of the statutory provisions referred to will soon be supplied.

[The Government is asked to report in detail for the period ending 30 June 1988.]

Sudan (ratification: 1970)

1. The Committee notes from the Government's report that in Sudan a state of emergency was declared on 25 July 1987 for one year, restricting the right to demonstrate and organising the practicing of other rights. It requests the Government to supply full information on the manner in which the right to demonstrate is restricted and other rights are organised, including copies of relevant statutory instruments and details of actual practice as to the scope and the duration of restrictions imposed.

2. In its previous comments, the Committee noted the adoption in October 1985 of a Transitional Constitution, and in particular that the political system shall be based on the freedom of formation of political parties and the law shall protect those parties which abide by the democratic ideals and means set out in the Constitution (article 7) and that the Constitution guarantees fundamental rights and freedoms such as freedom of opinion and expression (article 19), freedom of association (article 20), and the right of meeting and demonstrating peacefully (article 22). The Committee also noted that under article 3 of the Constitution its provisions shall prevail over all laws and any provision contained in such laws which is inconsistent with the Constitution shall be repealed to the extent of such inconsistency; the Committee further noted that under section 133 all laws in force prior to the coming into force of the Constitution shall so continue unless repealed or amended. In this context the Committee noted the information provided by the Government that commissions had been entrusted with the revision of the existing laws adopted under the former Constitution, including labour laws.

Noting that the Government's report contains no further information in this connection, the Committee refers to its comments concerning a certain number of legislative provisions under which penalties involving compulsory labour may be imposed in circumstances falling within the scope of the Convention. The Committee again expresses the hope that the Government will soon supply detailed information on the measures envisaged or adopted to bring those provisions into conformity with the Convention. It addresses a direct request to the Government in relation to these matters.

Syrian Arab Republic (ratification: 1958)

The Committee takes note of the Government's report.

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 prison sentences involving compulsory labour can be inflicted for acts covered by Article 1(a), (c) and (d). It noted that a draft Legislative Decree amending various sections of the Penal Code to eliminate all compulsory prison labour was being examined by the legislative authorities.

The Committee notes that the Government's report contains no indication as to the progress of this draft, and trusts that the Government will shortly be able to state that amended legislation is

in force to ensure observance of the Convention and that it will provide a copy of the provisions adopted.

United Republic of Tanzania (ratification: 1962)

Tanganyika

1. In previous comments, the Committee noted that forced or compulsory labour may be imposed in circumstances falling within Article 1(a), (c) and (d) of the Convention under the following legislative provisions:

Article 1(a) of the Convention. Under section 25 of the Newspaper Act, 1976, the President may, if he considers it necessary in the public interest or in the interest of peace and order, prohibit the further publication of any newspaper. Any person who prints, publishes, sells or distributes in a public place such a newspaper may be punished with imprisonment (involving, by virtue of Part XI of the Prison Act, 1977, an obligation to perform labour).

Article 1(c). Under section 284A of the Penal Code, any employee of a "specified authority" (i.e. the Government, a local authority, a registered trade union, the Tanganyika African National Union or any body affiliated to it, any publicly owned company, etc.) who causes pecuniary loss to his employer or damage to his employer's property, by any wilful act or omission, negligence or misconduct, or failure to take reasonable care or to discharge his duties in a reasonable manner, may be punished with imprisonment for up to two years (involving an obligation to work).

Under section 176(9) of the Penal Code, any person employed under lawful employment of any description who is, without lawful excuse, found engaged in a frolic of his own at a time he is supposed to be engaged in activities connected or relating to the business of his employment may be punished with imprisonment (involving an obligation to work). In addition, under section 26 of the Human Resources Deployment Act, the Minister shall make such arrangements as will provide for a smooth and co-ordinated transfer or any other measure which will provide for the rehabilitation and full deployment of persons chargeable with or previously convicted under section 176 of the Penal Code.

Article 1(c) and (d). Under section 145(1)(b), (c) and (e) and section 147 of the Merchant Shipping Act, 1967, various breaches of discipline by seamen are punishable by imprisonment, involving an obligation to perform labour. Under section 151, any seaman who deserts from a foreign ship may be forcibly conveyed on board ship or delivered to the master, mate or owner of the ship or his agent.

Article 1(d). Sections 4, 8, 11 and 27 of the Permanent Labour Tribunal Act, 1967, which contain general provisions for compulsory arbitration in labour disputes, make it possible in practice to render all strikes illegal and punishable with imprisonment (involving compulsory prison labour).

In previous reports, the Government has stated that consultations on proposals for the revision of these legislative provisions have been completed and a report has been submitted to the competent

authority for decision. In its reply to the Committee's 1987 observations, the Government once again expresses its desire to bring the above-mentioned provisions into conformity with the Convention, but states that there have been unavoidable delays in the conclusion of proposals for the revision of the relevant legislative provisions to bring them into conformity with the requirements of the Convention.

The Committee takes due note of these indications. Recalling that these matters have been under consideration for a number of years, the Committee trusts that measures will be adopted at an early date to ensure that no form of forced or compulsory labour may be imposed in circumstances falling within the scope of the Convention and that the Government will indicate the action taken. In a direct request, the Committee once again requests the Government to furnish information on the practical application of a number of legislative provisions which the Committee has been requesting for many years, and which the Government is presently seeking to obtain.

#### Zanzibar

2. In its previous observation, the Committee noted the Government's indication that the Afro-Shirazi Party Decree, 1965, by virtue of which the Afro-Shirazi Party was declared the sole political Party and all other political parties, organisations or societies were declared unlawful and membership therein was made punishable with imprisonment (involving an obligation to perform labour) had been superseded and was no longer in force since the creation of the Revolutionary Party (Chama cha Mapinduzi) of Tanzania, that the United Republic of Tanzania is a one-party democratic State and Chama cha Mapinduzi is the ruling Party governed by its constitution. The Committee requested the Government to supply copies of the texts superseding the Afro-Shirazi Party Decree, including the full text of the constitution referred to by the Government. The Committee had also sought information on the effect on the application of the Convention of the state of emergency which had been in force since 1961; on the measures taken to abolish both compulsory labour as a punishment for breach of labour discipline under section 110 of the Penal Decree and the Zanzibar Government Shipping Decree, and on the practical application of various statutory provisions, with a view to ascertaining the observance of Article 1(a), (c) and (d) of the Convention. In the absence of a reply, the Committee will take up these matters again in a direct request to the Government.

[The Government is asked to report in detail for the period ending 30 June 1988.]

#### Thailand (ratification: 1969)

The Committee notes that the Government's report has not been received. It regrets that since 1982 no new information has been supplied on the questions raised in its previous comments. It hopes that the Government will soon provide full information 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 in its report supplied in February 1982 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 lock-outs 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.

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



Trinidad and Tobago (ratification: 1963)

Article 1(c) and (d) of the Convention. In previous comments the Committee has been referring to provisions of the Trades Disputes and Protection of Property Ordinance, the Merchant Shipping Act, 1894 and the Industrial Relations Act, 1972, under which penalties involving compulsory labour may be imposed for breaches of discipline or participation in strikes in circumstances where the life, personal safety or health of persons are not endangered. For several years the Government has reported that efforts, including reference to a tripartite committee, were under way to amend the provisions mentioned above. In its most recent report, the Government indicates that since coming into power in December 1986, it has instituted various tripartite mechanisms including a Joint Consultative Council, whose terms of reference will encompass the review and monitoring of the operation of the industrial relations system in Trinidad and Tobago and that the matters cited above will be addressed in such a review. The Committee hopes that since the legislative amendments required have been under consideration for a number of years, the necessary measures will be taken in the near future to ensure observance of the Convention, and that the Government will supply information on progress achieved in this respect.

[The Government is asked to report in detail for the period ending 30 June 1988.]

Tunisia (ratification: 1959)

Article 1(d) of the Convention. The Committee notes the information supplied by the Government in reply to its previous comments. It also notes the reports of the Committee on Freedom of Association concerning the complaints against Tunisia which contained allegations concerning, inter alia, the requisitioning of striking staff and arrests and prison sentences of workers. (Case No. 1327; 243rd, 246th and 251st reports of the Committee on Freedom of Association, approved by the Governing Body at its 232nd, 234th and 236th Sessions.) In this respect, the Committee recalls that the national legislation on the matter is contrary to Convention No. 105 on two points.

1. Under the Labour Code, participation in a strike is illegal and can be punished by imprisonment involving, by virtue of section 13 of the Penal Code, compulsory labour in cases where the Government imposes arbitration, considering that a strike might endanger the national interest (sections 384 to 388 of the Labour Code); similarly, in cases where a strike is called in such circumstances, the workers may be requisitioned under penalty of imprisonment involving compulsory labour (sections 389 and 390 of the same Code). The Committee notes with interest the Government's indication in its report that the draft revision of the Labour Code is currently the subject of broad-based consultations with the Ministries concerned and the employers' and workers' central organisations and that, during these consultations, the proposal to replace the reference to the vital interest of the nation (contained in section 384 of the Code) by

the concept of services that are essential for the safety and well-being of the population, raised no objections from the departments concerned or the employers' and workers' central organisations.

The Committee therefore hopes that recourse to compulsory arbitration and requisitioning, enforced by penalties involving compulsory labour, will be restricted to essential services whose interruption would endanger the life, personal safety or health of the whole or part of the population and that the Government will be able to report the amendment of the Labour Code in this respect in the near future.

2. In its previous comments, the Committee also noted that by virtue of section 376 bis of the Labour Code, inserted by Act No. 76-84 of 11 August 1976, read together with sections 387 and 388 of the same Code, strikes must be approved by the Central Workers Organisation and that, in the event of this requirement not being fulfilled, the strike is deemed illegal and any person calling for its continuance or participating in it shall be liable to imprisonment involving, in accordance with section 13 of the Penal Code, compulsory labour.

The Committee notes the Government's statement in its report that, during the consultations undertaken concerning the examination of the draft revision of the Labour Code, the employers' and workers' central organisations gave their support to the retention in the Labour Code of the principle of prior approval for strikes by the Central Workers Organisation.

The Government considers that, to the extent that collective agreements determining wages and conditions of employment are negotiated and concluded with the participation of the Central Workers Organisation, it would be illogical to deny that Organisation the right to give its approval to the calling of a strike concerning matters dealt with in collective agreements. Consequently, since the Government and the employers' and workers' central organisations are all in agreement concerning the value of prior approval for strikes by the Central Workers Organisation, it is of little importance, in the Government's opinion, whether this requirement is set forth in the Labour Code or in the Constitution of the Organisation in question.

The Committee takes due note of these indications. Referring to the explanations given in paragraphs 128 to 132 of its General Survey of 1979 on the Abolition of Forced Labour, it observes that neither the possibility for the Central Workers Organisation to pronounce itself on the appropriateness of a strike, nor even the qualification of a strike that has been called without its approval as illegal, fall within the scope of Convention No. 105, provided that they are not enforceable by penalties involving compulsory labour. Furthermore, legislation which prohibits strikes in breach of freely concluded collective agreements is not incompatible with the Convention. However, certain formal requirements concerning the conditions under which a strike may legally be called fall within the scope of the Convention when they are enforceable by sanctions involving compulsory work, and the Committee referred particularly to cases where legislation requires a vote by a qualified majority before a strike is

declared or where a single trade union organisation is empowered to call a strike.

The Committee therefore trusts that the provisions in question will be re-examined in the light of the Convention and that the revised Labour Code will no longer permit the imposition of sentences involving compulsory labour for participating in a strike on the sole grounds that it was not approved by the Central Workers Organisation.

The Committee hopes that the Government will soon be able to report that progress has been achieved in this respect.

#### Turkey (ratification: 1961)

Article 1(c) of the Convention. In its comments made for a number of years, the Committee noted that section 1467 of the Commercial Code empowers the master of a ship to use force to bring deserting seafarers back on board to perform their duties with a view to ensuring the proper running of the vessel and the maintenance of discipline.

The Committee notes the statement of the Government in its report supplied in 1985 that the relations between the master and the crew of a vessel cannot be considered as an ordinary employer-employee relationship, but is closely connected with the safety of the vessel, persons and goods on board and that the expression "the case of necessity" in section 1467 of the Commercial Code implies cases of danger to the security of the vessel, passengers and goods on board. It also takes note of the Government's indication that a recourse to the forcible return is only had in an exceptional situation and section 1470 provides for the penalties in case of a master's abuse of his power under section 1467.

The Committee refers to paragraph 117 of its 1979 General Survey on the Abolition of Forced Labour where it pointed out that sanctions involving compulsory labour are compatible with the Convention only where they relate to acts tending to endanger the ship or the life or health of persons, while those relating more generally to breaches of labour discipline such as desertion, absence without leave or disobedience, sometimes supplemented by provisions under which seamen may be forcibly returned to their ship, do fall under the scope of the Convention.

As the Government indicated earlier that an amendment to the legislation would be made to limit clearly the scope of section 1467 of the Commercial Code to cases of emergency, the Committee hopes that this provision will accordingly be amended so as to exclude the forcible return of seamen on board of a ship which lies safely in a harbour, and that the necessary measures have been taken to ensure the observance of the Convention.

#### Uganda (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:

1. The Committee notes that by Proclamation of 26 January 1986 all legislative powers referred to in the Constitution were vested in the National Resistance Council and several chapters of the Constitution were suspended. According to paragraph 13 of the Proclamation the provisions of the Constitution inconsistent with the Proclamation are void; the operation of the Constitution and the existing laws are not affected but they are construed with such modifications, qualifications and adaptations as are necessary to bring them into conformity with the Proclamation.

The Committee requests the Government to provide information on any measures adopted in relation to Chapter III of the Constitution (protection of fundamental rights and freedoms of the individual) in particular as regards Articles 17 and 18 (protection of freedom of expression, of assembly and association) as well as in relation to the suspension of activities of political parties and on any penalties involved.

2. In previous comments the Committee noted that the Public Order and Security Act, empowering the executive to restrict, independently of the commission of any offence, an individual's association or communication with others, subject to penalties involving compulsory labour appeared to have been repealed. The Committee requests the Government to indicate whether this Act has actually been repealed and to supply a copy of any text adopted to this effect. The Committee had also referred to measures to be taken to repeal or amend section 21A of the Newspaper and Publications Act (inserted by Decree No. 35 of 1972) under which the publication of any newspaper may be prohibited if the competent minister considers it to be in the public interest to do so and which is enforceable with imprisonment (involving an obligation to perform labour). The Committee hopes that the necessary measures will soon be taken and, pending their adoption, it would again ask the Government to supply details on all cases in which prohibitions are made or maintained in force under these provisions.

3. In its previous comments, the Committee noted that sections 54(2)(c), 55, 56 and 56A of the Penal Code empower the competent minister to declare any combination of two or more persons to be an unlawful society (a power exercised in respect of various political, religious and student organisations by Statutory Instruments Nos. 12 of 1968, 153 of 1972 and 63 of 1973) and thus render any speech, publication or activity on behalf of or in support of any such association illegal and punishable with imprisonment (involving an obligation to perform labour). The Committee also noted that a number of orders made under these provisions between 1975 and 1977 were revoked by the Penal Code (Unlawful Society) (Revocation) Order, 1979, but that sections 54(2)(c), 55, 56 and 56A of the Penal Code appeared to remain in force. The Committee requests the Government to supply details on any new cases of prohibition as well as on the measures adopted regarding these provisions to ensure the observance of the Convention on this point.

4. Article 1(c) and (d). In previous comments the Committee noted that, under section 16(a) of the Trade Disputes (Arbitration and Settlement) Act, 1964, workers employed in "essential services" may be prohibited from terminating their contract of service, even by notice, that, by virtue of sections 16, 17 and 20A of the same Act, strikes may be prohibited in various services which, while including those generally recognised as essential ones, also extend to other services, interruption of which would not necessarily endanger the life, personal safety or health of the whole or part of the population and that contravention of these prohibitions may be punished with imprisonment (involving, as previously noted, an obligation to perform work). The Committee also noted that the process to review the law was under way. The Committee hopes that the Government will soon be able to indicate measures taken to bring sections 16, 17 and 20A of the Trade Dispute (Arbitration and Settlement) Act, 1964, into conformity with the Convention.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Algeria, Angola, Argentina, Bahamas, Bangladesh, Belize, Benin, Brazil, Burundi, Cameroon, Cape Verde, Cyprus, Democratic Yemen, Djibouti, Ecuador, Egypt, El Salvador, Fiji, Gabon, Ghana, Grenada, Islamic Republic of Iran, Israel, Italy, Jamaica, Jordan, Kenya, Kuwait, Liberia, Malaysia, Morocco, Nigeria, Pakistan, Papua New Guinea, Peru, Saint Lucia, Seychelles, Somalia, Spain, Sudan, Suriname, United Republic of Tanzania, Thailand, Trinidad and Tobago, Tunisia, United Kingdom.

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

#### Syrian Arab Republic (ratification: 1958)

The Committee notes the information supplied by the Government concerning the application of section 43 of the State Personnel Act, No. 1 of 1985, as concerns the weekly rest of these workers.

The Committee notes with regret, however, that the Government's report provides no new information on the provisions of the Labour Code which were the subject of its previous observation, which read as follows:

Article 8, paragraph 3, of the Convention. The Committee has been drawing the Government's attention for many years now to the need to adopt measures in order to ensure compensatory rest to workers who, under the temporary exceptions provided for in section 120 of the Labour Code, work on the weekly rest day.

The Government has stated on several occasions that effect will be given to Article 8, paragraph 3, either within the framework of a new Labour Code (first announced in 1966), or through an Act amending a number of sections of the Labour Code

(announced to the Conference Committee in 1982). The Committee notes, however, that up to the present no text giving effect to this provision of the Convention has been adopted. While noting the information supplied by the Government in its last report, it expresses the hope that the Government will not delay in taking the necessary measures to ensure compensatory rest to workers who, under the temporary exceptions provided for in section 120 of the Labour Code, are required to work on the weekly rest day.

[The Government is asked to supply full particulars to the Conference at its 75th Session.]

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In addition, requests regarding certain points are being addressed directly to the following States: Haiti, Jordan, Sri Lanka.

### **Convention No. 107: Indigenous and Tribal Populations, 1957**

#### Argentina (ratification: 1960)

The Committee notes with satisfaction the adoption of Act No. 23.302, of 30 September 1985, on policy-making with regard to the indigenous population and support to indigenous communities. The Committee hopes that the Government will be able to state in its next report that the Decree issuing regulations under the Act, currently being formulated, has been adopted, and that the bodies provided for under the Act have been established. The Committee has raised a number of points in a request addressed directly to the Government.

#### Bangladesh (ratification: 1972)

The Committee refers to its previous comments and to the discussion which took place in the Conference Committee in 1987 on the application of this Convention. A report on the application of the Convention was received after the present Committee's last session, and this was brought to the attention of the Conference Committee along with further explanations given by a representative of the Government. The Conference Committee reiterated its concern regarding the situation of the tribal populations and urged the Government to adopt concrete measures along the lines of the comments made by the Committee of Experts. It suggested that the Government consider the possibility that a representative of the Director-General should make a further visit to the country, as already took place in 1985, and decided to mention the case in a special paragraph in its report.

The Committee notes that consultations were undertaken between the Office and the Government, and that agreement has been reached that a direct contacts mission should take place to examine various questions concerning the application of the Convention in Bangladesh. It did not prove possible, however, to reach this agreement in time

for the mission to take place before the Committee's present session, and it is planned for April 1988.

The Committee further notes that detailed observations were received from the International Confederation of Free Trade Unions (ICFTU) on the application of the Convention in Bangladesh and that on 4 January 1988 they were transmitted to the Government in accordance with the usual practice for any comments it might wish to make. These observations included copies of correspondence which had been exchanged between the ICFTU and the Government on the application of the Convention, as well as other information. The ICFTU stated that the Government's reply provided no answers to most of the specific questions raised, in particular to those concerning the basic rights of the tribal populations in the country. Comments on these observations were received from the Government during the Committee's session. In these comments the Government denied that any abuses have taken place, and reiterated its intention to give the direct contacts mission the chance to discuss the situation.

Under the circumstances, the Committee will not examine the application of the Convention or the observations received from the ICFTU in further detail at this time, and will await the outcome of the direct contacts mission referred to above. It recalls the concerns that it and the Conference Committee have previously expressed and notes that the information available to it does not indicate that the situation in the Chittagong Hill Tracts has undergone any substantial change. It therefore expresses the hope that the Government will provide detailed information to the representative of the Director-General, so as to enable the Committee at its next session to make a full assessment of the situation as regards the application of the Convention.

#### Bolivia (ratification: 1962)

The Committee notes the information communicated by the Government in its report, which the Committee was unable to examine at its previous session. The Committee notes that, while information was provided on the application of the Articles of the Convention, the report did not reply to the detailed questions raised by the Committee in its previous comments. In particular, the Government has not distinguished between the situation of indigenous populations of the Sierra, and that of forest-dwelling indigenous populations in providing its information.

The Committee therefore expresses the hope that the Government will be able to supply the information requested in the comments the Committee is addressing directly to it, as well as continuing to supply more general information on developments in the application of the Convention.

Articles 7 and 11 to 14 of the Convention. The Committee notes that in its report the Government refers a number of times to programmes of settlement of non-indigenous populations in areas presently inhabited by indigenous populations. It notes in particular the statement in the report that all lands to which no one holds title are the property of the Republic and are considered as being the

property of no individual (tierras fiscales). The report states that when the populations covered by the Convention live in these areas, their customary laws are respected unless these lands are selected for colonisation programmes.

The Committee draws the Government's attention to Article 7 of the Convention, which provides in paragraph 1 that "in defining the rights and duties of the populations concerned regard shall be had to their customary laws". It refers also to Article 11, which provides that "the right of ownership, collective or individual, of the members of the populations concerned over the lands which these populations traditionally occupy shall be recognised". It notes also the other Articles mentioned above, which seek to protect indigenous and tribal populations from the extinguishment of their customary laws, and their rights to the lands they occupy, in cases of incursion into these lands by programmes of development or internal settlement.

The Committee therefore requests the Government to review its policies in this connection, and to indicate in its next report what measures it has taken to demarcate the lands occupied by indigenous populations and to prevent the assignment of title to these lands to persons who do not belong to these groups.

[The Government is requested to report in detail for the period ending 30 June 1988.]

#### Brazil (ratification: 1965)

1. The Committee regrets to note that for the second consecutive year the Government's report on the application of the Convention has not been received. The Committee recalls that it has made detailed comments on the situation of the indigenous populations in the country, and that the application of the Convention was discussed by the Conference Committee in June 1987. It notes that the Conference Committee expressed its concern at the situation and urged the Government to take the necessary measures to give full effect to the Convention.

2. The Committee also notes that the Government has not commented upon the various observations on the application of the Convention submitted by national and international employers' and workers' organisations. Nor has it supplied information on the measures that have been taken pursuant to a resolution adopted by the Inter-American Commission on Human Rights concerning allegations that had been made concerning serious violations of the rights of indigenous populations.

3. The Committee notes that in March 1987 the Government transmitted its comments on the observations submitted by Mr. Mario Juruna, a Federal Deputy in Brazil, which were forwarded to the Government on 25 April 1986. The Committee also notes the statement made by the Government representative of the Conference Committee at its 73rd Session in June 1987, which in essence repeated the contents of the communication referred to above. In his observations, Deputy Juruna stated that violations had been committed against the Indians in Brazil and that they had been deprived of their land. In its comments, the Government indicates that in order to increase the



efficiency of the action of the National Indian Foundation (FUNAI), in accordance with Decree No. 92.740, of 18 March 1986, this organisation was restructured. Under the new structure, FUNAI now has six executive regional supervision centres, which are empowered to receive applications from indigenous leaders and are able to process their requests for assistance more rapidly due to their location. The Government also supplied information on the results of the effort to demarcate the boundaries of 91 indigenous areas between 1910 and 1984 and which has covered a total of 12,118,840 hectares. The Government also indicated that the legal situation with regard to more than 95 indigenous areas, amounting to around 13 million hectares, had been settled or was in the process of being settled.

4. The Committee notes the observations submitted by the National Confederation of Industry which were forwarded to the Government on 23 November 1987 for any comments that it considered appropriate. The observations contain criticisms of the general principles of the Convention, which the Confederation considers to be contrary to national sovereignty and to the policies and needs of the country. They also indicate that disputes persist concerning the occupation of Indian lands, due to the lack of clarity of government policy in this area, and due to the lack of proof of immemorial possession of many areas by Indian populations. The Committee notes that the Government has made no comments on these observations.

5. The Committee recalls that in its previous comments it referred to the observations made by the National Confederation of Industrial Workers, which were forwarded to the Government on 24 October 1986. No comments have been received on these observations from the Government. In the meantime, other observations have been received from this organisation to the effect that although the demarcation of Indian lands is continuing, the slowness of the process at times provokes radical situations which sometimes result in conflicts. The Confederation also notes that Indian lands are frequently invaded due to the lack of demarcation, leading to an increase in tension in these areas and the possibility of serious conflicts between the Indians and the invaders. It states that invasions of Indian lands are continuing, although with less intensity than previously. These observations were transmitted to the Government on 18 December 1987 so that it could make any comments it considered appropriate, but no such comments have been received.

6. The Committee recalls that in the comments it made in 1986 and 1987, it referred to the observations received from the International Confederation of Free Trade Unions (ICFTU) which were forwarded to the Government, although the latter has made no comments on them. The Committee recalls that the ICFTU had expressed its concern at the fact that the Brazilian authorities had not taken effective steps to establish and protect the Yanomami reserve, and that there was a serious threat to the existence of these Indians due to the occupation of their lands by mining concerns and others. In this connection, the Committee notes that it would appear that the work of demarcating the lands of the Yanomami Indians was suspended in 1982.

7. The Committee notes that further observations were transmitted by the ICFTU, which were sent to the Government on

25 January 1988; no reply has yet been received from the Government. These observations include more detailed comments from the non-governmental organisation Survival International. The ICFTU points out in its observations that a Decree was adopted on 24 September 1987, empowering the National Security Council to supervise the process of demarcating Indian lands and making it impossible to modify territorial boundaries until all Indian lands have been so defined, even though many areas are said to have been incorrectly demarcated and urgently require redrawing.

8. The ICFTU refers to the adoption of the National Security Council's policy in the Calha Norte case, under which Indians are prohibited from occupying their lands within 150 km of the border. It specifies that the Indian people most directly affected by this policy are the Yanomami. In this connection, and in relation to its previous observations, the ICFTU states that it will henceforth be impossible to take effective steps to establish and protect the Yanomami Park, since the Government has declared that the Yanomami living in the border area may not retain their lands since these lands have been defined as a "military-ecological zone".

9. The ICFTU states that this new frontier policy has also been applied to areas south of the Solimoes river, and has led the Brazilian Government to deny lands to Indians in the path of the extension of the BR-364 motorway in the State of Acre.

10. The ICFTU also indicates that the new frontier policy of the Brazilian Government has led to the Inter-American Development Bank suspending its funding of the above-mentioned project since February 1987 due to the fact that it does not comply with the Plan for the Protection of the Environment and Indigenous Communities (PMACI), which involves the demarcation of all Indian territories in the State of Acre by 1988.

11. The Committee also referred in its previous comments to Resolution No. 12/85 of the Inter-American Commission on Human Rights, adopted on 5 March 1985, concerning similar allegations against the Government of Brazil that were submitted to that body (Case No. 7615). The Committee noted that the conclusion had been reached that the Government's failure to take timely and effective measures had resulted in violations of the rights of the Yanomami. The Committee recommended at that time that action be taken to establish the Park as had been proposed. As it would appear that the Yanomami Park has not been established, the Committee requests the Government to supply information in this respect in the near future on the measures to be adopted in order to protect the Yanomami.

12. The observations of the ICFTU also referred to the unlawful encroachment into the lands of the Yanomami by prospectors and settlers, and the Government indicated that it had intervened to stop such invasions, with the assistance of federal forces where necessary. The Committee noted that it had continued to receive further indications that such invasions were taking place on a large scale in the Rio Negro area, and that the Government had not always been able to expel the invaders in spite of efforts to do so. The Committee therefore expressed the hope that the Government would provide detailed information on such incidents and that it would be able to take effective action for the protection of the Indians in

these areas. The Committee also expressed the hope that the Government would make every effort not to delay taking the necessary action.

13. The Committee therefore once again urges the Government to supply the necessary information on each of the matters raised above and to indicate the measures that have been taken or are contemplated in order to protect the various indigenous communities in Brazil.

14. Please also indicate whether the discussions that are currently under way concerning the amendments to the legislation and the Constitution will have the effect of introducing changes in the protection afforded to indigenous populations in the country.

[The Government is asked to supply full particulars to the Conference at its 75th Session and to report in detail for the period ending 30 June 1988.]

#### India (ratification: 1958)

The Committee recalls that in its previous comments it has referred to observations received from the International Federation of Plantation, Agricultural and Allied Workers (IFPAAW), containing information received from the non-governmental organisation Survival International for the Rights of Threatened Tribal Peoples. These observations concern the planned displacement of some 60,000 tribal people from the lands they occupy, in connection with the Sardar Sarovar Dam and Power Project. This project is the first stage of a much larger project which it appears will displace some 1 million people at later stages.

The Committee noted in its observation in 1987 that the Government had made comments on the first observations received from IFPAAW in 1985, and had also submitted information to the Conference in 1986 on the measures it was taking in this regard. The Committee noted in its 1987 observation that additional comments had been received from IFPAAW and forwarded to the Government on 18 December 1986, but that no comments had been received on them before the Committee's 1987 session. The Committee noted at the same time that it had received, very shortly before its session, a detailed reply to the request which had previously been addressed to the Government in regard to the application of the Convention in other respects in India; and that it consequently had decided to defer the detailed consideration of the situation to the present session.

Since that time, the Office has received, on 17 February 1988, the Government's comments on the observations submitted by IFPAAW in December 1986. It has also received further observations from IFPAAW, which were sent to the Government on 14 January 1988, but concerning which no reply has yet been received.

The Committee recalls that the Sardar Sarovar Dam and Power Project is being financed by the World Bank, and that the Office has received copies - both from the Bank and from Survival International - of the correspondence which those two organisations have exchanged and of other relevant documentation. It also received, at an earlier stage, information and comments from the World Bank in this respect.

IFPAAW's comments have alleged that the project is violating Articles 6, 11 and 12, paragraph 2, of the Convention through its programme of resettlement and rehabilitation of the tribal people who are being displaced by the project. The Committee considers below the points raised by IFPAAW and the Government's comments on them, together with the further comments submitted by IFPAAW to which the Government has not yet replied.

1. IFPAAW has stated that the legislation and arrangements in place still do not satisfy the requirements of Article 6 of Convention No. 107, which provides that "The improvement of the conditions of life and work and level of education of the populations concerned shall be given high priority in plans for the over-all economic development of the regions inhabited by these populations." IFPAAW has referred in particular to the credit agreement signed between the World Bank and the participatory state and national governments providing that "the main objectives of the Plan for Resettlement and Rehabilitation of the Oustees are to ensure that the Oustees shall, promptly after their displacement: (i) improve or at least regain the standard of living they were enjoying prior to their displacement...". IFPAAW has expressed its concern that the use of the words "or at least regain" means that the tribal peoples being displaced are not assured of any benefit from the overall project, and that there are deficiencies in the legislation and planning associated with the project which suggest that, in fact, many tribal oustees will not regain their previous standard of living unless the rehabilitation and resettlement component is radically redesigned.

In its comments the Government has stated that it is giving high priority to the development of the affected people, and that the terms of the credit agreement do not prevent the Government from doing more than is provided therein. The Government also has provided information on revisions of the resettlement schemes in recent months.

The Committee considers that the question of whether these arrangements meet the requirements of Article 6, is still not ripe for a final evaluation, as it depends largely on what is concluded with respect to the other issues raised.

2. IFPAAW has also stated that the legislation and arrangements made for the resettlement and rehabilitation of the affected tribals do not satisfy Article 11 of the Convention, which provides that "the right of ownership, collective or individual, of the members of the populations concerned over the lands which these populations traditionally occupy shall be recognised." It stresses that the word "occupy" is important here, since the Government's plans for compensating tribals for the lands they are losing were said not to take into account all the lands occupied by the tribals but only those to which they have title or another recognised right.

Three basic situations of land occupancy by the tribals should be distinguished, though there are variants on them. There are tribals who carry out settled agriculture, on land to which they hold title. There are others who live from cultivation of plots on state-owned land to which they hold no title. The third large category is of tribals who live from hunting, fishing or grazing, usually on state-owned land. There are also situations in which tribals cultivate plots to which they have title as well as other areas on state-owned

land, or cultivate plots but graze animals on state-owned land or make other use of these lands, with or without title.

The Committee recalls that tribals in three States of the country are affected (Gujarat, Madhya Pradesh and Maharashtra), and that each is making separate arrangements for the compensation of displaced tribals.

The Government had indicated previously that compensation in the form of new land is being provided, as required by the credit agreement, for all those who are being displaced from lands to which they have title. As concerns the so-called "landless oustees", the Government has indicated in its report that in Gujarat State, under Resolution No. PHE-NMP-7082-K5 of 30 May 1985, landless tribals who are not actually in occupation of land, but who are "carrying on cultivation by way of encroachment, or unauthorised occupation, are being regularised by giving them title to the land which they are cultivating. As a result, such landless tribals before they are rehabilitated are being given recognition to land rights and compensated land for land." IFPAAW has commented in this connection that these arrangements concern only Gujarat, while in fact some 80 per cent of the affected tribals live in the States of Madhya Pradesh and Maharashtra, and it seems that comparable legal provisions have not been adopted there (but see below). IFPAAW has also expressed concern that by making the compensation payments *ex gratia* rather than as a consequence of a recognised right to the ownership of the lands they are occupying, the Government has avoided recognising legitimate land ownership rights of these tribals. It has also stated that these arrangements make no provision for tribal people who are not cultivators but who traditionally occupy land for the purpose of hunting, fishing, collecting or grazing.

The Government has indicated in this respect that - in view of the reference in Article 11 to the lands which these populations "traditionally occupy" - a distinction should be made between tribal populations traditionally occupying lands, and those who have occupied clearly defined government or forest land in these areas without authorisation. It states that if the special measures taken for "encroaching persons" is made a cause for complaint under Article 11 of the Convention, this would be to misconstrue not only the true intention of Article 11 but also the responsibilities of governments under that Article. The Government has also provided information on a revised rehabilitation policy adopted by the Government of Gujarat (see below).

The Committee notes the distinction drawn by the Government between tribals who have traditionally occupied lands and "encroaching" tribals. The implication drawn by the Government from Article 11 appears to be that traditional occupation of land creates ownership rights, but that more recent occupation does not. The Committee recalls that such traditional occupation of land would give the right to ownership regardless of a formal recognition of such rights in land records. It refers in this connection also to Article 12(1) of the Convention, which provides that these populations shall not be removed from their "habitual territories" except under certain circumstances; and to Article 14, which provides that national agrarian programmes shall secure treatment equivalent to that accorded

to other sections of the national community with regard to the provision of more land to these populations when they have not the area necessary for providing the essentials of a normal existence.

The Committee has no information on the circumstances under which these tribals have been occupying government-owned lands. It will note that, even if they have only recently begun occupying government-owned lands this does not mean that they have no land rights, especially in view of the provisions of Articles 12 and 14 mentioned above. Viewed in the context of other provisions of the Convention, it also does not mean that they should be excluded from the protections offered to the tribal populations which the Sardar Sarovar project is displacing from the lands they occupy.

The Committee notes that the information received from the Government in February 1988 indicated that, in Gujarat, it was provided in Resolution No. REH-7087(76)/D of 17 December 1987 that "even landless persons in the areas concerned will be granted two hectares of land" and that under Gujarat Resolution No. RHB-7087.23/D of 14 December 1987, "it has been decided to extend the benefit to the oustee families who are cultivating Government waste land/forest land without any authority." The Government has indicated that, under these arrangements, persons who had cultivated government or forest land without authorisation are granted the possibility to purchase up to two hectares of land from private sources at a subsidised price, and are being granted a subsistence allowance after being shifted from their previous lands to new ones.

The Committee notes these measures with interest. It is not clear whether they would resolve the problem as concerns Gujarat, but it does appear they represent an effort to move towards a solution.

The Committee recalls that, according to the IFPAAW information, more than 80 per cent of the affected tribals live in the States of Madhya Pradesh and Maharashtra. It notes that, while IFPAAW's most recent comments state that it does not appear that comparable legal provisions to protect the oustees in these States have yet been formulated, the Government has included some material in this connection in its February 1988 comments on IFPAAW's earlier observations. The Committee notes in this connection that, as concerns Maharashtra, the Government has communicated Bill No. XXXII of 1986, which appears to have been adopted as the Maharashtra Project Affected Persons Rehabilitation Act, in November 1987; and that this text includes many provisions similar to those contained in the legislation in Gujarat. The Committee hopes that the Government will confirm the status of this text, indicating whether it has in fact been adopted. The Committee notes also that a document from Madhya Pradesh entitled "Policy of the State Government, for rehabilitation of displaced persons, for Narmada Projects (November 1987)" was also communicated by the Government, and that it contains the recommendations of a committee formed to "frame a more comprehensive and liberal rehabilitation policy for the projects." This document contains "broad principles" for rehabilitation of displaced families, which are generally along the same lines as those adopted in Gujarat, but no concrete measures have been announced.

The status of the documents from these two States is not altogether clear, as the Government forwarded them without comment.



They would appear to indicate that consideration is being given to these matters, but that neither State has yet taken such comprehensive measures as Gujarat has done.

The Committee therefore expresses the hope that the Government will be able to provide for all the tribal populations who are being displaced by this project from the lands they are occupying, to be compensated for the loss of these lands or for the loss of the use of these lands.

3. IFPAAW has raised a number of other questions, of which the fundamental one appears to be whether there is sufficient land of acceptable quality to allow the resettlement of all the 60,000 tribals who are being displaced from their lands; and whether the other measures being taken are adequate to meet the requirements of the Convention and the objectives of the resettlement and rehabilitation components of the credit agreement.

It is clear that the Government is making real and considerable efforts to alleviate the effects of displacement and resettlement on the tribal populations being affected in this case. The correspondence between Survival International and the World Bank communicated with the IFPAAW observations of January 1988, would however appear to indicate that problems persist. If, as indicated in the Survival International letter, disbursements of the World Bank financing have been delayed pending a resolution of these problems, this would substantiate the suggestion that they persist.

The Committee remains concerned over whether, even if the problems involved can be resolved in the present case, it will be possible to respect the Convention's requirements if 1 million more people are displaced from their lands in coming years at later stages of the project.

The Committee therefore requests the Government to continue to provide information in this respect in its reports, and to make any comments it may consider appropriate on the most recent observations received from IFPAAW. It hopes that it will be possible to conclude that, in so far as it has been necessary to remove tribal populations from their lands, they are receiving the compensation and rehabilitation to which they are entitled.

The Committee is also raising other questions in a request being addressed directly to the Government.

#### Panama (ratification: 1971)

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

The Committee notes that the Government is continuing to make serious efforts to apply the Convention's provisions for the protection and development of the indigenous populations. It notes in particular the communication to indigenous representatives of the Government's reports on the application of the Convention for their comments, and its request to the International Labour Office for advice on co-ordinating governmental action on reporting under this Convention. It also

notes the efforts being made to delimit the areas to be included in comarcas, or reserved areas for the Indians of the country, to ensure the continued possession of lands by indigenous populations, the studies which have been undertaken in this connection, and the difficulties which remain in attempting to resolve this delicate question.

The Committee hopes that the Government will continue to provide information in its future reports on the measures being taken under this Convention.

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

Peru (ratification: 1960)

1. The Committee notes the information concerning the communication of the Inter-Ethnic Association for the Development of the Peruvian Forest (AIDSESP), submitted to the Government on 29 January 1987. The AIDSESP states in its communication that the lands of a number of indigenous communities of the Raymondi district in the Atalaya Province of the Department of Ucayali were invaded and taken by force by large numbers of settlers, in violation of the provisions of Articles 11 and 12 of the Convention, without any intervention by the Government.

2. The Committee notes the Government's comments on the AIDSESP communication which states that during 1986 there were confrontations between settlers and the indigenous communities living in Tsuntsuntsa in the Atalaya Province of the Department of Ucayali. The Government states that the conflict was settled by the land court of Jaén which ordered the evacuation of 15 settlers who had invaded the lands of the indigenous communities in question, that the court decision was executed, according to the Government, on 25 January 1986 and that the settlers were given six months in which to evacuate the lands. However, the Committee notes that the Government does not refer to the other cases mentioned both in the AIDSESP communication and in the detailed report of the Peruvian Indian Institute (IIP) concerning the confrontations occurring in the Province of Atalaya, which confirms the violations alleged by the AIDSESP. The report in question is based on the investigation on the spot conducted from 1 to 10 December 1986, after the date of the decision of the above-mentioned court and the execution of that decision. The IIP document refers in detail to the different violations committed against the indigenous communities of Tahuanti and Sabaluyo-Mamoriari and also formulates a number of recommendations for settling the conflict.

3. The Committee would be grateful if the Government would provide information on the measures it has taken or is contemplating to solve the problems referred to by the AIDSESP, taking account, in particular, of the recommendations contained in the IIP report.

4. The Committee refers to other 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: Angola, Argentina, Bolivia, Brazil, India, Mexico, Pakistan, Panama, Paraguay, Peru.

### Convention No. 108: Seafarers' Identity Documents, 1958

#### Cuba (ratification: 1975)

With reference to its previous comments, the Committee notes with satisfaction the copy of the seafarer's passport which the Government enclosed with its report, and in which it is stated that it constitutes a seafarer's identity document for the purpose of this Convention (Article 4, paragraph 2).

#### Honduras (ratification: 1960)

Further to its previous observation, the Committee takes note of the information supplied by the Government in its report, to the effect that the competent authority (Department of Finance) has been requested to have inserted in seafarers' identity documents the statement that they constitute seafarers' identity documents for the purpose of ILO Convention No. 108 (Article 4, paragraph 2). The Committee recalls that the insertion of this statement is provided for by Decree no. 462 of 1977.

The Committee trusts that the Government will take the necessary measures to ensure that the above-mentioned statement is stamped in all such documents currently in use, and printed in the next edition of new documents.

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

### Convention No. 110: Plantations, 1958

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

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

A member of the Committee, Mr. A. Gubinski, expressed his disagreement with the observation made by the Committee regarding the application of Convention No. 111 in Czechoslovakia. In this

connection, he referred to his observation concerning Convention No. 87. Another member of the Committee, Mr. S. Ivanov, associated himself with the position of Mr. Gubinski.

Argentina (ratification: 1968)

In previous 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 into 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 personally to a doctrine of this kind.

The Committee notes the information supplied by the Government in its report that Act No. 21975 of 1978 under which the above sections of Act No. 22140 of 1980 were issued has been repealed and that therefore the sections concerned have ceased to be applied and have lost their ideological basis. The Government adds that there are no recorded precedents of the application of the above provisions which, combined with the cuts in the recruitment of new staff as a result of the drastic reduction in public expenditure, made it unnecessary to give priority to the amendment of the sections in question.

The Committee hopes that in the near future, the necessary measures will be taken to bring Act No. 22140 into conformity with the Convention by repealing or amending the provisions that are contrary to it, so that the legislation reflects the practice described by the Government.

Austria (ratification: 1973)

The Committee notes with interest the Act of 22 June 1985 amending the Equality of Treatment Act of 23 February 1979, which provides, inter alia, that equal treatment shall apply to remuneration, social benefits which are provided by the employer voluntarily, not as remuneration, and training and advanced training. The Act also requires job vacancies to be advertised in a neutral way, without distinction based on sex, and provides that enterprises suspected of non-observance of the principle of equal treatment are required to submit a report to the Equal Treatment Committee, upon request, containing information on the training and promotion opportunities for women and men. The Act also provides that guide-lines concerning the granting of federal assistance must provide that such assistance may be granted only to enterprises that observe the provisions of the law concerning equality and give effect to the requests of the Equal Treatment Committee.

The Committee requests the Government to provide information on the application in practice of this Act, particularly with regard to the cases examined by the Equal Treatment Committee and on the progress made in promoting equal opportunity and treatment.

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 and regulations:

- Royal Order of 14 July 1987, issuing measures for the promotion of equality of opportunity between men and women in the private sector: the Order provides for positive measures designed to remedy de facto inequalities which affect opportunities for women; these measures take the form of equal opportunity plans composed of either measures to redress the prejudicial effects on women resulting from traditional social behaviour or situations, or measures to promote their involvement and participation in occupational life in all sectors and occupations and at all levels of hierarchy. The plans are drawn up in consultation with workers' representatives;
- Royal Order of 9 January 1985, to give further duties to the advisory Committee on disputes regarding equal treatment of men and women in the public services. The Committee has the function of giving counsel to the competent legal bodies, when requested, in disputes concerning the application to the public services of the provisions on equal treatment for men and women. It also has the function, either on its own initiative, or on the request of the Minister, of giving advice, undertaking studies and proposing legal measures and regulations in any matter directly or indirectly relevant to equal treatment of men and women in the public services in order to prevent disputes.

2. The Committee also notes the adoption of the Act of 17 May 1985, to supplement section 8 of the Act of 16 March 1971, to make the prohibition of underground work in mines, open-cast mines and quarries inapplicable to women working as mining engineers.

3. The Committee notes the Government's indication that certain difficulties that remain concerning access to jobs in the public sector are connected to physical selection criteria. The Committee notes that the Office of the Women's Labour Committee, in Opinion No. 44 concerning physical criteria in recruitment and promotion, invited each public service to ascertain whether it was justifiable to employ physical criteria (physical characteristics and physical tests) and to inform it of its conclusions.

The Committee notes in this connection that requirements concerning height, weight and physical strength may not be deemed objective criteria for recruitment unless they are necessary to perform a particular job. It requests the Government to supply information on the criteria currently applied which may result in discrimination regarding access to employment and regarding the conditions of employment of women, on the outcome of the examinations carried out as a result of the above Opinion, and on the measures contemplated in order to remedy any cases of discrimination.

4. The Committee notes the ruling given by the labour tribunal of Charleroi on 12 November 1984 in the Bekaert Cockerill case, transmitted by the Government. The tribunal stated, among other

conclusions, that in planning to introduce part-time work for all women who were not heads of households, the parties to a works agreement intended to impose a discriminatory measure based on membership of a particular sex. The tribunal also stated that the provisions guaranteeing equal treatment between the sexes are matters of public policy.

The Committee requests the Government to continue transmitting rulings on the application of provisions respecting equality of opportunity and treatment.

Burkina Faso (ratification: 1962)

The Committee notes the information supplied by the Government in its report and the statement by the Government representative to the Conference Committee in 1987.

1. The Committee notes with interest the statement by the Government representative to the Conference Committee that the form requesting reinstatement that has to be filled in by teachers dismissed for participating in a strike is an administrative form designed to permit their reinstatement and not to learn their political opinions, since the latter are not dealt with in the form. Furthermore, the form does not contain information regarding occupational qualifications since the persons involved are former public servants whose files are at the Ministry of Labour, Social Security and the Public Service. The Committee hopes that the Government will be in a position to supply full information with its next report on the number of teachers who have expressed the wish to be reinstated in the public service and on the numbers that have in fact been reinstated.

2. The Committee notes with interest the Circular dated 19 August 1987 revoking the Circular dated 24 April 1984, which prohibited the employment of dismissed teachers in private, primary and secondary teaching establishments and the letter from the President of Burkina Faso to all Ministers requesting them to reconsider favourably applications for reinstatement by dismissed officials, since political differences are not inconsistent with satisfactory performance in the job. The Committee requests the Government to supply full information on the application of these directives and on the reinstatement into public service of officials who have been dismissed for political reasons.

Canada (ratification: 1964)

The Committee notes with interest, from the detailed information supplied by the Government in its report (for the period ending 30 June 1986) and from the attached documentation, that further progress has been achieved both at the federal and the provincial levels in the implementation of the national legislation and policy designed to promote equality of opportunity and treatment in respect of employment and occupation.

1. With regard to the federal jurisdiction the Committee notes with satisfaction the coming into force, in 1986, of the Employment Equity Act, which is "to achieve equality in the workplace so that no person shall be denied employment opportunities or benefits for reasons unrelated to ability and, in the fulfilment of that goal, to correct the conditions of disadvantage in employment experienced by women, aboriginal peoples, persons with disabilities and persons who are, because of their race or colour, in a visible minority in Canada by giving effect to the principle that employment equity means more than treating persons in the same way but also requires special measures and the accommodation of differences" (section 2). Under the Act, every federally regulated employer with 100 or more employees is required each year to set out the goals that he or she intends to achieve in implementing employment equity and to submit a report to the Minister of Employment and Immigration on the representation of designated groups by industrial sector, geographic location, occupational group, and salary range, and on the degree of representation of such persons among employees hired, promoted and terminated. A copy of each report - which will be available for public inspection - will be presented to the Canadian Human Rights Commission. That Commission will determine, on the basis of the information contained in the reports, whether there are reasonable grounds to believe that discrimination has occurred and where such a determination is made, it may initiate a complaint to determine if the under-representation of members of designated groups is due to discriminatory employment practices.

The Committee hopes that the Government will supply information on the practical application of the new legislation, including a copy of the comprehensive report and analysis which will be submitted annually to Parliament by the Minister.

2. In its previous comments, the Committee noted the coming into force of section 15 of the Canadian Charter of Rights and Freedoms which is part of the Constitution Act 1982, under which all are equal before the law and all have the right to the equal protection and equal benefit of the law, without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability. It noted that under section 32, the Charter applies both at the federal level and at the provincial level.

The Committee notes with interest from the Government's report that the Statute Law (Canadian Charter of Rights and Freedoms) Amendment Act, 1985, has amended federal legislation considered to involve clear breaches of section 15 of the Charter, such as provisions permitting a benefit for a widow but not a widower, and that under the same Act the Minister of Justice is required to examine any proposed legislation for possible breaches of the Charter and to report any inconsistencies with its provisions or purposes to Parliament.

Furthermore, the Government indicates in its report that following a discussion paper on "Equality Issues in Federal Law" tabled in Parliament by the Minister of Justice, a Parliamentary Committee on Equality Rights has been established to consider the issues raised in the discussion paper and to make recommendations for

reforms in matters coming within federal jurisdiction to ensure compliance with section 15. The recommendations of the above-mentioned Committee have been examined by the Government which made many commitments directly relevant to employment equity (i.e. abolition of mandatory retirement; measures to ensure that sexual orientation is a prohibited ground of discrimination; agreement that all trades and occupations in the Canadian Armed Forces should in principle be open to women; acceptance of the principle that whenever possible, statutory benefits conferred on full-time employees should be extended to part-time employees on a pro rata basis, etc.).

The Committee notes with interest that the Federal Government is taking steps to implement the above-mentioned commitments and that amendments to the Canadian Human Rights Act are under consideration. The Committee hopes that the Government will furnish information on any new development in this direction.

3. The Committee also notes with interest that various provincial governments (i.e. Manitoba, New Brunswick, Ontario) have also taken measures to implement section 15 of the Canadian Charter of Rights and Freedoms and to promote employment equity.

With regard to section 33 of the above-mentioned Charter which enables Parliament or the legislature of a province specifically to declare in an Act of Parliament or legislature - as the case may be - that the Act or a provision thereof shall operate notwithstanding the provisions of section 15, the Committee notes that no such declarations have been made by the federal or provincial governments except by that of Quebec which did not adhere to the Charter of 1982 because it considered that the human rights of its population are adequately protected by its own Charter of Human Rights and Freedoms.

The Committee hopes that the Government will continue to supply information on the action taken - both at the federal and the provincial levels - in pursuance of the national policy designed to eliminate discrimination with respect to employment and occupation and that in revising or adopting legislation in this field account will be taken of all the prohibited grounds of discrimination referred to specifically in Article 1, paragraph 1(a), of the Convention (including political opinion and social origin which are covered in Newfoundland and Quebec legislation).

4. In earlier comments concerning the 1984 Human Rights Act of British Columbia the Committee noted observations made in 1983 by the Canadian Labour Congress to the effect that this Act, by replacing the 1979 Human Rights Code, has significantly reduced protection against discrimination. The Committee observed that the provision of section 8, subsection 1, of the 1979 Human Rights Code, under which no employer or employment agency could discriminate, on any grounds whatsoever, in respect of employment or conditions of employment unless "reasonable cause" existed, has not been included in the new Act which takes the approach of listing prohibited grounds of discrimination in a restrictive manner whereas the 1979 Human Rights Code contained an indicative list of these grounds.

The Committee had also observed that, by eliminating the necessity of proving the existence of reasonable cause, the 1984 Act places on the person alleging discrimination, and on this person alone, the burden of proving that this discrimination is based on one

of the grounds listed in the Act. Moreover, under section 13(1)(b) of the new Act the Council of Human Rights may decide not to proceed with the investigation of a complaint where it appears to the Council that the complaint could be more appropriately dealt with under another Act.

In its reply to these comments the Government indicates that, under both the new Human Rights Act and the old Human Rights Code, in the process which is employed for initiating and developing an investigation of an allegation of discrimination, an individual claiming discrimination has to establish a *prima facie* case. Once this is done the onus then shifts to the respondent to prove that the alleged discrimination did not in fact occur or - under the Human Rights Code - that the discrimination was reasonable under the circumstances. The Government does recognise that removal of the residual "reasonable cause" provision may have narrowed the potential grounds for discrimination to some degree. It adds, however, that the specific prohibited grounds of discrimination in the new Human Rights Act have been interpreted broadly and include also grounds that are not provided for in the Convention.

With regard to section 13(1)(b) of the Act, the Government states that this new provision was not intended to narrow the scope of the Act nor has it done so in practice. It is designed to ensure that an allegation of discrimination is dealt with in the most expeditious fashion and through the most appropriate vehicle. It adds that experience has shown that in some circumstances there may be more than one avenue for dealing with an allegation of discrimination.

As to the practical application of the Act, the Government indicates that, since this legislation came into force, there have been only three complaints that have been deemed to come under section 13(1)(b). The Council of Human Rights decided, by virtue of the above-mentioned section, that two of these complaints - alleging the dismissal of an employee because of pregnancy - should be dealt with under section 55 of the Employment Standards Act, and the third under the Labour Code. The last case involved an allegation of denial of rights under a collective agreement which the complainant felt was based on considerations of race, colour and place of origin. The Council decided that this case would be better dealt with under the Labour Code which deals specifically with relationships between employers, employees and their unions. However, in such cases the Human Rights Council's policy is to refer complaints to the appropriate body charged with the administration of the legislation in question with the proviso that if the individuals concerned are unable to obtain redress they can return to have the complaint dealt with by the Council.

The Committee takes due note of these indications and requests the Government to continue to supply detailed information on the practical application of the British Columbia Human Rights Act, 1984, and in particular of section 13(1)(b) of the Act.

5. In its earlier comments - following the observations made by the Canadian Labour Congress - the Committee also referred to the British Columbia Public Sector Restraint Act of 1983 under which the circumstances justifying the termination of the employment relation are so widely defined that the mere enforcement of the Act would not



appear to offer substantial protection against discrimination according to the Convention. The Committee also noted, from the Government's reply to these comments, that protection against discrimination was provided by both the Human Rights Act and the Public Sector Restraint Act and requested the Government to provide information on appeals alleging discrimination in the public sector filed in accordance with the procedure laid down by the Public Sector Restraint Act or the Human Rights Act and in particular to indicate any case in which section 13(1)(b) of the Human Rights Act is applied.

The Government indicates in this respect that the Human Rights Act takes precedence over provisions or restrictions under other legislation, including the Public Sector Restraint Act, and that this position was supported by the Supreme Court of Canada. It adds that there has been only one complaint which has come before the British Columbia Human Rights Council alleging discrimination stemming from the application of the Public Service Act and in that case the Council decided that it had jurisdiction to investigate and render a decision. The Council has not thus far been called upon to deal with cases alleging discrimination in accordance with the Public Sector Restraint Act. Moreover, for the vast majority of public sector employees and employers affected by the Public Sector Restraint Act, layoffs are governed by the procedures outlined within the collective agreement and problems which may arise are dealt with by the grievance procedures of the agreement or whatever mechanism the parties have deemed appropriate.

The Committee notes these indications and would be grateful if the Government would supply information on any future development in this field which might affect the application of the Convention.

#### Chile (ratification: 1971)

1. In comments made over a number of years, the Committee referred to article 8 of the Constitution of Chile, 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 a 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 are barred for ten years from access to any public post or position, 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 requested the Government to supply information on the measures taken or contemplated to amend the above article so as to bring national law into conformity with the Convention.

The Committee notes the statement made by a Government representative before the Conference Committee in 1987 that article 8



of the Constitution had never been applied in violation of the Convention; the Committee has, however, also taken note of the decision made by the Constitutional Court on 21 December 1987, to the effect that Mr. Clodomiro Almeyda Medina had personally violated the first clause of article 8 of the Constitution by reason of the fact that he was the leader of a political organisation which the same Court had declared unconstitutional.

The Committee notes the comments made by the National Grouping of Workers (in Spanish: "Comando Nacional de Trabajadores") (CNT) on the application of the Convention, in a communication dated 24 November 1987. In its comments, the CNT alleges that, although, in replying to the Committee's comments concerning article 8, the Government referred to the difficulties involved in amending the Constitution, it subsequently took measures to give effect to article 8 by enacting Act No. 18662 of 23 October 1987, which lays down standards giving effect to the rulings of the Constitutional Court under article 8 of the Constitution.

The Committee notes that, in reply to the allegations of the CNT the Government indicates that article 8 of the Constitution imposes sanctions on persons engaging in acts intended to propagate doctrines which advocate, *inter alia*, a conception of society, the State or law, of a totalitarian character or based on class war. The Government indicates that the activities listed in the Constitution and in Act No. 18662 are evidence enough that what these constitutional and legislative provisions are protecting is the common good or public order.

The Committee observes that the provisions of Act No. 18662 provide for the exclusion from certain posts or positions of persons who, by whatever manner or means, promote, or participate in, activities of organisations, political movements or parties declared to be unconstitutional by the Constitutional Court under article 8 of the Constitution, and persons engaging in acts intended to continue or reorganise the existence or activities of any such entities (section 2). Section 3 of the same Act establishes that persons who, in an electoral process, seek the support of organisations, political movements or parties declared to be unconstitutional, shall be barred from holding certain public positions. The same section lays down that ordinary courts of law shall be competent to decide whether such entities have carried out acts intended to continue their activities or reorganise under a different name.

The Committee recalls once again that, in accordance with Article 3(c) of the Convention, each Member for which this Convention is in force undertakes, by methods appropriate to national conditions and practice, to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the principles of equality provided for by the Convention.

The Committee requests the Government to provide information on any measure taken or contemplated to amend or repeal article 8 of the Constitution and Act No. 18662 of 27 October 1987 in order to ensure observance of the policy of non-discrimination set forth in the Convention. The Committee also requests the Government to provide a copy of any decisions made in application of the above provisions.

2. The Committee notes the information supplied by the CNT, concerning section 157, subsection 6, of the Labour Code, enacted by Act No. 18660 of 27 May 1987. The Committee observes that section 157, subsection 6, of the Labour Code simply reproduces section 15, subsection 6, of Decree No. 2200 (repealed by the new Labour Code), to which the Committee has been referring in its comments for a number of years.

Under section 157, subsection 6, of the Labour Code an employment contract lapses immediately and without entitlement to compensation when the employer terminates it on the grounds that an offence has been committed under Act No. 12927 on state security, as amended by Act No. 18256 of 26 October 1983. This Act, defines as offences, *inter alia*, the unauthorised calling of collective public acts in public places and to any other kind of public demonstration permitting or facilitating the disturbance of public tranquillity.

The Committee notes that in reply to the allegations of the CNT, the Government indicates that section 157 of the Labour Code refers to offences committed which are concrete acts punishable by law, with a direct bearing on work.

The Committee points out that the acts referred to in Act No. 12927 on state security, such as the unauthorised calling of collective public acts in public places and the incitement to any other kind of public demonstration permitting or facilitating the disturbance of public tranquillity do not have a direct bearing on work; in order to deal with acts that have such a direct bearing on work, explicit provision is made in section 157, subsections 1 and 5, and in other provisions of the Labour Code. The Committee recalls once again that the protection of workers against discrimination on the basis of political opinion implies that the protection afforded by the Convention must be recognised also in respect of activities that express or display opposition to the established political principles without calling for or resorting to violence.

The Committee hopes that the Government will re-examine, in the light of the Convention, the provisions which allow for the termination of a worker's contract for conduct which has no bearing on the performance of the duties which result from the employment relation.

3. In its comments on the application of the Convention, the CNT refers to the legislation granting broad discretionary powers to the rectors of universities to dismiss teaching and administrative staff. Under these provisions, rectors are also empowered to conduct disciplinary proceedings and, as a result of their findings, to terminate the employment contracts of teaching and administrative staff or cancel the registration of university students.

In its reply, the Government refers to the fact that the attribution of such powers to the rectors is based on the principle of the independence of the university, which is intended to protect it from all outside pressure. The Government states that this principle seeks to maintain the independence of the universities, which are authorised to establish their own statutes.

The Committee recalls that the broad discretionary powers granted to rectors to appoint and dismiss teaching and administrative staff

are conferred on them not by the statutes adopted by universities but by decrees adopted by the Government.

In earlier comments the Committee had requested the Government to repeal explicitly Decrees Nos. 112 and 139 of 1973, 473 and 762 of 1964, 1321 and 1412 of 1976, which, according to the Government, were tacitly repealed by the adoption of Law Decrees Nos. 148 to 164 of 1982. The Committee pointed out that new texts had been adopted on the basis of one of the decrees said to have been tacitly repealed.

The Committee requests the Government to take the necessary measures to repeal the above decrees explicitly, in order to dispel any doubt as to whether or not they remain applicable.

4. In earlier comments, the Committee has referred to section 55 of Law Decree No. 153 (Statute of the University of Chile), under which teaching staff, students and administrative staff can be expelled from, or refused admission to, the University of Chile if they have been expelled from another institution of higher education for having breached the legal order. It has also referred to section 35 of Law Decree No. 149 (Statute of the University of Santiago de Chile), under which persons participating in party political activities with a view to disturbing the public order who have been punished by the competent authority cannot be admitted to the University of Santiago de Chile, even if they have all the necessary qualifications for studying there. Similarly, students participating in activities of the same nature as those referred to in the preceding provision lose their status as students.

In its comments, the CNT alleges that these powers have been invoked to dismiss academics and officials and initiate disciplinary proceedings against more than 300 students at the University of Chile.

The Committee requests the Government to take the necessary measures to ensure that, in accordance with the Convention, no one is refused admission to the universities and other teaching establishments, or expelled from such establishments, whether as students, or as teaching or administrative staff, on the basis of the expression of political opinion.

The Committee requests the Government to report on any measure taken or contemplated to repeal or amend section 55 of Law Decree No. 153 and section 35 of Law Decree No. 149.

#### Czechoslovakia (ratification: 1964)

The Committee has noted the information supplied by the Government to the Conference Committee in 1985 and in its report for the period 1984-86, received in 1987, as well as comments received in February 1988 from the ICFTU on the application of the Convention.

1. In earlier observations, the Committee of Experts examined various questions concerning equality of treatment and opportunity in employment and occupation without discrimination based on political opinion. It referred in particular to dismissals and other measures affecting workers who had signed or supported a document criticising the Government. According to the Government, the measures affecting these workers had been taken not on account of their political opinions, but because they had carried out activities prejudicial to

the security of the State or failed to meet the requirements of their employment or those of labour discipline. Dismissal on each of these three accounts is dealt with respectively in section 53(1)(c), section 46(1)(e) and sections 46(1)(f) and 53(1)(b) of the Labour Code.

(a) As regards dismissals on the ground of "endangering the security of the State" (section 53(1)(c) of the Labour Code), the Committee previously noted the indication by the Government that, since 1978, there had been no such dismissals and that, in order to forestall potential future inconsistency with the Convention in cases of dismissal on that ground, the Czechoslovak Chamber of Commerce and Industry had been invited to interpret "endangering the security of the State" as an activity endangering the integrity of the State order, the integrity of the State territory, defence capacity, international relations of the State and of State bodies and State secrets.

(b) As regards the requirements of employment, section 46(1)(e) of the Labour Code provides that an organisation may dismiss a worker "if the worker does not meet the criteria laid down by law for the performance of the agreed job or, through no fault of the organisation, does not fulfil requirements that are an essential condition for the proper performance of his work; where his failure to fulfil such requirements manifests itself in unsatisfactory results at work, he may be given notice on that account, but only if he has failed to remedy the shortcomings within an appropriate time despite the fact that the organisation has required him in writing to do so during the last 12 months". The Committee, however, noted that according to the interpretation of this provision given by the Supreme Court of the Czechoslovak Socialist Republic (Digest of Court Decisions No. 9-10, 1978), workers may be dismissed for non-fulfilment of requirements even where this does not result in unsatisfactory results at work; 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 Supreme Court also indicated 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 further noted the indication by the Government that an analysis of disputes concerning dismissal under section 46(1)(e) of the Labour Code, carried out by the Czech and Slovak Ministries of Justice, had not revealed any cases involving the non-fulfilment of political requirements, and that an instruction to be issued was to mention the necessity of observing 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. With a view, *inter alia*, to appreciating the practical effect of the proposed instruction, the Committee requested

the Government to supply information on the nature of jobs for which there exist requirements regarding civic engagement and moral and political qualities.

The Committee notes the provisions of the "Clarification concerning the attitude of National Committees and organisations with respect to the capacity of workers to perform the job", dated 10 October 1985, transmitted by the Government. Having recalled the duties of organisations (undertakings) and district national Committees under Act No. 70 of 1958 (L.S. 1958-Cz.1) with regard to the recruitment of workers, the clarification distinguishes between "criteria" (professional competence) and "requirements" (other conditions) which the worker is expected to meet in his new job.

According to the "Clarification", criteria laid down by law for the performance of the agreed job are, in the first place, qualification criteria laid down by wage regulations, e.g. catalogues of skills, functions and basic salaries. In this connection, the Committee notes with interest that the Decree of the Federal Ministry of Labour and Social Affairs concerning the remuneration of technical and economic employees, dated 12 September 1984, a copy of which was also transmitted by the Government, omits the reference to "political engagement" which was contained in earlier wage regulations for various industries which the new Decree has replaced. The Committee notes, however, that a number of occupations and organisations are excluded under section 1, paragraph 3, of the Decree, from its scope.

The Clarification of 10 October 1985 further indicates that contrary to criteria which are laid down by law, "requirements" are connected with the performance of the concrete job. Requirements can arise from employment contracts, work regulations, internal instructions or orders given by superiors, or they can be deemed notorious in connection with the performance of the specific job. Requirements are therefore distinct from criteria laid down by law and may (according to the nature of the work performed or the function exercised) concern not only particular professional knowledge but also civic engagement, organisational competence, moral and political qualities of workers, etc. In all instances requirements must constitute an essential condition for the proper performance of work.

Concerning the jobs for which there exist requirements regarding civic engagement and moral and political qualities, the Government indicated in its statement to the Conference Committee in 1985 that in general the requirement of moral and political qualities was imposed or considered when selecting workers for top management functions in both the Government and economic spheres. This meant workers who were responsible for, or by virtue of their decision-making power had an important influence on, the implementation of government policy or the State economic plan. Similar requirements might apply in practice in very exceptional cases to lower management personnel or even to aides or advisers, and more generally to workers where the performance of the job was connected with special responsibilities such as duties of a highly confidential nature. In its report for the period 1984-86, the Government states that under national conditions expressions such as "political requirements" and "civic engagement" include among other things the workers' or job applicants' attitude towards the general aims of national economic development determined by law and towards

the fulfilment of the partial tasks derived from the State plan. An important part of the political requirements and civic engagement is therefore the attitude towards work and the results of work. The Government points out that "political requirements" interpreted in this way tend to overlap with the requirements for the performance of the job. Consequently "political requirements" tend to be applied, as appropriate, in connection with the character of the job, to a greater number of persons than could, according to the Government, be expected from a general interpretation of the opinion expressed by the Committee of Experts in paragraph 42 of its 1963 General Survey on Discrimination.

The Committee notes these indications. It recalls that in paragraph 42 of its 1963 General Survey on Discrimination, it has indicated that political opinions may be taken into account in connection with certain senior administrative posts involving special responsibility in the implementation of government policy. As regards the Government's indication in its report, with reference to requirements under section 46(1)(e) of the Labour Code, that an important part of political requirements and civic engagement is in fact the attitude towards work and the result of work and therefore tends to be applied to a greater number of persons, the Committee considers that in order to avoid all ambiguity, occupational requirements should be defined as such and clearly specified.

The Committee hopes that further measures will be adopted to this end and that the Government will indicate the measures taken or contemplated to repeal or amend all provisions which are inconsistent with a policy of equal opportunity and treatment. It also requests the Government to continue to supply information on statutory instruments, administrative instructions and court decisions made under the relevant provisions of the Labour Code, including copies of instruments governing the occupations and organisations excluded from the scope of the Decree of 12 September 1984 concerning the remuneration of technical and economic employees, and copies of any instructions or court decisions made involving questions of political requirements or civic engagement.

(c) As regards dismissal for breaches of labour discipline (sections 46(1)(f) and 53(1)(b) of the Labour Code), which can also give rise to other sanctions under section 77 of the Labour Code, the Committee recalls that according to section 72 of the Code, socialist labour discipline has as its corollary, inter alia, "an improvement in ideological and occupational standards, a vigilant attitude towards irregularities and an endeavour to eliminate them, co-operation in the campaign against persons not observing labour discipline and compliance with the relevant statutory provisions and the principles governing socialist action in collective work". These are criteria laid down by law for all workers; in addition, according to section 74(f) of the Code, managerial staff shall be more particularly required, inter alia, to "create favourable conditions for improving the workers' ideological and occupational standards".

The Committee considers that reference to ideological standards alongside occupational standards among criteria for evaluating compliance with labour discipline involves the possibility of discrimination on the basis of political opinion, particularly since

under section 10 of Act No. 70 of 1958 the executing authorities of the district National Committees, that is to say, political bodies, supervise the enforcement of these provisions. In this connection, the Committee notes that in presenting the programme proclamation of the Government of the Slovak Socialist Republic on 4 July 1986, the President of the Government has stressed that in directing and controlling the work of the National Committees the Government will see to the continuity of the implementation of the long-term political line traced by the respective Central Committees of the Czechoslovak Communist Party and the Slovak Communist Party.

The Committee hopes that sections 72 and 74(f) of the Labour Code will be reviewed in the light of the Convention and that the Government will supply information on the measures taken or contemplated to ensure the observance of the Convention in this regard, including copies of any instructions or court decisions involving questions of socialist labour discipline and ideological standards.

2. In previous comments, the Committee noted that the Resolution of the Presidium of the Central Committee of the Czechoslovak Communist Party of 6 November 1970 on cadres and personnel work still operated. Under the terms of this Resolution, the Communist Party of Czechoslovakia founds its work concerning cadres on class and political criteria and also assesses the professional qualification, skill and moral qualities of the people, and the system of cadres (nomenklatura) is mandatory for supervisory employees in all spheres of life of the society; employees may be placed into or withdrawn from functions classified in the system of cadres only after approval of the competent Party organ. In this connection, the Committee recalled that under Article 1, paragraphs 1(a) and 2, of the Convention, any distinction made on the basis of political opinion which has the effect of nullifying or impairing equality of opportunity or treatment in employment and occupation is to be considered discriminatory, and only distinctions, exclusions or preferences based on the inherent requirements of a particular job shall not be deemed to be discrimination.

On this matter, the Government stated in the Conference Committee in 1983 that in Czechoslovakia the leading role of the Communist Party was a constitutional principle. Responsibility for the general economic and social development of the country, including responsibility for the selection and deployment of personnel in top management, resulted from this. In a statement in the Conference Committee in 1984, the Government considered questions concerning the personnel policies of political parties not to fall within the ambit of the Convention. In its statement on the same matter to the Conference Committee in 1985, the Government considered that obligations under the Convention referred to national policy, that is, the policy of the government concerned, which found its expression in legislation and practice, which meant how the legislation was implemented and how it was reflected in judicial decisions, but that the Government could hardly be asked to report on policies, declarations or resolutions adopted by various political parties. Therefore, the Government did not wish to discuss the content or implications of the Resolution adopted in 1970.

The Committee notes these indications. It has already pointed out that the mandatory principles for the selection and deployment of personnel laid down in the Resolution of 6 November 1970 are not limited in scope to Party offices or policy-making functions in Government but extend to supervisory personnel "in all spheres of the society", and that in view of the position of the Communist Party as the guiding force not only in society but also in the State under Article 4 of the national Constitution, previously referred to by the Government, these principles have a bearing on the observance of the Convention.

The Committee also notes that according to the programme proclamation of the Government of Czechoslovakia published in Rudé Právo on 25 June 1986, the Government's programme is conceived so as to ensure the consequent fulfilment of the conclusions and resolutions of the congress of the Communist Party of Czechoslovakia; having presented the Government's programme to the Federal Assembly, the President of the Federal Government referred to present-day tasks in the policy concerning cadres as an inseparable part of the implementation of the conclusions of the congress of the Communist Party of Czechoslovakia in the economic field and in other sectors.

The Committee must point out that under Article 3(d) of the Convention, the member State must pursue a policy of equality of opportunity and treatment in respect of employment under the direct control of a national authority. As regards other employment, the State is also bound, under Article 3(c) and (e) of the Convention, to modify any administrative practices which are inconsistent with the policy of equality and to ensure observance of the policy in the activities of placement services under the direction of a national authority. In this connection, the Committee recalls the role of National Committees under Act No. 70 of 1958 in the placement of workers and in enforcing the provisions governing the employment of workers.

The Committee again expresses the hope that the Government will supply particulars concerning the jobs, both in employment under the direct control of a national authority and in employment coming under Act No. 70 of 1958, for which the selection and deployment of personnel is made on the basis of the principles reflected in the Resolution of 6 November 1970, and concerning the criteria and procedures applied in this connection and any measures taken or contemplated by Government authorities to ensure observance of a policy of equal opportunity and treatment.

3. With regard to the comments received in February 1988 from the ICFTU on the application of the Convention, the Committee is raising a question in a request addressed directly to the Government.

#### Federal Republic of Germany (ratification: 1961)

1. In the years up to 1983, the Committee had examined the compatibility with the Convention of the measures taken in application of the provisions on the duty of faithfulness to the free democratic basic order of public servants and applicants for employment in the public service. Subsequently, it deferred further comment on this



question, while it was being examined, first, under the representations procedure provided for in article 24 of the ILO Constitution and, then, by a Commission of Inquiry established by the Governing Body under article 26 of the Constitution.

2. The report of the Commission of Inquiry was presented in February 1987 (see ILO Official Bulletin, Vol. LXX, 1987, Series B, Supplement 1). The Commission of Inquiry concluded that the measures taken in respect of employment in the public service in application of the duty of faithfulness to the free democratic basic order had in various respects not remained within the limits of the restrictions authorised by Article 1, paragraph 2, of Convention No. 111 on the basis of the inherent requirements of particular jobs. It concluded further that, as exemplified by the cases brought to its attention, those measures did not fall within the exception provided for in Article 4 of the Convention (concerning activities prejudicial to the security of the State). The Commission of Inquiry recommended that the existing measures in this matter be re-examined by the various authorities in the Federal Republic of Germany, with due regard to the conclusions stated by it, and that action be taken to ensure that only such restrictions on employment in the public service were maintained as corresponded to the inherent requirements of particular jobs within the meaning of Article 1, paragraph 2, of the Convention or could be justified under the terms of Article 4. The Commission of Inquiry recommended that, in such re-examination, account be taken of a number of more specific considerations mentioned by it, and that detailed information on all relevant developments be given in the annual reports on the Convention to be presented under article 22 of the ILO Constitution.

3. In a communication of 7 May 1987, in pursuance of article 29, paragraph 2, of the Constitution, the Government of the Federal Republic of Germany informed the Director-General of the ILO of its position with regard to the recommendations of the Commission of Inquiry (see document GB.236/4/6). While reaffirming its desire to support the ILO's procedures for the supervision of the application of standards and to promote dialogue with the supervisory bodies, the Government indicated its disagreement with the conclusions reached by the Commission of Inquiry. It expressed agreement with the minority opinion of one member of the Commission, and referred more particularly to the provisions of Article 5, paragraph 1, of the International Covenant on Civil and Political Rights and to the judgements of the European Court of Human Rights of August 1986 in the *Glaser* and *Kosiek* cases. The Government indicated that it saw no cause to depart from its previously stated legal position (namely, that legislation and practice in the matter were in conformity with the Convention), and that it did not intend to refer the questions at issue to the International Court of Justice.

4. The Committee of Experts has taken note of the above-mentioned documents, and of the further information and comments provided by the Government of the Federal Republic in its report for the period 1986-87. It has also noted the comments and documents communicated by the German Confederation of Trade Unions (DGB), the World Federation of Trade Unions, the World Federation of Teachers'

Unions, and the International Federation of Free Teachers' Unions, and the Government's observations on the comments of the DGB.

5. The principal developments in the matter may be summarised as follows:

- (a) The Government of the Federal Republic has maintained the position stated in its communication of 7 May 1987, and has not taken any steps with a view to modification of existing legal provisions or practice. In a statement to the Committee on Petitions of the Federal Diet dated 14 July 1987, the Federal Minister of the Interior reiterated that the Federal Government did not accept the recommendations of the Commission of Inquiry; he stated the view that those recommendations had no binding force either in international law or in domestic law, but were merely non-mandatory recommendations. A similar position has been adopted by the Governments of various Länder, for example, by the Government of Bavaria in a statement to the Bavarian Diet of 15 June 1987 and by the Minister of the Interior of Lower Saxony in a statement to the Diet of Lower Saxony of 11 December 1987.
- (b) A number of new judgements have been given by the courts in the Federal Republic. In a decision of 21 August 1987, the Oldenburg Labour Court, in considering the application of the provisions on the duty of faithfulness in a case concerning employment of a salaried employee in the public service, observed that, in so far as possible, national legislation and even the national constitution should be interpreted in a manner which would ensure respect of obligations under international law. After reviewing the provisions of Convention No. 111 and the conclusions of the Commission of Inquiry, the court proceeded to an examination of the facts in the light of the requirements of the particular job, and ruled in favour of the applicant. A contrary position has been adopted by administrative courts in a series of cases concerning the employment of officials. In particular, in judgements of 20 January 1987 and 15 September 1987, the Federal Administrative Court observed that, under article 29 of the ILO Constitution, a report of a Commission of Inquiry cannot establish obligations under international law for the Federal Republic of Germany, to be observed in the application and interpretation of domestic law. The Court considered that recommendations of a Commission of Inquiry could have no direct effect on domestic law, but would merely have the consequence that, if they were accepted by the government concerned, the latter would have to introduce the requisite legislative or other measures. While admitting that courts were bound to respect international law requirements, if domestic law left room for interpretation, the Federal Administrative Court ruled that there was no such possibility in regard to the duty of faithfulness of officials deriving from Article 33, paragraph 5, of the Basic Law. In application of this view of the legal position, the courts have ordered the dismissal of officials or upheld refusals of appointment in a series of cases, including cases which had been taken into consideration by the Commission of Inquiry. They have maintained a strict view of the requirements of the duty of

faithfulness. In particular they have declined to apply the test required by Article 1, paragraph 2, of the Convention (as indicated by the Commission of Inquiry in paragraph 585 of its report), namely, that suitability for admission to or continued employment in the public service should in each instance be judged by reference to the functions of the specific post concerned and the implications of the actual conduct of the individual for his ability to assume and exercise those functions.

- (c) A substantial number of other cases are still pending before the courts.
- (d) In its report, the Commission of Inquiry noted decisions by the Federal Labour Court in October 1986 that the authorities of Baden-Württemberg must provide an opportunity for preparatory training for teachers, even when there were doubts as to an applicant's faithfulness to the Constitution. While noting that, with respect to Bavaria, the same issue remained to be ruled upon by the Federal Labour Court, the Commission of Inquiry supposed that this particular problem would secure a solution. The Committee of Experts notes from the Government's report that the Federal Labour Court decided in May 1987 to suspend its consideration of the cases concerning Bavaria in order to obtain a ruling from the Federal Constitutional Court on the compatibility of the relevant Bavarian legislation with Article 12 of the Basic Law. As observed by the Commission of Inquiry, this issue of access to the public service for the purpose of training does not affect the broader question of employment in the public service once training has been completed.

6. The Government observes in its report that decisions by and proceedings before independent courts in the Federal Republic must abide by the legal provisions in force. It considers that there can exist no violation of Convention No. 111 or other international law so long as the relevant constitutional and legislative provisions do not violate the Convention, which even the majority of the Commission of Inquiry did not claim to be the case. The Government also observes that in a democratic State ruled by law, the Government has no means of annulling or overriding the decisions of independent courts. It refers in this connection to the arguments presented to the Commission of Inquiry concerning the need for exhaustion of domestic remedies, including recourse to the Federal Constitutional Court.

7. In the light of the preceding indications, the Committee of Experts feels it appropriate to make the following comments:

- (a) The Committee notes that the Government did not accept the recommendations of the Commission of Inquiry. The ILO Constitution does not make the results of an inquiry subject to the consent of the State concerned. The Government's position therefore does not affect the validity of the conclusions of the Commission of Inquiry. The ILO Constitution provides an opportunity for an appeal to the International Court of Justice (which is then free to review any of the findings or recommendations), but the Government chose not to avail itself of that possibility.
- (b) Article 28 of the ILO Constitution empowers a Commission of Inquiry to make recommendations to correct any shortcomings which

may have been found in the observance of a ratified Convention. The reference here to "recommendations" may be explained by the fact that (as also recognised by the Commission of Inquiry, in paragraph 588 of its report) there are generally various ways in which the situation can be brought into conformity with the Convention concerned. In the present case, for example, one Land has abrogated the guide-lines which governed the implementation of the relevant legislative provisions; other Länder amended their corresponding guide-lines and adapted their practice accordingly; and the Federal Government had at an earlier stage sought to change the situation by presenting a bill to the Federal Parliament. While, therefore, a Government retains considerable freedom in choosing the means of ensuring compliance with a ratified Convention, that fact cannot diminish its obligation, under article 19 of the ILO Constitution, to make the provisions of the Convention effective.

- (c) The Government's observations concerning the relevance of Article 5, paragraph 1, of the International Covenant on Civil and Political Rights, the significance of the judgements of the European Court of Human Rights, and the exhaustion of local remedies were fully examined by the Commission of Inquiry (paragraphs 455 to 468, 506 to 509 and 524 to 526 of its report). The Committee of Experts agrees with the conclusions of the Commission of Inquiry on those matters. It would further point out that Article 5, paragraph 1, of the Covenant provides (inter alia) that nothing in that Covenant may be interpreted so as to permit the limitation of the rights and freedoms recognised in it "to a greater extent than is provided for in the present Covenant." It would therefore be in direct contradiction to the terms of this provision to seek to read the paragraph into ILO Convention No. 111 with a view to limiting the provisions of that Convention to a greater extent than is provided for in the Convention itself.
- (d) The Committee recognises that the Government cannot annul or override the decisions rendered by the courts of the Federal Republic. Nor is it the function of ILO supervisory bodies to pronounce upon the merits of those decisions in ruling upon the interpretation or effect of domestic law or on the effect in domestic law of international standards. However, it remains necessary for the Committee to examine, in the light of the decisions of the courts, whether national legislation and practice are compatible with the Convention under consideration.
- (e) Already in its observations of 1983, on the basis of information concerning practice and a number of judicial decisions then available, the Committee of Experts had considered that Convention No. 111 was not fully observed, because persons were excluded from public employment on grounds which did not relate to the inherent requirements of particular jobs, within the meaning of Article 1, paragraph 2, of the Convention. The Commission of Inquiry, on the basis of much more complete information, reached the same conclusion with respect to those federal and Länder authorities which follow a strict approach in applying the provisions on the duty of faithfulness. No measures

have been taken by the authorities concerned to modify their practice, and the courts have upheld the legality of that practice in terms of the existing legislation. The Committee of Experts would accordingly draw attention to the obligation incumbent upon the Government, under Article 2 of the Convention, to pursue a national policy to promote equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination (as defined in Article 1), and, more particularly, to enact such legislation as may be calculated to secure the acceptance and observance of that policy (Article 3(b)) and to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the said policy (Article 3(c)). The Committee of Experts recalls that, in paragraph 588 of its report, the Commission of Inquiry recommended that, if the requisite changes could not be brought about by other means, appropriate legislative action be taken.

- (f) The Committee would observe that, while the duty of faithfulness is considered to be one of the "traditional principles governing service as officials" referred to in Article 33, paragraph 5, of the Basic Law, the definition of that duty is laid down in ordinary legislation and the conditions for its implementation have been established by administrative guide-lines. As developments in various parts of the Federal Republic show, a variety of means may thus be available to resolve the existing difficulties.
- (g) The Committee of Experts accordingly hopes that the Government will once more review the whole situation, in consultation with the organisations representing the workers concerned, with due regard to the provisions of the Convention and the considerations set out in the report of the Commission of Inquiry, and that it will adopt appropriate measures to overcome the existing difficulties in the implementation of the Convention.

Greece (ratification: 1984)

With reference to the observations made in 1986 and 1987, the Committee takes note of a further communication from the Pan-Hellenic Association of Women Telephone Operators dated 30 July 1987, confirming former allegations with regard to certain discriminatory practices on grounds of sex allegedly carried out by the Government concerning women telephone operators employed by the Greek Telecommunications Agency (OTE).

According to the Association, these practices result from the integration of the women operators into the administrative and technical staff of the Agency and concern their conditions of promotion and supervision.

In the observation it made in 1987, the Committee requested the Government, *inter alia*, to supply information concerning promotions that had occurred among the women workers in question since their integration and to communicate the new wage scale applying to the whole staff of the Greek Telecommunications Agency. The Committee

also requested details on the outcome of the work of the joint committee (Committee for Equality) to be set up under paragraph 9 of the collective agreement of 1986. The joint committee was to be responsible for establishing rules governing certain questions concerning the staff of the Agency.

Since the Government has not yet supplied the requested information, the Committee trusts that it will be provided with its next report.

The Committee also requests the Government to indicate in the same report: (a) the number of women employed by the Greek Telecommunications Agency and their percentage in relation to the men employed there; and (b) the number of women in the Agency employed in higher-level positions and their percentage in relation to men.

#### Guinea (ratification: 1960)

The Committee takes note of the information supplied by the Government in its supplementary report, which was received too late to be examined at its 1987 session.

It notes the communiqués addressed to the population by the Military Committee for National Recovery, and the assurances given by the Government to the Secretary-General of the UN and the Secretary-General of the OAU concerning its observance of the commitments it has undertaken on the international level, which include, among others, the protection of the individual against arbitrary practices.

The Committee also notes the statement that the work of codifying existing statutes is made more difficult by the existence of practices that are not regulated by the legislation adopted previously, and that the far-reaching reforms that are necessary, accompanied by consultations on many levels, are being introduced relatively cautiously.

The Committee hopes that the Government will make every effort to establish and implement, in accordance with the Convention, a national policy designed to promote equality of opportunity and treatment in employment and occupation and to eliminate any discrimination on the grounds of race, colour, sex, religion, political opinion, national extraction or social origin, as set forth in Article 1(a) of the Convention.

The Committee also requests the Government to refer to the request being addressed directly to it on certain matters.

#### Guinea-Bissau (ratification: 1977)

The Committee notes with satisfaction the enactment of the General Labour Act, No. 2 of 5 April 1986, which adds to the grounds of race, sex, religion, social, intellectual and cultural level, and philosophical convictions already set forth in the 1984 Constitution, age, nationality, membership or non-membership of a trade union, and political opinion, as grounds on which discrimination in employment is prohibited.



Under the provisions of sections 20(2)(f) and 24(d) of the General Labour Act, the employer is obliged not to use discriminatory procedures and it is the worker's right not to be subjected to discrimination on the grounds mentioned above.

Islamic Republic of Iran (ratification: 1964)

The Committee notes the Government's report and the discussion held on this case in the Conference Committee in 1987. It also notes the Economic and Social Council report on the human rights situation in the Islamic Republic of Iran, submitted to the United Nations General Assembly (A/42/648).

1. In its comments over a number of years, the Committee has expressed its concern at the discrimination in employment and occupation practised against persons belonging to the "misguided Baha'i group", to Freemasonry or to organisations whose constitutions imply atheism and that have been banned. This discrimination applies not only to access to employment and occupation but also to conditions of employment and training.

The Government representatives in the Conference Committee in 1983, 1984, 1985 and 1986 supplied no information concerning the situation of persons belonging to Freemasonry and organisations whose constitutions imply atheism. With regard to persons belonging to the "misguided Baha'i group", they stated first, that the measures of discrimination were due to the fact that Baha'ism is a political organisation engaged in spying, later, that it is an organisation of spies; and, lastly, that even if not all Baha'is are spies by virtue of membership of such an organisation, they must be excluded from the public sector unless they renounce their membership.

The Committee considered that the general provisions of the laws and regulations and the individual administrative measures giving practical effect to them indicate clearly that the dismissal of Baha'is from their posts in the public service and state-controlled bodies is based on their adoption of, and holding on to, a faith which is not recognised under articles 12 and 13 of the Constitution of the Islamic Republic of Iran. It requested the Government to observe the obligation under Article 3(c) and (d) of the Convention by repealing all statutory provisions and modifying all administrative instructions and practices which are inconsistent with the policy of non-discrimination which the Government must pursue in respect of employment under the direct control of a national authority.

In its report, the Government repeats the arguments it had already made concerning Baha'is, invoking once again Article 4 of the Convention to justify the measures taken against Baha'is. The Government also makes a statement on the question of Freemasonry, to the effect that Freemasonry is a secret organisation whose members, affiliated to spy networks, were among the most influential and powerful in Iran and transferred billions of dollars abroad just before the victory of the Islamic revolution. The Government concludes that, in accordance with the laws of the country, the Baha'i organisation and the Freemasons are illegal organisations and that membership of them is also illegal. Any person who is proved by a

competent court to be a member of these organisations is excluded from employment in the government sector.

With regard to this last point, the Committee recalls the provisions of the Directive of the Ministry of Labour published on 8 December 1981, which prescribe that the courts are bound to withhold the issuance of any judgement in favour of dismissed employees whose membership of the "misguided Baha'i group" or organisations whose constitutions imply atheism has been ascertained. The information made available to the Committee shows no evidence that the measures of exclusion from training and employment were adopted as the result of a decision of any judicial authority. On the contrary, the Committee has noted that it does not follow from the information available to it that the substantive conditions (a measure affecting an individual who is justifiably suspected of being engaged in activities prejudicial to the security of the State) and the conditions concerning procedural guarantees (right of appeal to a competent body) are fulfilled which must be met to ensure that these exceptional measures do not result in discrimination on one of the grounds listed in Article 1, paragraph 1(a), of the Convention.

The Committee notes that no progress has been made in the application of the Convention. It once again expresses its deep concern at this situation.

The Committee once again trusts that the Government will observe the obligations under Article 3(c) and (d) of the Convention, by repealing all statutory provisions and amending all administrative instructions and practices that are inconsistent with the policy of non-discrimination that the Government must follow in respect of employment under the direct control of a national authority.

2. For a number of years, the Committee has been requesting the Government to provide information on questions relating to access to training. The Committee refers to paragraph 35 of the report submitted to the United Nations General Assembly (A/42/648), from which it would appear that primary and secondary establishments are gradually being opened to Baha'i children but that the latter are subject to pressure and attempts at indoctrination and are threatened with exclusion from examinations unless they renounce their faith, and that admission to universities or any other higher education establishment is prohibited to Baha'is. The Government has not communicated any detailed reply to these allegations.

The Committee requests the Government to indicate the measures taken to ensure access to training without discrimination under the Convention, in particular, by abolishing the measures of harassment based on religion.

3. For several years, the Committee has been requesting the Government to provide copies of any statutory instruments concerning the exclusion of certain categories of persons from governmental organisations. The Committee notes that the Government has provided no information in this connection. However, it notes that under article 163(1) of the Constitution of the Islamic Republic of Iran women are barred from serving as judges.

The Committee requests the Government to indicate the measures that have been taken with a view to amending article 163(1) of the Constitution of the Islamic Republic of Iran and to ensuring that



access to employment as a judge is guaranteed without discrimination on grounds of sex.

[The Government is asked to supply full particulars to the Conference at its 75th Session and to report in detail for the period ending 30 June 1988.]

Italy (ratification: 1963)

The Committee notes with satisfaction, from the detailed information supplied by the Government in its report for the period ending 30 June 1987, and from the attached documents, that new progress has been achieved in the implementation of the principle of equality of opportunity and treatment in respect of employment and occupation, through the adoption of new legislative instruments and various practical measures such as:

- Act No. 863 of 19 December 1984 (conversion of the Legislative Decree of 30 October 1984 into an Act) respecting urgent measures to maintain and increase jobs. The Committee notes with particular attention the provisions concerning the obligation to employ a percentage of women workers under solidarity contracts, and the institution of an equality counsellor who acts in an advisory capacity in regional employment market supervision bodies, which are also empowered to send inspectors to employers suspected of discriminatory employment practices.
- Act No. 44 of 28 February 1986 respecting exceptional measures for the promotion and development of enterprises for young persons in the Mezzogiorno. The Act provides that the bodies responsible for evaluating and selecting projects to be financed and subsidised shall give preference to initiatives submitted by co-operatives or enterprises composed of a majority of women. The Government indicates that this provision is intended to reduce unemployment in areas where it has reached alarming proportions. This is the case in the Mezzogiorno where women are the category of the population experiencing the highest rate of unemployment.
- Act No. 113 of 11 April 1986 respecting the special plan for the employment of young persons in which priority is given to projects providing for the recruitment of women in sectors of activity where they are under-represented.
- Act No. 56 of 28 February 1987 respecting the organisation of the labour market, which provides in section 4(2) for a member to sit on the Central Employment Commission with the function of equality counsellor, and in section 17(1) for the introduction of measures to promote the employment of women in agreements between local employment commissions and enterprises.
- Act No. 874 of 13 December 1986 to abolish height requirements for participation in recruitment competitions in the public service.

The Committee also notes the formation of a committee on equality within the Constitutional Commission of the Chamber of Deputies that is responsible for examining the compatibility of draft regulations with the principle of equality. This committee is to examine

discrimination relating to sex and also discrimination relating to religion, race, language, etc., and is to promote surveys and studies in this field.

The Committee wishes to emphasise that legislation on non-discrimination between the sexes is an important element in the policy of equality of opportunity and treatment in employment and occupation. It requests the Government to continue supplying information on the application of the legislation on equality between men and women in practice, and on any other measures that have been adopted or are envisaged in accordance with a policy intended to promote equality of opportunity and treatment without discrimination. It is addressing a direct request to the Government on these matters.

Mozambique (ratification: 1977)

With reference to its previous comments, the Committee notes with satisfaction that section 3, paragraph 1, of the new General Labour Act (Act No. 8 of 1985) refers to political opinion among the various grounds on which it prohibits discrimination in employment and occupation, in accordance with the provisions of Article 1(a) of the Convention.

The Committee requests the Government to supply information on the practical effect given to this provision, particularly with regard to the points raised in the request being addressed directly to it.

Pakistan (ratification: 1961)

In its previous observation, the Committee referred to a resolution of the Subcommission on Prevention of Discrimination and Protection of Minorities of the United Nations Commission on Human Rights, which expressed grave concern that persons charged with and arrested for violations of the Anti-Islamic Activities of the Qadiani Group, Lahori Group and Ahmadis (Prohibition and Punishment) Ordinance 1984 (Ordinance No. XX of 1984) and also the affected groups as a whole had been subjected to discrimination in employment and education. The Committee requested the Government to review this matter and take the measures necessary to ensure the observance of the Convention.

The Committee notes the statement of the Government in its report as well as in the 1987 Conference Committee, that neither Qadianis nor any other minority are subjected to discrimination, that there is no bar on their admission to educational and vocational training institutions, and that quite a number of Qadianis are in Government service while others are pursuing other careers in industry, commerce and business, etc.

The Committee refers to its observation under Convention No. 105, where it notes that under the provisions of Ordinance No. XX, members of the religious groups concerned may be sentenced to imprisonment, inter alia, for propagating their faith. Such punishment has a direct bearing on their opportunities regarding employment. The Committee also notes the written statement submitted by the Anti-Slavery Society

for Protection of Human Rights to the United Nations Commission on Human Rights (E/CN.4/1987/NGO/67 6 March 1987), in which it is alleged, among other things, that the issue of a passport is refused to a Muslim in Pakistan if he does not declare in writing that the Founder of the Ahmadiyya Movement in Islam was a liar and an impostor. Such measures would deprive persons of the freedom to choose an employment abroad and result in discrimination in access to employment on the ground of religion.

With a view to ensuring the observance of the Convention, the Committee hopes that the Ordinance and any administrative measures affecting members of religious groups in employment, such as the withholding of their passports, will be re-examined and that the necessary measures will be taken. Pending amendment of the legislation, the Committee requests the Government to supply detailed information on the status of persons covered by the Ordinance in their employment and occupation, including their freedom to seek employment abroad on the same footing as other nationals.

#### Peru (ratification: 1970)

The Committee notes with satisfaction the promulgation of the Stable Employment Act (Act No. 24514 of 31 May 1986), and particularly section 25(g) and (h), under which the repeated harassment of a worker due to his political, trade union or "Comunera" activities, religious beliefs or race are deemed to be hostile acts of the employer or his representatives; the same applies to immoral acts, sexual harassment and all acts betraying dishonest attitudes that are prejudicial to the dignity of the worker.

The Committee also notes that by virtue of section 26 of the Stable Employment Act workers who consider themselves to be harassed on the grounds set forth in section 25 of the Act may apply to the labour administrative authority to put an end to the antagonism. In this connection the Committee is addressing a request directly to the Government.

#### Sweden (ratification: 1962)

The Committee notes with interest, from the detailed information and the documentation supplied by the Government with its report for the period ending June 1986 that further progress has been achieved in the implementation of the principle of equality of opportunity and treatment in respect of employment and occupation as provided for by the Convention.

1. The Committee notes in particular with satisfaction the adoption of the Ethnic Discrimination (Prohibition) Act No. 442 which came into force on 1 July 1986. Under this Act, ethnic discrimination means that a person or group of persons is treated unfairly in relation to others or is in any other way subjected to unjust or insulting treatment not only in working life but also in other areas of society because of race, colour, national or ethnic origin or religious creed. The Act provides for the appointment of an Ombudsman

who shall assist anyone subjected to ethnic discrimination in safeguarding his (or her) rights and shall initiate measures with a view to eliminating such discrimination through discussions with authorities, private enterprises and organisations, and also by exerting influence on public opinion, disseminating relevant information and by any other means. An advisory committee on questions concerning ethnic discrimination will also be appointed under the Act in order to advise the Ombudsman on important matters of principle and submit proposals to the Government on statutory amendments or other measures intended to eliminate ethnic discrimination.

The Committee hopes that the Government will supply full information on the practical application of the Act and the activities of the above-mentioned Ombudsman and advisory committee.

2. Furthermore, the Committee notes with interest the amendment to the Equal Opportunities Act which came into force in 1985 and takes into account some of the proposals made by the Equal Opportunities Ombudsman with a view to eliminating certain deficiencies in the contents of the Act.

It also notes with interest the 1986 amendment to the Ordinance on Equal Opportunities in the National Government Service as well as the various collective agreements on equal opportunities concluded during the period covered by the report and the intensified measures adopted by the Employment Service, the Directorate of the National Labour Market Board and the National Immigration Board to promote equality of opportunity and treatment and to eliminate any discrimination in respect of employment and occupation especially on the grounds of sex or national extraction.

The Committee requests the Government to continue supplying detailed information on any further progress made with regard to the promotion of the principle of equality of opportunity and treatment and the elimination of any discrimination in respect of employment and occupation on the grounds mentioned by the Convention.

#### Yugoslavia (ratification: 1961)

The Committee notes the information supplied by the Government in its report and to the Conference Committee (in June 1987) in reply to previous comments concerning, inter alia, the reference in national regulations to "moral and political suitability" as a condition for holding certain jobs.

1. The Committee notes with interest, from the Government's indications, that the amendments made in 1984, 1985 and 1986 to the Law on Social Attorney of Self-Management in the Republic of Slovenia and the Autonomous Province of Kosovo, and the Law on Public Attorney's Office in the Republics of Slovenia, Croatia, Serbia, Bosnia-Herzegovina and the Autonomous Province of Kosovo have, inter alia, eliminated the reference to "moral and political suitability" as a condition for exercising the duties of the attorneys in question.

The Committee also notes with interest that in the Autonomous Province of Vojvodina, the reference to the moral and political suitability has been deleted from the self-management enactments of

organisations of associated labour, as a result of a decision by the Constitutional Court of that Province, dated April 1986, which contested the validity of the reference to such suitability as a requirement for the selection of candidates for a job.

The Government also indicates that a proposal was made to the Assembly of the Republic of Slovenia to enact a new law on educational and pedagogical service under which it would no longer be necessary to fill the post of educational adviser by reference to "the moral and political suitability" of the person concerned. It adds that section 23 of the 1974 Social Compact on the Personnel Placement Policy in the Territory of the Communities of Ljubljana, which in addition to vocational qualifications requires social, political and moral aptitude for the selection of candidates for a job, is currently being amended.

The Government also states that, within the framework of their duties, social attorneys of self-management and the labour inspectors consistently warn associated workers' organisations that provisions referring to "moral and political suitability" are unconstitutional (as decided by a meeting of the Presidents of the Constitutional Courts of 19 December 1979) if they find that self-managing enactments include provisions referring to this suitability as one of the requirements for the establishment of an employment relationship. The associated workers' organisations of Ljubljana, which advertised vacancies for jobs that required this suitability, were also notified of the unconstitutional nature of such provisions.

The Committee notes these statements and requests the Government to continue supplying information on the measures taken and the results achieved at the federal level and at the level of the various Republics and Autonomous Provinces, in eliminating from the legislation and national practice any discrimination in employment and occupation based on political opinion.

The Committee would also be grateful if the Government would supply with its next report copies of the above amendments and further information on the effect given to them in practice. It particularly wishes to be provided with copies of reports or administrative directives, and copies of judicial rulings handed down in cases of appeals against discriminatory practices on grounds of political opinion.

The Committee also hopes that the Government will supply detailed information on the points raised in the request being addressed directly to it.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Argentina, Austria, Belgium, Benin, Bolivia, Burkina Faso, Canada, Cape Verde, Chad, Czechoslovakia, Dominican Republic, Ecuador, France, Gabon, Federal Republic of Germany, Guinea, Guinea-Bissau, Haiti, Honduras, Hungary, India, Israel, Italy, Madagascar, Mali, Mauritania, Mexico, Morocco, Mozambique, Nepal, New Zealand, Pakistan, Paraguay, Peru, Qatar, Sao Tome and Principe, Senegal, Sweden, Yugoslavia.

**Convention No. 113: Medical Examination (Fishermen), 1959**Liberia (ratification: 1960)

Further to its previous comments, the Committee notes from the Government's report that the proposed new Labour Law and the draft Decree, to which it has been referring in its reports for a number of years, have not yet been adopted. It trusts that these texts will be adopted in the near future and that they will give effect to Article 2 of the Convention (requirement of a physical fitness certificate for employment on a fishing vessel), Article 3 (nature of the medical examination), Article 4 (period of validity of certificates) and Article 5 (possibility of a further medical examination), and that the Government will provide a copy of the provisions adopted.

Tunisia (ratification: 1963)

Further to its comments over a number of years regarding the application of Article 3, paragraphs 1 and 2, (nature of the medical examination) and of Article 4, paragraph 2 of the Convention (period of validity of the medical certificate of persons who have attained the age of 21 years), the Committee notes that, according to the Government's report, the draft text to give effect to these provisions of the Convention is still not completed. The Committee hopes that the Government will be able to indicate, in its next report, that this draft has been adopted.

[The Government is asked to report in detail for the period ending 30 June 1989.]

**Convention No. 114: Fishermen's Articles of Agreement, 1959**Cyprus (ratification: 1966)

With reference to its previous comments, the Committee notes from the Government's report that consultations have been completed between the authorities concerned regarding the legislative provisions that must be adopted in order to give effect to the Convention. The legislation is now under preparation and the Government hopes that it will be possible to adopt it during the course of 1988. The Committee hopes that in its next report, the Government will be able to state that the above legislation has been enacted.

[The Government is requested to report in detail for the period ending 30 June 1988.]

Liberia (ratification: 1960)

Further to its previous comments, the Committee notes from the Government's report that the proposed new Labour Law to which it has been referring for a number of years and which is to give effect to

the Convention, has not yet been adopted. It trusts that this law will be adopted in the near future, that it will give effect to the Convention and that the Government will provide a copy of it.

Uruguay (ratification: 1973)

The Committee refers to the comments it made in 1984 and 1987 concerning the observations transmitted through the World Confederation of Labour, by the APEEF (Association of Employees on Board Ships of the Fishing Refrigeration Firm of Uruguay) alleging that FRIPUR (the Fishing Refrigeration Firm of Uruguay) "does not make labour contracts with its fishermen", and that "expenses for food are deducted from the crews' income".

The Committee notes the information and documents supplied by the Government in its report to the effect that, in accordance with the provisions of the collective agreement of 22 August 1986, the relationship between the fishermen and the shipowner "shall be set down in the corresponding articles of agreement" (section 2), and that food "during employment on board shall form part of the vessel's provisions, and therefore shall be at the expense of the shipowner" (section 10). The Committee also notes that the Council of State has approved Legislative Decree No. 15.523 which establishes the employment relationship through contract between the parties.

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

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

**Convention No. 115: Radiation Protection, 1960**

Greece (ratification: 1982)

Following its direct request of 1985, the Committee notes with satisfaction the adoption on 8 March 1985 of the Joint Ministerial Decision No. A2/1539 on the fundamental safety standards for the health protection of the public and workers against ionising radiations, which ensures the application of the Convention.

The Committee is asking for more detailed information on the application of Article 8 of the Convention 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: Barbados, Brazil, France, Greece, Iraq, Mexico, Paraguay, Syrian Arab Republic.

**Convention No. 117: Social Policy (Basic Aims and Standards), 1962**

Requests regarding certain points are being addressed directly to the following States: Brazil, Jamaica, Paraguay, Venezuela.

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

France (ratification: 1974)

1. Article 6 (Family Benefit), in conjunction with Article 3, paragraph 1, and Article 4, of the Convention. The Committee notes the comments made by the CFDT Trade Union of the Social, Cultural and Rehabilitation Services of Paris (SASCR). This organisation considers that, in the case of foreigners in France, section 7 of Act No. 86-1307 of 29 December 1986 (JO of 30.12.86) and Decree No. 87-289 of 27 April 1987, issued under section L.512-2 of the Social Security Code (JO of 28.4.87) appear to be contrary to the provisions of Articles 4 and 6 of Convention No. 118.

The Committee notes the Government's reply to the effect that section 7 of Act No. 86-1307 supplements the Social Security Code by providing that "a Decree shall determine the list of documents certifying the lawful nature of the entry and presence in the country of foreign beneficiaries and the dependant children in respect of which family benefit is sought". Decree No. 87-289 introduces sections D.511.1 and D.511.2 in the Social Security Code which establish the list of registration papers and documents that are required (this list, however, existed previously and was established by means of a circular). The Government is of the opinion that the objective of Convention No. 118 is not to lay down internal law in States but to forbid conditions being established which would result in less favourable treatment for foreigners than for nationals; the condition of residence in France laid down in section 512.1 of the Social Security Code is applicable both to nationals and to foreigners. In conclusion, the Government points out that the right to family benefit has from its inception (Act of 22 August 1946) included the principle of lawful residence certified by registration documents.

The Committee has examined the situation referred to by the SASCR and the arguments put forward by the Government in its reply. The Committee notes that in accordance with Decree No. 87-289, foreigners applying for family benefit have to prove the lawful nature of their residence by producing a valid registration paper or document and that the lawful nature of the entry and presence in the country of foreign children dependent upon the beneficiary, for whom family benefit is requested, has to be certified by the production of a registration paper or document as laid down in the above Decree.

The Committee points out that it has had the opportunity to express its views on the possible effect of a requirement of lawful residence on the application of the provisions of Convention No. 118 through national laws. Indeed, in its General Survey of 1977 (paragraph 57), it considered that "in this connection it should be



borne in mind that the principle of equality of treatment implies the abolition of discrimination based on a person's nationality. Consequently, a requirement of lawful residence in the country or of lawful authorisation to be in employment does not appear to be contrary to this principle; where such conditions are imposed the difference in treatment does not appear to be motivated by the alien status of the persons concerned but rather by their legal position under regulations governing entry into and residence in the country, or access to employment". The Committee is therefore of the opinion that the provisions of French law attacked by SASCER as being contrary to Convention No. 118 do not appear to be so.

2. Article 3, paragraph 1, Branch (d). (Invalidity Benefit). In its earlier comments, the Committee, which had previously taken note of the observations of the General Confederation of Labour (CGT) in relation to Convention No. 97, concerning the conditions of payment of allowance for handicapped adults instituted by Act No. 75-534 of 30 June 1975, had expressed the hope that the provision of this allowance could be guaranteed to nationals residing in France of all States that have accepted the obligations of the Convention (subject to the possibility open to the Government of availing itself of Article 4, paragraph 2(b) making the grant of the allowance dependent on a period of residence up to five years). It stressed the fact that the characteristics of this allowance for handicapped adults linked it in law to non-contributory social security benefits, such as those covered by Article 2, paragraph 6(a), and not to assistance benefits. In this connection, the Committee noted from the reply of the Minister of National Solidarity to the written question of a senator (Official Gazette of the Senate, 3 April 1982, page 906), that the possibility of granting all foreigners the right to allowance for handicapped adults, subject to a certain period of residence, was being thoroughly examined.

The Committee notes that, for the second time in succession, the Government's report does not contain any information on the progress achieved in implementing this provision of the Convention in regard to this point. Consequently, it can only draw the Government's attention to the above comments and express the hope that the next report will contain information in this respect.

[The Government is asked to report in detail for the period ending 30 June 1988.]

#### Guinea (ratification: 1967)

Article 5 of the Convention. The Committee notes that the Government had previously stated that the national legislation did not contain any restriction on the payment of old-age and survivors' benefits or death grants or on payment in respect of industrial accidents and occupational diseases in the event of residence abroad. In its latest report, the Government indicates that, when the beneficiary moves his residence outside Guinean territory, the payment of benefits is not automatically continued in his new place of residence owing to currency exchange legislation. The Committee wishes to recall that under the Convention the payment of such

benefits must be ensured automatically in the event of residence abroad, both to the nationals of Guinea and to the nationals of any other State which has ratified the Convention in respect of the branch or branches in question. The Committee would like to know what is the impact in practice of the currency exchange legislation on the payment of the benefits when the beneficiary moves his residence abroad and to what extent and in how many cases the beneficiaries have not been able to obtain payment of the benefits abroad. It therefore hopes that the Government will specify in its next report the measures taken to give full statutory and practical effect to the Convention, irrespective of any currency exchange legislation.

Article 6. The Committee pointed out that under section 38 of the Social Security Code, family benefit is payable only in respect of children residing in Guinea, whereas Article 6 prescribes that each State which has accepted the obligations of the Convention in respect of family benefit shall guarantee the grant of family allowance both to its own nationals and to the nationals of any other State which has accepted the obligations of this Convention for that branch, in respect of children who reside on the territory of any such State, under conditions and within limits to be agreed upon by the States concerned. In its report, the Government indicates that it has begun consultations with the countries of the subregion, initially to negotiate bilateral agreements in order to establish more effective reciprocal guarantees of the social security rights of migrant workers. The Committee notes this statement with interest and requests the Government to indicate any progress made in this respect in its next report. It once again expresses the hope that the Government will endeavour to conclude agreements with other member States concerned which have accepted the provisions of the Convention in respect of family benefit where migration of the type covered by Article 6 exists between those States and Guinea.

[The Government is asked to report in detail for the period ending 30 June 1989.]

#### Syrian Arab Republic (ratification: 1963)

1. Article 5 of the Convention. The Committee notes that the draft Decree supplied by the Government, to amend section 94 of the Social Insurance Code, has not yet been adopted. This draft text provides that the beneficiary of a pension, his dependants or the dependants of the insured person, who leave the territory of the Syrian Arab Republic, may require, among other things, that the pension to which they are entitled be transferred to the country in which they reside subject to their paying the transfer charges. The Committee notes, however, that, according to the Government's statement, the transfer charges are determined by the Commercial Bank in accordance with the provisions relating to foreign currencies and that their amount is reasonable. The Committee trusts that the Government will take the necessary measures for the adoption of the draft Decree. It requests the Government to supply full information on the progress achieved in this respect.

2. Article 10. With reference to its previous comments, the Committee notes the Government's statement to the effect that, even though there is no such express provision, the sections of the Social Insurance Code also apply to refugees and stateless persons. It once again expresses the hope that the Government will not have any difficulty in including an express provision to this effect when the Social Insurance Code comes up for revision.

3. The Committee notes with interest the statistics supplied by the Government on foreigners employed in Syria. It notes, however, that the Government is not currently in possession of statistics on the number of Syrian workers employed abroad. It hopes that in the future the Government will be in a position to supply this information.

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In addition, requests regarding certain points are being addressed directly to the following States: Barbados, Bolivia, Brazil, Central African Republic, Ecuador, France, Federal Republic of Germany, Iraq, Jordan, Kenya, Libyan Arab Jamahiriya, Madagascar, Mauritania, Norway, Sweden, Tunisia, Turkey, Venezuela, Zaire.

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

### Convention No. 119: Guarding of Machinery, 1963

Algeria (ratification: 1969)

See General observations.

Congo (ratification: 1964)

Article 2 of the Convention. In reply to the Committee's previous observations, the Government states in its report that the Orders to specify 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 - have been prepared and adopted by the Technical Advisory Committee on occupational health and safety. The Government adds that it will forward copies of the above Orders as soon as they are published.

The Committee notes these statements with interest and hopes that the Orders in question will also contain a provision prohibiting the transfer in any other manner and exhibition of dangerous machinery without appropriate guards, as provided for in paragraph 2 of the above Article of the Convention. The Committee hopes that the text of these Orders will be forwarded with the next report.

Cyprus (ratification: 1965)

In the comments made over a number of years, the Committee has pointed out that the provisions of the national legislation intended to give effect to the Convention are dispersed among various texts (for example: the Factories Law, 1956, and its various amendments; the Safety and Health Regulations concerning certain occupations or industries, such as agricultural work, the building industry and public works, etc.), and that they do not cover all the subjects dealt with in the Convention. In replying to these comments in its previous reports, the Government stated that, with the ILO's assistance, labour legislation was being codified and updated and new provisions concerning the protection of safety and health at work covering all branches of economic activity were being drafted, and that this new legislation would ensure full compliance with the provisions of the Convention.

In its latest report, received in 1986, the Government states that because of the importance of the new legislative measures, the tripartite consultations necessary for its preparation would take a considerable time. It has therefore decided, as an interim measure, to amend the Factories Law to bring it into conformity with the provisions of the Convention. The Committee takes note of this statement and trusts that the amendment will be adopted in the very near future and that the Government will not fail to supply the text of the amended legislation with its next report.

Jordan (ratification: 1964)

Part II, Articles 2 and 4, of the Convention. In the comments that it has been making for a number of years, the Committee has drawn attention to the need to insert formal provisions into 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, as required by the above provisions of the Convention.

In the reports it supplied before 1984, the Government stated that a new draft Labour Code was being prepared and that the draft would contain provisions in this respect, giving full effect to the Convention. In the reports supplied in 1984 and 1985, and in the information communicated to the Conference Committee in the same years, the Government indicated that the new draft Labour Code had not been adopted, although the government committee responsible for examining the Committee of Experts' comments concluded that it was not necessary to incorporate provisions in this draft such as those set out in Articles 2 and 4 of the Convention, in view of the fact that the Civil Code (which is applicable in the absence of provisions in the Labour Code) covers this matter, since it does not prohibit persons who have received any injury from machinery not equipped with appropriate guards from applying for compensation. In its latest report (which was received in 1986), the Government once again refers to the provisions of the Civil Code, although it adds that provisions to give effect to the Convention are contained in the new draft Labour Code.

The Committee notes this statement and can only once again urge the Government to take the necessary measures to insert into the national legislation (either in the new Labour Code, or in Regulation No. 57 of 1963 respecting protection and safety when using industrial machinery and equipment) provisions formally prohibiting the sale, hire, transfer in any other manner and exhibition of machinery of which the dangerous parts are without appropriate guards, in accordance with Part II of the Convention which is aimed at the prevention of industrial injuries and not their compensation. The Committee trusts that such provisions will be adopted in the very near future and that the Government will not fail to report the progress achieved in this respect.

Madagascar (ratification: 1964)

Part II, Articles 2 to 4, of the Convention. In its previous observations, the Committee noted that although the national legislation (and in particular Order No. 889 of 20 May 1960) contains detailed provisions prohibiting the installation and use of machinery and parts of machinery of which the dangerous parts are without the appropriate guards, in accordance with Part III of the Convention, there is no reference to the prohibition of the sale, hire, transfer in any other manner or exhibition of this machinery as laid down in the provisions of Part II, Articles 2 to 4, of the Convention. The Committee therefore requested the Government to take the necessary measures to insert into the national legislation a formal provision intended to give full effect to the Convention with regard to the above.

For a number of years, the Government has been stating in its reports that it will take into account the Committee's comments, but has not indicated the positive measures that it has taken or is contemplating in this respect.

As the report received in 1987 contains no new developments in this respect, the Committee can only repeat the question once again with the hope that the Government will not fail to indicate in its next report the measures that have been taken in order to bring the national legislation fully into conformity with the Convention.

Sierra Leone (ratification: 1964)

For a number of years, the Committee has drawn attention to the fact that national legislation does not contain provisions to give effect to Part II of the Convention (prohibition of the sale, hire, transfer in any other manner and exhibition of unguarded machinery) and that it does not provide for the full application of Article 17 of the Convention (which applies to all sectors of economic activity), as it is not applicable to certain branches of activity, inter alia, sea, air or land transport and mining.

Since 1979, in reply to the Committee's comments, the Government has indicated in its reports, that a Bill to revise the 1974 Factories Act was being drafted and would contain provisions consistent with

those of the Convention, and would apply to all the branches of economic activity. In its latest report (received in 1986), the Government indicates that the 1985 Factories Bill has been examined by the competent parliamentary committee and is to be submitted to Parliament for adoption.

The Committee takes note of this information and trusts that the Government will be in a position to communicate the text of the new Act with its next report.

[The Government is asked to provide full particulars to the Conference at its 75th Session.]

Spain (ratification: 1971)

With reference to its previous comments, the Committee notes with satisfaction the adoption of Royal Decree No. 1495 of 26 May 1986 to approve the Regulation regarding the security of machines which gives effect to the following Articles of the Convention which were the subject of those comments: Articles 2 to 4 (prohibition of the sale, hire, transfer in any other manner and exhibition of dangerous machinery without appropriate guards) and Article 15 (penalties and inspection).

Tunisia (ratification: 1970)

The Committee takes note of the Government's report and notes with satisfaction the adoption of the Ministerial Order of 12 June 1987 to determine the machinery and parts which may not be used, put up for sale, sold or hired without appropriate guards. It also takes note of Decree No. 75-240 of 24 April 1975 (referred to in the above Order) to amend section 4 of Decree No. 67-391 of 6 November 1967, by including a provision to forbid the transfer in any other manner and exhibition of machinery of which the dangerous parts are without appropriate guards. The above legislative texts give effect to Articles 2 and 6 of the Convention which were the subject of the Committee's previous comments.

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

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

Algeria (ratification: 1969)

See under General observations.

Senegal (ratification: 1968)

The Committee notes from the Government's reply to its previous direct request that the draft Order to lay down health and safety regulations has still not been completed but that its finalisation has been given priority by the new Occupational Health and Safety Division.

As the matter has been raised for a number of years, the Committee again expresses the hope that the draft will be adopted in the very near future and that it will require the provision of seats for all workers, as called for in Article 14 of the Convention, and provide for the reduction of noise and vibrations likely to have harmful effects on workers, as required by Article 18. The Committee also hopes that the draft order will give such effect as may be possible and desirable under national conditions to the provisions of the Hygiene (Commerce and Offices) Recommendation, 1964, in accordance with Article 4(b) of the Convention.

**Convention No. 121: Employment Injury Benefits, 1964**Luxembourg (ratification: 1972)

With reference to its previous comments, the Committee notes with satisfaction that section 10 of the Act of 15 December 1986 repeals section 119(2) of the Social Insurance Code so as to ensure a better application of Article 27 of the Convention, by withdrawing the possibility of suspending the application of the Act to foreigners who are nationals of States where the legislation denies equal treatment to Luxembourg nationals.

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

**Convention No. 122: Employment Policy, 1964**Australia (ratification: 1969)

1. The Committee has noted the Government's detailed report for the period ending June 1986, which contains replies to the previous observation. The Government states that the economy expanded strongly up to late 1985 and employment continued to increase strongly up to mid-1986 under a combination of macro-economic and structural policies such as the comprehensive prices and incomes policy ("the Accord"). The report describes investment policies, industrial and trade policies, and prices, incomes and wages policies as they relate to employment. However, in the light of external imbalances and an increase in the rate of inflation as a consequence of the sharp depreciation of the Australian dollar in 1985, the Accord was adjusted

to provide for increased wage restraint in June 1986. Monetary and fiscal policies have aimed to cut the budget deficit and restrain inflation while allowing sufficient growth. The Government states that labour market programmes and services have been upgraded and rationalised in response to recommendations contained in the report of the Committee of Inquiry into Labour Market Programmes (the "Kirby Report"), which was published in January 1985. The Committee notes that the recommendations aimed at improved structured training opportunities for young people and the rationalisation of labour market programmes, allowances and subsidies.

2. The Committee also notes with interest the job creation and employment assistance measures referred to in the report (such as the Community Employment Programme, the New Enterprise Incentive Scheme, JOBSTART, and mobility assistance schemes). A three-year assistance package for heavy industry was introduced from July 1986, involving a labour adjustment component for skills upgrading and retraining, and employment and relocation assistance for retrenched workers. This package, together with the Steel Regions Assistance Programme (SRAP) from 1983-84, is expected to assist local labour forces and communities adjust to structural change in industries concerned. The report also mentions measures in favour of employment for women, the young and Aborigines, and measures in the States.

3. The Committee notes that, according to standardised figures published by the OECD, the unemployment rate had fallen to 8 per cent in 1986 (with a proportion of young and long-term unemployed which remains relatively high), following a period of strong employment growth (between 3 and 4 per cent annually, in 1984, 1985 and 1986, with part-time employment growing substantially faster). It hopes the Government will continue to supply information on the development and results of the policies to achieve the aims of the Convention, with special reference to the measures for young people who have difficulty in gaining employment, such as the Australian Traineeship System (ATS), and the activities of Youth Access Centres. It also hopes that in the light of the recent rationalisation and apparent reductions in expenditure on labour market programmes, the Government will supply full information on the implementation and impact of the Community Employment Programme (CEP), to offer short-term employment opportunities in the community and public sectors for the long-term unemployed and other disadvantaged jobseekers. More generally, the Committee would be grateful if the Government would indicate whether special difficulties in promoting the full employment goal of the Convention have been encountered, in particular in the context of the reorientation of macro-economic policies to reduce external imbalance.

4. Concerning consultation between the Government, trade unions and employers (Article 3 of the Convention), the Committee notes that in March 1987 after tripartite consultation the wage indexation based on the Accord was abandoned and replaced by a two-tiered system which consists of a flat national wage increase and a further wage increase determined by bargaining at the enterprise level. It also notes with interest the Government's statement as to the establishment of the tripartite Australian Council for Employment and Training (ACET), to advise the Government on employment and training policies and monitor the development and implementation of such policies. The Committee



hopes the Government will continue to provide information on these developments.

Bolivia (ratification: 1977)

1. The Committee notes the Government's report and the information supplied in reply to its previous comments. The Government indicates in its report the measures taken to stabilise its balance of payments in order to gain the confidence of international financial institutions and slow down the inflationary process and to establish order in the currently disorganised structure of economic activity. It adds that these measures will make it possible more effectively and more immediately to confront the problem of the labour market, which has recently slackened considerably as a result of the economic crisis. The Committee is bound to feel concerned at the gravity of the labour market situation as revealed by the information supplied by the Government in its report. The unemployment rate is 18.9 per cent and the underemployment rate - mainly affecting heads of household and women - 64 per cent. The Committee notes that the Government is proposing to implement a national employment plan incorporating two main subprogrammes: the first of these is to improve and increase social housing construction, and the second to provide selective assistance for small-scale industry. The Committee trusts that the Government will pursue, as a major goal, an active employment policy (Article 1, paragraph 1, of the Convention), and draws its attention to the suggestions contained in the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169), in particular paragraph 37(h), which provides that when adopting adjustment policies governments should ensure that they promote employment and the satisfaction of basic needs.

2. Article 3. The Government indicates in its report that formal consultation procedures have not been established. In practice consultations are held when required. The Committee points out that the consultations provided for in the Convention should not be limited to matters of employment policy in the narrow sense, but should be extended to all aspects of economic policy that affect employment. Furthermore, in addition to providing for consultations in the formulation of employment policies, the instruments also envisage obtaining the co-operation of representatives of employers and workers in the implementation of this policy (see paragraphs 96 and 100 of the Committee's General Survey of 1972). The Committee therefore requests the Government to indicate in its next report the manner in which the representatives of the persons affected are consulted regarding the employment policy, with reference to consultations with representatives of employers' and workers' organisations and consultations with representatives of other sectors of the economically active population, such as persons who are active in the rural and informal sectors.

3. The Committee also takes note of the indications given by the Government in its report concerning the assistance it receives from the ILO Regional Office in formulating projects for the creation of small associated enterprises to absorb the labour force leaving

state mines. The Committee would be grateful if the Government would supply detailed information in its next report on the measures taken and progress achieved by the projects carried out with ILO assistance in order to solve the problem of unemployment and underemployment.

4. In a direct request, the Committee is requesting additional information on various aspects of the application of the Convention.

Brazil (ratification: 1969)

1. The Committee regrets to note that for the second year in succession the Government's report has not been received. The Committee is therefore bound to refer to its previous comments concerning the measures taken by the Ministry of Labour, particularly through the National Employment System (SINE) and the National Employment Policy Council (CNPE), for the creation of productive employment, and the comments made by occupational, industrial and commercial organisations on the application of the Convention.

2. The Committee also takes due note of the new comments submitted by the National Confederation of Land Transport (CNTT), the National Confederation of Industry (CNI) and the National Confederation of Industrial Workers (CNTI).

3. The comments submitted by the CNTT, which were forwarded by the Office to the Government in October 1987, note the replacement of the Cruzado Plan by the Cruzado Plan II, and indicate that, according to information from specialist organisations, unemployment will increase despite a slight growth in industrial production. The CNTT expresses the hope that the new Plan will produce the results sought.

4. The comments of the CNI, which were forwarded by the Office to the Government in November 1987, refer to the development plans that are being implemented, and the adverse effect on employment of high interest rates and inflation and the lower investment rate in the public sector.

5. The comments of the CNTI, which were forwarded by the Office to the Government in December 1987, also refer to the successive government plans. The CNTI considers that a reduction in the purchasing power of workers and the consequent difficulties for enterprises which are obliged to reduce their workforce, together with the increases in taxation have not contributed to the implementation of a full employment policy.

6. The Committee can only once again express the hope that the Government will supply full information with its next report in reply to the questions laid down by the Governing Body in the report form and that it will deal with the questions raised by the above employers' and workers' organisations. It trusts that the National Employment Service will increase its efforts to supply information on the employment market and that the next report will describe the impact of the measures adopted. Information of this type will make it possible for the Committee to make a more well-founded assessment of the extent to which the Government is implementing an active employment policy appropriate to the national situation and in accordance with the aims of the Convention. Finally, the Committee would be grateful for detailed information also in the next report on

the consultations - whether formal or informal - of employers, workers and any other persons affected by the employment policy in accordance with Article 3 of the Convention.

Canada (ratification: 1966)

1. The Committee has taken note of the Government's detailed report for the period ending June 1986 which replies to its previous observation, as well as the discussion in the Conference Committee in 1985. It notes with interest that employment has increased steadily and that, consequently, the unemployment rate dropped from 11.3 per cent in 1984 to 10.5 per cent in 1985 and 9.6 per cent in 1986. According to further information supplied by the Government, it stood at 8.5 per cent in June 1987 (compared with 9.1 per cent in June 1986). Over the reporting period, however, unemployment remained considerably above the national average in the Atlantic region (with unemployment rates of from 14 to 20 per cent), the Eastern region (Quebec) and the Pacific region (British Columbia). Concerning employment in British Columbia, the Government has, in reply to the Committee's observation, supplied statistical information which indicates that continued employment growth led to some progress in reducing unemployment from 14.8 per cent in 1984 to 14.2 per cent in 1985 and 12.6 per cent in 1986 (a decrease of 2.5 per cent was noted over the 12 months to June 1987).

2. The Committee notes the information concerning overall and sectoral development policies. The November 1984 economic statement and the budgets for 1985 and 1986 established and expanded a series of co-ordinated actions to encourage investment, private initiative and competitiveness and to stimulate industrial and regional development; to manage the Government more efficiently; and to control the national debt by reducing government deficits. The goal of these policies was to promote economic growth and job creation. A broad range of employment measures designed to facilitate the functioning of the labour market was in force over the reporting period. The Government states that the cornerstone of its policy to help workers adjust to a changing labour market is the Canadian Jobs Strategy (CJS), which was introduced in 1985 to ensure that federal training and job development programmes help participants to secure lasting, productive employment. The programmes of the CJS are directed to those most in need, namely the long-term unemployed, youth and women entering or re-entering the labour market, natives, disabled people and other minorities who face employment barriers and need special consideration; employers who need to train employees in special skills; workers whose jobs are threatened by technological change; and communities hit by major lay-offs and plant closures or faced with chronic unemployment and economic decline. As for consultations in the CJS, the Committee notes that local advisory councils (LAC), consisting of local business, labour and community groups, meet government representatives to discuss local employment issues. The Government supplied further information on various other measures concerning, in particular, employment services, employment counselling

services, programmes to facilitate the mobility of workers, and measures to deal with labour adjustment problems.

3. The Committee notes the statement in the Government's report that the Government's dedication to a policy of promoting full, productive and freely chosen employment has been reiterated on several occasions in the period under review. The economic and employment policies implemented during this period showed very positive results. The CJS and other labour market programmes represent a positive approach to structural aspects of unemployment and appear to have developed in co-operation with employers' and workers' representatives and other persons affected, in accordance with Article 3 of the Convention. Although there has been undoubted improvement in the last few years, the unemployment rate (9.6 per cent in 1986, with considerable regional disparities) still remained above the pre-recession level of 1982 and the weighted OECD average (8.3 per cent in 1986). The Committee hopes that the Government will continue to supply full information on the application of the Convention through the measures referred to and their impact on employment and development, with special reference to the programmes of the CJS and the policies designed to promote regional job creation. Finally, considering the increase of part-time employment, which is becoming a permanent and growing component of the labour force, the Committee would be grateful if the Government would supply information on the results of the federal survey carried out recently.

#### Costa Rica (ratification: 1966)

The Committee takes note of the communication of 8 July 1987 sent by the International Confederation of Free Trade Unions (ICFTU) containing the comments of the Costa Rican Confederation of Democratic Workers (CCTD) with respect to the application of the Convention.

The comments of the CCTD concern the orientation of the economic policy implemented by the Government in recent years. They refer, in particular, to the reduction of public spending, the increase of dependence on the outside, and the measures taken within the framework of the stabilisation and structural adjustment programmes prepared with the assistance of international financial institutions (IMF, World Bank). The comments underline the unfavorable consequences of these policies on employment, wages and the living conditions of workers.

The comments of the CCTD were transmitted to the Government by letter of 22 September 1987. In a letter dated 25 February 1988, the Government supplied detailed information in response to the arguments of the CCTD. At its next session, the Committee will examine the comments of the CCTD and the comments of the Government with its report on the application of the Convention which is due in 1988.

Federal Republic of Germany (ratification: 1969)

1. The Committee has taken note of the Government's detailed report for the period ending June 1986, which contains the reply to its previous observation.

2. The Government describes a number of monetary and fiscal policy measures such as efforts to keep the level of interest rates low for the promotion of investment; lending programmes for the increase of public investment resources to the building industry; and the tax policy which brings relief to all taxpayers including small and medium-sized enterprises in order to give greater incentive for output and investment. The Government states that the persistent economic growth has had positive repercussions on employment and the labour market. Since the middle of 1984, the number of wage earners has been increasing. The average number of employed increased by 179,000 in 1985.

3. The Government states that in 1985 some 307,000 persons were taken off unemployment by means of full-time vocational training, job-creation schemes, short-time pay to maintain and guarantee jobs when work is lost on a temporary basis, and early retirement. The Committee notes with interest from the Government's statement that the unemployment figures for young people under 20 years of age were well below the overall figures, and that this may be attributed to a great extent to the efficient and practical system of dual vocational training (practical in-plant training alongside instruction given in vocational training schools). It also notes that job creation schemes have set out to correct regional labour market imbalances taking into account the regional unemployment rates and the percentage of hard core unemployed workers.

4. The Committee notes that the 1985 Employment Promotion Law aims at removing obstacles to placement and vocational training and gives incentives for employers to employ new workers. This Law provides for contracts of limited duration not exceeding 18 months, the protection of part-time workers, assistance to enterprises in cases of temporary absence of workers on account of sickness or maternity leave, and the placement of young people in apprenticeships. The Committee hopes that the Government in its next report will supply full information on the repercussions of these measures on the employment situation, and in particular the result of the research project, which is due to examine the employment effects of fixed-term employment contracts, mentioned by the Government in its report.

5. The Committee has taken note of the Government's statement concerning its strategy and commitments. The report states that a lasting solution to the employment problem can only be attained by expanding investment to generate new jobs. The labour market policy must provide a back-up for the expansion of employment. Legislative provisions to promote labour market flexibility, in particular the Employment Promotion Law, are also said to make a vital contribution towards removing obstacles to employment or training in the labour legislation. The report also states that the Government has made the struggle against unemployment one of the major features of its economic and financial policy.

6. The Committee notes that according to figures published by OECD, unemployment decreased slightly in 1986: this is said to be due in part to labour market measures, and OECD also draws attention to the provision of early retirement at 58 in this connection. But the overall level of unemployment remains high, with great sectoral and regional disparities, and OECD projects persistently high unemployment of around 8 per cent or more. The Committee hopes the Government will continue to implement labour market measures in tandem with monetary and fiscal policy measures and will in its next report supply further statistical information on the impact of the above-mentioned measures on the employment situation by sector of economic activity and region. The Committee would like to draw special attention to the apparent success in reducing youth unemployment and hopes that the methods used will be widely studied.

7. The Committee notes that consultations with the social partners on the adoption and implementation of the Employment Promotion Law have not taken place, and that the trade unions mostly disapprove of it. It requests the Government to make every effort to enter into consultations on this matter, especially with the representatives of employers' and workers' organisations, in accordance with Article 3 of the Convention, and it hopes the Government will indicate any progress made in this respect in its next report.

#### Ireland (ratification: 1965)

1. The Committee refers to its previous comments and has noted the detailed information provided by the Government in reply in the Conference Committee in 1985 and in its reports for the periods ending June 1985 and June 1986.

2. The Government indicates that there was a slowing down in the rate of increase of unemployment, so that in June 1986 the rate of unemployment was 17.9 per cent, as against 17.5 per cent in June 1985. Registered youth unemployment rose faster than adult unemployment, and there was a noticeable increase in the female share of registered unemployment. Numbers of long-term unemployed increased by 9.7 per cent in 1985-86 (April to April). Employment and labour force figures have apparently continued to decline. Figures are given for job losses and gains broken down into sectors and into indigenous and overseas industries.

3. In these circumstances, the Government's policy outlined in its White Papers on Industrial Policy (1984) and Manpower Policy (1986) and the Plan "Building on Reality, 1985-87" reaffirms the objectives of increasing and maintaining employment, especially in the manufacturing and international services industries. These objectives are to be met by, inter alia, reorganising employment and training services, and by approaching industrial grants, technological and acquisition grants and employment grants to small industry more selectively. The report includes particulars of the community enterprise programme, the youth self-employment programme, and vocational training programmes.

4. The Committee welcomes the considerable efforts made by the Government to analyse the employment situation and adopt various overall and sectoral policies, labour market policies, and training policies, as well as direct employment creation programmes, to deal with the employment problems. It notes that so far such measures seem to have had only a limited effect. OECD studies have shown that the rate of unemployment - the second highest in the OECD - appeared to be continuing to rise in 1987-88, to reach almost 19-20 per cent, despite a trend towards the reduction of the proportion of the working age population due to emigration. Furthermore, there has apparently been some reduction recently in youth employment programmes, and in both indigenous and overseas-owned industries it seems that job losses have outnumbered job gains. The Committee hopes that the Government will keep the measures being taken in order to implement an employment policy in terms of Article 1 of the Convention under close review, as required by Article 2, in the light of the results achieved. It hopes that in relation to these results and in particular the measures of overall economic policy and decisions in the area of prices, incomes and wages, as well as measures in the field of social welfare, the Government will ensure the necessary consultation of employers' and workers' representatives and other persons affected. These consultations should take account of their experience and views and secure their co-operation as required by Article 3, so that the measures and policies give full weight to the requirements of an employment policy as laid down in Article 1, paragraph 1, of the Convention.

Italy (ratification: 1971)

1. The Committee takes note of the Government's report and substantial information on the formulation and implementation of the employment policy contained in the documents annexed.

2. In response to the previous comments of the Committee, the Government indicates the adoption, in 1985, of the draft document entitled "Employment Policy for the Next Ten Years" and its incorporation in the Finance Law of 1986, as an integral part of the economic and social policy of the Government. The ten-year programme sets forth a long-term strategy for employment policy, based on an analysis of the imbalance in the employment market, and takes account of the problems raised by the introduction of new technologies and industrial restructuring. It sets forth an active policy for the creation of employment in the public and private sectors, and the promotion of measures to increase labour market flexibility. The general orientation of the ten-year programme took concrete shape in the three-year plan for 1987-89 which contains numerous provisions stressing measures in the areas of employment of youth and women, matters relating to balanced regional development, inducements to the creation of new enterprises, and reform of the placement system. A number of these employment promotion measures involved training; in this regard, the Committee refers to its comment on Convention No. 142.

3. Referring to its previous comments, the Committee notes the Government's continuing efforts, in collaboration with employers' and

workers' organisations, to establish and apply an active employment policy. Nevertheless, these efforts apparently have not yet corrected the unemployment problem, which remains a matter of concern. Although for many years economic growth appears to have been relatively high, this has not apparently resulted in the creation of many new jobs. The Government states that the active population increased, so unemployment continued to increase beyond 11 per cent of the active population in 1986-87; this average rate conceals great variations among the ages, the sexes and regions.

4. The Committee hopes that the Government will continue and strengthen its action to apply the Convention and that its next report will contain detailed information on policies pursued to that effect, particularly indicating to what degree objectives of the employment plans and programmes adopted have been or are in the process of being attained and any particular difficulties encountered in achieving the employment objectives laid down.

#### Jamaica (ratification: 1975)

The Committee notes with regret that for the third year in succession the Government's report has not been received. It hopes that a full report in the form approved by the Governing Body will be supplied for examination by the Committee at its next session, and that it will contain full information on the matters raised in a direct request.

#### Jordan (ratification: 1966)

1. The Committee takes note of the Government's report and the appended documents.

2. The evaluation of the results of the second Five-Year Plan 1981-85, with regard to manpower, indicates the emergence and increase of unemployment in the 1980s (registered unemployment stood at 40,200 in 1985 - approximately 8 per cent of the active population) which was a clear reversal of the trend of the 1970s when the labour market was virtually balanced. The period covered by the second Plan was marked by, among other things, slow economic growth, persistently low labour force participation rates (particularly in the case of women), a slow-down in emigration and the simultaneous return of Jordanian workers, and manpower problems related to shortages of even the most basic skills coupled with over qualification at other levels.

3. The Committee notes with interest that the choice of objectives in the third Five-Year Plan 1986-90 shows that high priority has been given to maximising employment and formulating policies geared to balancing manpower supply and demand, including measures for geographical co-ordination. However, theoretically, the Plan's forecasts of trends in manpower supply and demand indicate considerable imbalance in employment: despite the planned creation of some 100,000 new jobs, the number of unemployed at the end of the period covered by the Plan would be 66,400, which is the equivalent of



9 per cent of the active population. According to the most recent information available at the ILO, the potential for imbalance between manpower supply and demand could be considerably greater.

4. The Committee hopes that in its future reports the Government will provide information on progress made in attaining the employment objectives of the third Five-Year Plan, in the light of the Convention's objectives of full, productive and freely chosen employment. It would be grateful if the Government would also state whether any particular difficulties have been encountered in this connection and how far they have been overcome (Article 1 of the Convention). Furthermore, a direct request is being addressed to the Government concerning certain more specific aspects of the application of the Convention, including those relating to technical co-operation projects.

Madagascar (ratification: 1966)

The Committee notes with regret that for the fourth year in succession the Government's report has not been received. It hopes that a full report in the form approved by the Governing Body will be supplied for examination by the Committee at its next session, and that it will contain full information on the matters raised in a direct request.

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

Panama (ratification: 1970)

The Committee notes with regret that for the second year in succession the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee notes with interest the Government's detailed report describing both the current employment situation and the job creation measures which have been proposed for the future. The report also gives background information concerning the effects of the economic crisis in the Latin American region on development planning and economic policy in Panama.

In the 1970s it is said, the State assumed a prominent role in the promotion and generation of investment and employment to assist development; this strategy was made viable by the wide availability of external financial resources obtained on the basis of public indebtedness. The planning process was strengthened, a National Development Plan and Strategy were formulated, and these provided the normative framework for policies and programmes for sectoral and regional development. The large public works carried out in the areas of education, health, economic infrastructure, transport, etc. formed the basis of the Government's employment policy, and as a result the State created directly around 77 per cent of the employment generated between 1974 and 1979.

However, during the 1980s, the economic and financial crisis of the Latin American region and the enormous weight of the external debt made it impossible for the State to maintain this policy, and led to a call for a more active role for private investment in national development and economic recovery. The Government notes, furthermore, that GDP, after experiencing high growth rates between 1978 and 1980, grew far less in the 1980s (2.1 per cent growth in 1981, 2.7 per cent in 1982, and 0.3 per cent in 1983, whereas preliminary figures for 1984 point to a 1.2 per cent decline in growth for this year).

The Government has pointed to the need to reformulate development policies, in order to provide a more active role for the private sector in solving national economic and social problems; a need that will be more acute for the future in view of the fiscal and financial restrictions on the public sector. It has also stressed the need to adopt measures of adjustment in the economic structure; and the need for such measures not to be "recessive" but, on the contrary, to stimulate production and productivity throughout the country.

The Committee has taken note of these statements. Noting, however, that there is apparently no official declaration or document of employment policy as explicitly requested under Article 1 of the Convention, the Committee hopes that an official and comprehensive employment plan will soon be adopted and that it will describe the full range of employment policy measures to be taken by the Government, including labour market policies, educational and training policies, and investment, fiscal and monetary, trade, prices and wages policies in so far as they relate to the saving or creation of employment. Further questions are raised in a direct request.

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

#### Paraguay (ratification: 1969)

1. In relation to its previous observation, the Committee notes the summary of the plan for population, human resources and employment contained in the National Economic and Social Plan, 1985-89, forwarded by the Government in its last report. The Plan outlines a fundamental strategy of developing the growth of the export sector and gradually implementing import substitution in view of the low level of overall internal demand, and the level and distribution of income. It also considers that priority should be given to a policy of public austerity and the need to maintain control over the expansion of the money supply and factors which may encourage costs to rise, in view of the high level of inflation. Furthermore, objectives have been put forward for implementation during the 1985-89 period regarding the labour force, employment and incomes. In this respect the Committee would be grateful if the Government would indicate in its next report the measures that have been adopted by the Government for the implementation of the 1985-89 Plan and the degree to which the

employment objectives set out therein have been achieved (Article 1 of the Convention).

2. The Government also refers in its report to the National Human Resources and Employment Plan. In this connection, the Committee takes note of the objectives regarding training, and the use and promotion of human resources set forth by the National Directorate of Human Resources of the Ministry of Justice and Labour following the technical assistance project PAR/82/001 "Human Resources Planning". The Committee requests the Government to supply detailed information in its next report illustrating the results achieved through the implementation of the Plan, and concerning the measures adopted to co-ordinate teaching and vocational training policies with employment opportunities (Article 1).

3. The Committee notes that the Government's report contains no information on fluctuations in employment and unemployment. According to information available to the Office, the national open unemployment rate, after falling between 1983 and 1985, went up again in 1986. The Committee would be grateful if the Government would indicate in its next report the measures in force to compile and analyse statistics on the labour market as a stage in the adoption of employment policy measures (Article 2). The Committee once again expresses the hope that the Government will supply statistics and any other available information on unemployment and underemployment, principally in the rural sector, and on the consequences for job creation of measures such as major public works programmes and the main colonisation and land-settlement programmes.

4. Finally, the Committee also notes that the Government's report does not contain the information requested in earlier comments on the application of Article 3. The Committee recalls its firm opinion of the need to ensure the application of Article 3 of the Convention as regards the consultation of representatives of persons affected by measures to be taken, and in particular representatives of employers and workers (paragraph 100 of Part I of its 1987 Report). It trusts that the Government will supply detailed information in its next report on the way in which the consultation and co-operation of employers' and workers' representatives and representatives of other sectors of the economically active population such as those working in the rural sector and the informal sector is secured in formulating and enlisting support for employment policies and measures.

#### Peru (ratification: 1967)

1. The Committee notes the Government's detailed report for the period ending 30 June 1986. The Government indicates in its report that in July 1985 new employment policy objectives were established with the aim of securing a progressive expansion of demand through gradual increases in the minimum wage and remuneration, reductions in income tax and purchase tax, and the implementation of official employment programmes. The Committee also notes the more recent information and statistics supplied by the Regional Employment Programme for Latin America and the Caribbean (PREALC). The Committee notes that during 1986 the policy of reactivating the economy,

redistributing incomes and stabilising prices on the internal market was pursued further. The measures adopted by the Government have resulted in growth in production (of 8.5 per cent during 1986, mainly in the manufacturing and construction industries) which resulted in a significant increase in employment (between July 1985 and December 1986 productive employment increased in metropolitan Lima by more than 7 per cent), a reduction in unemployment (unemployment rates in 1986 reached their lowest levels of the decade in Lima) and an increase in real wages, particularly in the low wage earning categories.

2. The Committee notes with interest the Government's concern to pursue, as a major goal, an active employment policy and trusts that the Government will continue to endeavour to stimulate economic growth and development, raise levels of living, meet manpower requirements and overcome the problems of unemployment and underemployment (Article 1, paragraph 1, of the Convention). In this connection, the Committee is addressing a request directly to the Government concerning matters relating to employment policies regarding its long- and medium-term economic objectives, the official employment promotion programmes, the measures adopted to encourage the adjustment of the labour force to structural changes and other matters relating to the application of the Convention.

#### Portugal (ratification: 1981)

1. The Committee takes note of the information supplied by the Government to the 73rd Session of the Conference (June 1987). It notes with interest the adoption of a "Programme for Structural Correction of the External Deficit and of Unemployment" (PCDED), which sets out, as a priority objective, in addition to reducing the external deficit, an active employment policy in the terms of the Convention. During its first phase (1987-90), the Programme provides for an annual growth in employment of 1 per cent, that is the creation of 32,000 jobs per year on average, in order to compensate for the effects of economic restructuring and reduce the unemployment rate from 8.6 per cent in 1986, to around 7 per cent in 1990. The Committee would be grateful if the Government would indicate, in its future reports, the extent to which the employment objectives set out in the PCDED have been achieved or are being achieved, and specify whether particular difficulties have been encountered and, if so, how they have been overcome (Article 1 of the Convention).

2. Noting that one of the prerequisites for implementing the PCDED was a decrease in the relative cost of labour, the Committee notes with interest the emphasis placed upon consultation and co-operation with the social partners as an essential component of a strategy whose aims (modernisation of the economy and reduction in unemployment) may give rise to disputes. It would be grateful if the Government would continue supplying information on consultations that take place with the representatives of the persons affected concerning employment policies, in accordance with the provisions of Article 3, with particular reference to the terms and scope of the agreements concluded between the social partners in the Standing Council for Social Consultation.

3. The Committee is also addressing a request directly to the Government concerning certain other points.

Spain (ratification: 1970)

1. The Committee notes the Government's report for the period ending 30 June 1986. It also takes note of the discussion on the application of the Convention in the Conference Committee on the Application of Standards in June 1985. It also notes the communication, dated 16 December 1987, of the Trade Union Confederation of Works' Committees and the attached document concerning the analysis of the labour market in Spain for 1986. In reply, the Government provided detailed information received at the ILO on 14 March 1988 and will be examined by the Committee at its next session together with the Government's report due in 1988.

2. The Committee has examined with interest the detailed information supplied by the Government with its report giving an in-depth description of a complex series of employment policy measures. It notes in particular that the main thrust of the action that has been taken is intended principally to increase the flexibility of the labour market, take measures to reduce the active population and stimulate the recruitment of workers, particularly through special employment promotion programmes supported by large subsidies from public funds. It would also appear that the employment measures lie within the framework of an economic policy to support growth.

3. The data contained in the Government's report show that the tendency for the overall level of employment to decrease ended in 1985. The latest annual survey by the OECD on Spain (January 1988) confirms the progress made by its estimate of total growth in employment in 1986 of 2.4 per cent. However, these positive results have not led to a fall in unemployment, due to a large increase in the active population caused by young persons coming onto the labour market and the substantial increase in the participation of women. Leaving aside the differences encountered in estimates of the sources and definitions used, the number of unemployed persons may be considered to be around 3 million for 1985-86, giving an overall unemployment rate reaching nearly 22 per cent. There are, however, a few signs of improvement seen in 1986, but these remain to be confirmed.

4. The Committee appreciates the Government's endeavours to implement an active and concerted employment promotion policy. It notes, in particular, that the various measures that have been taken have contributed, together with the increase in production, to a renewal of net job creation, even if these are often jobs of a precarious nature. The unemployment situation remains, however, a serious cause of concern. The overall rates recorded in 1985 and 1986 are around twice as high as the average for European OECD countries, and the unemployment rate for young persons and the proportion of the long-term unemployed are among the highest among these countries. The Committee hopes that the Government will maintain its endeavours, in

co-operation with the representatives of the persons affected, to decide on and keep under review, within the framework of a co-ordinated economic and social policy, the measures to be adopted in order to secure productive employment that is appropriate for all who are available for and seeking work. Certain specific aspects of the employment policy and the application of the Convention are the subject of a request being addressed directly to the Government.

Sweden (ratification: 1965)

1. The Committee notes with interest the information supplied in the Government's report for the period ending June 1986 as to the manner in which the provisions of the Convention are applied in Sweden. The principal aims of economic policy, including full employment, remain unchanged within the framework of an improved overall economic performance, employment continued to rise during the reporting period, and unemployment was again reduced. The report states that since the fiscal year 1983/84, when unemployment averaged 146,000 persons, the unemployment figures were reduced to 120,000 in 1985/86 or 2.7 per cent of the labour force. From figures published by OECD, it appears that unemployment continued to fall in 1987. The report states that in recent years labour market policy has aimed at supporting the expansion of the private sector in order to attain economic growth. The aims of the employment service have been to stress the placement and matching activities, give vocational training in order to ease the recruitment process, grant recruitment subsidies, stimulate employers to take up applicants regarded as long-term unemployed and give support to regional mobility. Training for the unemployed and persons who risk unemployment is regarded as the most important labour market policy measure. The Government's report sets forth measures in aid of the young (an employment guarantee for those aged 18-19 has been in operation since 1984 and those aged 20-24 may take up relief work), disabled workers, and the long-term unemployed, and to promote equality for women.

2. The development of the labour market is continuously analysed in the National Labour Market Board, and three times a year a detailed analysis of suitable measures is submitted to the Government. At the Board meetings, representatives from trade unions and 'employers' organisations meet together with community representatives.

3. The Committee has noted with considerable interest the many efforts made by the Government to give effect to the objectives of the Convention. In conformity with Articles 1, 2 and 3 of the Convention, the full employment objective remained a constant key policy target of the Government, implemented mainly through an active labour market policy regularly reviewed within the Labour Market Board, in collaboration with the employers, workers and representatives of the community. The Committee welcomes the very positive results achieved in the context of the economic adjustment programme put into operation over the past few years, where the employment policy has largely succeeded in providing overall employment, ensuring more equal access to employment for particular groups of the population, and maintaining

the unemployment rate at one of the lowest levels in the OECD. The Committee would be grateful if the Government would continue to supply full information in future reports.

United Kingdom (ratification: 1966)

The Committee refers to its previous observation, in which it noted that comments on the application of the Convention had been received from the Trades Union Congress (TUC) and looked forward to receiving full information from the Government to enable it to examine the issues raised in detail. It has noted the general indications given by the Government representative in the Conference Committee which do not, however, deal with the various points made by the TUC. The Committee therefore proposes to postpone further detailed examination of the application of the Convention to its next session. It hopes that the Government will supply a full report replying to the comments made by the TUC, as well as to the Committee's own previous comments and the questions in the report form, and that the report will be transmitted by the due date (15 October), so that it may receive the necessary detailed consideration at the Committee's next session.

Zambia (ratification: 1979)

1. Further to its previous observation, the Committee notes the statistics provided by the Government regarding reported redundancies and levels of employment in each industry. The Government states that it continues to pursue a policy of job creation but is hindered by the global recession. The Government states it is difficult to determine the level of employment in small-scale industries in the countryside. It refers to a "village service scheme" for the creation of rural industries, and also the objectives set by the 1987-88 Interim National Development Plan for dealing with unemployment, especially among the young.

2. The Committee has noted with interest the efforts made by the Government to compile statistical information on the employment situation and to devise programmes to generate new employment. According to available statistics, the level of unemployment appears nevertheless to be high and increasing, being affected by the stabilisation and restructuring policies. In this context the Committee welcomes the contacts made between the Government and the ILO Southern Africa Team for Employment Promotion (SATEP), and it hopes such contacts will be intensified as a means of promoting the employment aims of the Convention. The Committee also hopes that with the assistance of the responsible services of the ILO the Government will pursue its efforts to ensure that the aims of the Convention are given full weight in decisions taken in co-operation, for example, with the international financial institutions as to programmes relating to investment, trade, fiscal and monetary and prices, incomes and wages policies (referred to in the report form adopted by the Governing Body). The Committee hopes the Government will supply all

available information on the measures referred to above, and on the matters dealt with more specifically in the direct request.

3. As regards Article 3 of the Convention, the Committee hopes that the mechanics of the schemes to promote individual participatory democracy, again referred to by the Government, will soon be worked out, and that this will enable consultations between the Government and employers' and workers' representatives and other persons affected by employment policy measures to take place, as required by this Article.

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In addition, requests regarding certain points are being addressed directly to the following States: Austria, Barbados, Bolivia, Comoros, Djibouti, Greece, Guinea, Honduras, Islamic Republic of Iran, Iraq, Israel, Jamaica, Jordan, Libyan Arab Jamahiriya, Madagascar, Mauritania, Mongolia, Morocco, New Zealand, Nicaragua, Panama, Peru, Portugal, Senegal, Spain, Uganda, Yugoslavia, Zambia.

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

Australia (ratification: 1971)

#### Victoria

Further to its previous direct request, the Committee notes with satisfaction that the Industrial Relations (Employment Records) Regulation, 1984, requires employers to keep records indicating for each employee under 21 years of age the date of birth, which gives effect to Article 4, paragraph 4(a), of the Convention.

Malaysia (ratification: 1974)

Further to its earlier comments, the Committee notes with satisfaction the adoption of the Employment Regulations 1957 (Revised 1983), regulation 5, paragraphs 3 and 8, which provides for the particulars to be contained in the employer's register, in accordance with Article 4, paragraph 4, of the Convention.

Rwanda (ratification: 1970)

Further to its previous observations, the Committee notes from the Government's report that no progress has been made in the adoption of the draft Order to give effect to Article 2 and Article 4, paragraphs 1, 4 and 5, of the Convention. Since this matter has been the subject of comments for many years, the Committee trusts that the Government will be in a position to indicate in its next report that the necessary steps have been taken to give full effect to the Convention.

[The Government is asked to report in detail for the period ending 30 June 1989.]



Uganda (ratification: 1967)

Article 2, paragraph 1, of the Convention. In its previous comments the Committee, while noting that in practice no persons under the age of 16 years are employed underground in mines, had pointed out that the exception of apprentices from the prohibition of underground work which is provided for by section 51 of the Employment Decree of 1975 is not permitted by the Convention. The Committee notes with interest the Government's statement that this anomaly will be corrected during the forthcoming review of the labour legislation. The Committee hopes that the next report will indicate the measures taken to bring the legislation into full conformity with the Convention on this point.

Zambia (ratification: 1967)

Since 1975, the Committee has stressed the need to restrict the exception to the minimum age of 18 allowed by section 2117(2) of the mining regulations for male persons undergoing apprenticeship or other systematic vocational training to young persons over 16 years of age, in accordance with Article 2 of the Convention. Since 1978, the Government has referred to a draft amendment which would give full effect to the Convention. The Committee notes, from the Government's last report, that this draft amendment has not yet been adopted. It expresses the hope that the Government will make every effort to ensure the adoption of this amendment as soon as possible.

[The Government is asked to report in detail for the period ending 30 June 1989.]

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Australia, Belgium, Bolivia, Cyprus, Ecuador, Gabon, India, Nigeria, Thailand, Uganda, Zambia.

Information supplied by Malaysia and Saudi Arabia in answer to a direct request has been noted by the Committee.

**Convention No. 124: Medical Examination of Young Persons (Underground Work)**  
**1965**

Requests regarding certain points are being addressed directly to the following States: Gabon, Jordan, Portugal, Uganda.

**Convention No. 125: Fishermen's Competency Certificates, 1966**Sierra Leone (ratification: 1967)

Further to its previous observations and direct requests over a number of years, the Committee notes the Government's statement that in Sierra Leone the fishing industry is carried on mostly by vessels of less than 25 GRT, which are not covered by the Convention. The Government indicates that, in so far as there may be larger vessels to which the Convention does apply, efforts are being made to obtain information from the responsible authorities. In its previous observation the Committee noted that under section 57(n) of the Fisheries Management and Development Bill, the Minister would have the power to prescribe qualifications for fishing vessel manning and thus to draft regulations to apply the Convention. The Committee hopes that in its next report the Government will be able to indicate, as far as vessels covered by the Convention are concerned, whether it has been possible to prepare the regulations necessary in order to apply the Convention, and to supply full details.

Trinidad and Tobago (ratification: 1972)

The Committee notes the information provided by the Government in reply to its earlier observations. It notes in particular that, following discussions with IMO officials in 1986, a task force and a committee have been appointed whose terms of reference include the review of existing legislation concerning seafarers generally.

The Committee observes once again that no legislation has yet been adopted to give full effect to Parts II, III and IV of the Convention, though the Government has been referring to the drafting of such legislation for a number of years. The Committee reiterates its hope that the Government will soon be in a position to apply the Convention in full and will provide, in its next report, the information on measures taken in this regard.

The Committee further notes that the Caribbean Fisheries Institute has embarked on the preparation of a new programme of training of fishermen with the assistance of an IMO expert and that the curriculum laid down will ensure that these standards provided in the Convention will be met. The Committee asks the Government to indicate in its next report the progress made in this connection.

[The Government is asked to report in detail for the period ending 30 June 1988.]

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Belgium, Brazil, Djibouti, Panama, Senegal.

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

Panama (ratification: 1971)

The Committee has noted from the information supplied to the Conference in 1987 that no progress has so far been made in implementing the Convention, but that it was the Government's intention to find solutions gradually to the questions raised by the Committee. The Committee hopes that the Government's next report will indicate the measures taken or contemplated to give full effect to the Convention.

The Committee is again addressing a direct request to the Government concerning the application of the specific technical requirements contained in Part III of the Convention.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Panama, Sierra Leone.

**Convention No. 127: Maximum Weight, 1967**

Algeria (ratification: 1969)

See General observation.

Chile (ratification: 1972)

In reply to the Committee's previous comments, the Government has communicated a copy of a circular - Circular No. 30 of 4 December 1985 - from the Director of Labour to the Regional Directors of Labour and the Regional and Communal Labour Inspectors, laying down instructions on the maximum weight that may be manually transported by workers. This circular gives effect to Articles 3, 4 and 7, paragraph 2, of the Convention by reducing the maximum weight of a load permitted to be manually transported to 55 kilograms, which is the weight recommended in Recommendation No. 128, and by specifying that the maximum weight of loads for women and young workers shall be substantially less than that permitted for adult male workers.

The Committee notes this circular with interest. It requests the Government to indicate in its next report:

- whether and by virtue of what provision this circular repealed sections 57 and 252 of Supreme Decree No. 655 of 7 March 1941 laying down the general regulations on occupational safety and health, which fix a maximum weight of 80 to 86 kilograms;
- whether the circular has been published, for the information of employers, workers, courts and all other persons concerned; and
- whether the representative organisations of employers and workers concerned were consulted before its adoption, as required by Article 8 of the Convention.

Article 6 of the Convention. The Committee notes that section 8 of Circular No. 30 prescribes that mechanical devices shall be used for the transport of loads weighing over 55 kilograms. While this represents an improvement over the former weight limit of 80 kilograms for the use of such devices to be required, the Committee would point out that Article 6 requires suitable technical devices to be used as much as possible, not only for loads over the 55 kilograms weight limit. Please indicate the measures taken or envisaged in order to fully apply this provision of the Convention.

Article 7, paragraph 1. The Committee notes that Circular No. 30 does not provide that the assignment of women and young workers to manual transport of loads other than light loads shall be limited. The Committee again expresses the hope that the Government will take the necessary measures to ensure full compliance with this provision of the Convention.

Article 7, paragraph 2. The Committee notes that section 4 of Circular No. 30 prescribes that the maximum weight of loads for women and young workers shall be substantially less than that permitted for adult male workers, without specifying maximum limits. Please indicate whether weight limits have been prescribed or are envisaged in this regard.

#### Italy (ratification: 1971)

1. The Committee takes note of the Government's reply to its previous observations and notes with interest the new circulars addressed by the Ministry of Labour and Social Welfare to the regional inspection services and the occupational organisations, reminding them of the obligations under the Convention and inviting them to apply the Convention not only to the transport sector but to all activities involving the regular manual transport of loads.

The Committee again requests the Government, as it has done in several previous comments, to provide detailed information on the practical application of these circulars, and to supply the particulars called for under point V of the report form on the Convention (statistics, extracts of inspection reports on any violations in respect of the workers concerned, etc.).

2. The Committee also takes note of the Government's statement that the directives of the Central Commission for Portage which were to establish a limit to the weight to be transported manually by self-employed porters are still under consideration and that the collective agreements applicable to employed porters no longer contain provisions on the manual transport of loads owing to the increasing use of mechanical transport. The Committee requests the Government to supply a copy of the above directives as soon as they are established and to keep it informed of any developments in the application of the Convention to employed porters.

3. With regard to the application to women of Article 7 of the Convention (under which the assignment of women to manual transport of loads other than light loads shall be limited and the maximum weight of such loads shall be substantially less than that permitted for adult male workers), the Committee takes note of the report of the

National Committee for Equality to which the question was referred. The Committee recalls once again that the measures required under this Article of the Convention are not intended to prohibit the employment of women in such work or to infringe upon the principle of non-discrimination in respect of employment or occupation as laid down in the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) which was adopted earlier and which Italy has also ratified; these measures are intended simply to protect the health of women workers in the same way as other measures such as those providing for maternity protection.

The Committee therefore hopes that the Government will re-examine the matter and take the necessary measures to ensure that full effect is also given to the Convention regarding this point. The Committee hopes that the next report will contain information on the progress made in this connection.

Madagascar (ratification: 1971)

With reference to its previous observations, which it has been making for a number of years, the Committee notes that the Government's report contains no new information on the measures that may have been taken within the framework of decrees issued under the Labour Code in order to limit the weight of loads that may be transported by adult male workers, and therefore to give statutory effect through legislation or regulations of the national practice reported by the Government of a maximum weight of 50 kilos. The Committee trusts, once again, that the legislation that has been drafted for this purpose will be adopted in the very near future and that the Government will not fail to indicate in its next report the progress that has been achieved in this respect.

Tunisia (ratification: 1970)

Further to the comments it has been making over a number of years concerning the need to adopt legislation ensuring the application of the Convention, the Committee notes from the Government's report and the information submitted to the Conference Committee in June 1987, that the draft Ministerial Order to give effect to all the Articles of the Convention, has been submitted for comment to the central employers' and workers' organisations and the ministries concerned, and that the procedure for the approval of this draft will begin as soon as the above organisations have submitted their comments.

The Committee trusts that the above draft will be adopted in the very near future and that the Government will not fail to indicate the progress made in this respect in its next report.

[The Government is asked to report in detail for the period ending 30 June 1988.]

\* \* \*

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

### **Convention No. 128: Invalidity, Old-Age and Survivors' Benefits, 1967**

Uruguay (ratification: 1973)

Article 29 of the Convention. The Committee takes note of the comments of the "National Vanguard Movement of Retired Persons and Pensioners", concerning the manner in which the rates of cash benefits currently payable are reviewed. This communication was submitted to the Government for its comments on 11 March 1987. Since the Government has not as yet supplied any reply, the Committee can only stress the importance it attaches, in the present economic context, to the application of this provision of the Convention which provides that the rates of cash benefits currently payable shall be reviewed following substantial changes in the general level of earnings or substantial changes in the cost of living.

Furthermore, the Committee recalls that the application of this Article of the Convention was dealt with in a direct request in 1986. It therefore requests the Government to provide detailed information on the question raised by the National Vanguard Movement of Retired Persons and Pensioners and, in particular, to provide the statistical information called for in the report form under Article 29 of the Convention.

\* \* \*

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

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

Denmark (ratification: 1972)

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

Article 20 of the Convention. The Committee refers to its observation under Convention No. 81, Article 15(a).

Finland (ratification: 1975)

See under Convention No. 81.

France (ratification: 1972)

Articles 26 and 27 of the Convention. With reference to its previous observations, the Committee notes from the Government's report that due to internal operational difficulties it has not been possible to draw up the annual report on the activities of the labour inspection, employment and social policy services in agriculture. It trusts that the Government will not fail to take the necessary measures to ensure that these reports contain information on all the points listed in Article 27 and are published and transmitted to the ILO within the time limits set forth in Article 26.

Malawi (ratification: 1971)

Article 16, paragraph 2, of the Convention. In reply to the Committee's previous observation, the Government states that inspectors are provided with a certificate of appointment issued by the competent authority. The Committee must again point out that, under this provision of the Convention, in order to enter the private home of the operator of an agricultural enterprise, the inspector must be in possession of a special authorisation (the consent of the operator has been obtained).

Article 19. The Committee notes that the report contains no reply to its previous comments. It recalls that the Government intended to incorporate into the Workmen's Compensation Bill, still under study, both the obligation to notify occupational diseases (paragraph 1 of this Article) and provisions to ensure that, in accordance with the requirements of paragraph 2 of this Article, labour inspectors are as far as possible associated with any inquiry on the spot into the causes of the most serious occupational accidents or occupational diseases. The Committee trusts that the Government will adopt legislative measures in the near future enabling full effect to be given to these provisions of the Convention and requests it to report on any progress made in this connection.

Articles 26 and 27. See under Convention No. 81, Articles 20 and 21.

Romania (ratification: 1975)

See under Convention No. 81, Articles 20 and 21.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Burkina Faso, Colombia, Costa Rica, Guyana, Italy, Kenya, Madagascar, Morocco, Netherlands, Portugal, Uruguay.

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

**Convention No. 130: Medical Care and Sickness Benefits, 1969**Libyan Arab Jamahiriya (ratification: 1975)

The Committee takes note of the information supplied by the Government in its report and of the conclusions of the Committee for the Study of International Labour Conventions and Recommendations established by Order No. 72 of 1985. Since this information contains no further details in reply to the specific questions raised by the Committee of Experts in its previous direct request, the Committee is bound to repeat this request.

Luxembourg (ratification: 1980)

With reference to its previous comments, the Committee notes with satisfaction that section 10 of the Act of 15 December 1986 repeals section 119(2) of the Social Insurance Code so as to give better effect to Article 32 of the Convention, by withdrawing the possibility of suspending the application of the Act to foreigners who are nationals of States where the legislation denies equal treatment to Luxembourg nationals.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Costa Rica, Libyan Arab Jamahiriya, Luxembourg, Venezuela.

**Convention No. 131: Minimum Wage Fixing, 1970**

Requests regarding certain points are being addressed directly to the following States: Brazil, Guyana, Portugal, United Republic of Tanzania.

**Convention No. 132: Holidays with Pay (Revised), 1970**Yugoslavia (ratification: 1975)

With reference to its previous comments, the Committee notes with satisfaction that section 50, as amended, of the Labour Relations Act of Macedonia, guarantees proportionate holidays with pay to workers whose length of service in any year is less than that required for the full entitlement, in accordance with Article 4 of the Convention.

\* \* \*



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

### Convention No. 134: Prevention of Accidents (Seafarers), 1970

#### France (ratification: 1978)

The Committee notes with regret that for the third year in succession the Government's report has not been received and, furthermore, that the last report that was transmitted (in 1983) did not contain a reply to the comments that the Committee has made for a number of years. In these conditions, the Committee can only repeat its comments and trusts that a report will be supplied in time for its next session, and that it will contain full information on the measures taken to give effect to the following provisions of the Convention:

- (a) Article 4, paragraph 3(c), (g) and (i) (measures for the personal protection of seafarers against accidents that may be caused by machinery or by anchors, chains and lines and the supply and use of personal protective equipment).
- (b) Article 5 (obligation of shipowners, seafarers and others concerned to comply with the provisions on safety and accident prevention).
- (c) Article 6, paragraph 4, and Article 9, paragraph 2 (measures to bring to the attention of seafarers the provisions on accident prevention in general and to call their attention to particular hazards).

#### Nigeria (ratification: 1973)

The Committee notes with regret that for the fifth year in succession the Government's report has not been received and that consequently no information is available to it in reply to its previous comments. It is therefore bound to repeat the points raised previously in a new direct request and trusts that a report containing all the information called for will be transmitted for examination at its next session. The Committee also hopes that the Government will make every effort to take the necessary action in the very near future.

#### Romania (ratification: 1975)

In the comments it has made over a number of years, the Committee requested the Government to supply certain additional information to enable it to ascertain more clearly the manner in which effect is given to the Convention. The Committee notes with regret that once again the Government's report contains no reply to these comments. It is therefore obliged to raise the matter once again in the hope that

the Government will not fail to provide the following in its next report:

- (a) copies or relevant extracts of the reports on accidents occurring to seafarers which as a rule, the Government states, are prepared every six months and record the number, cause and nature of such accidents, and the measures taken to avert similar risks in the future. Please supply also copies of the studies conducted by the competent services concerning the methods used to eliminate such accidents (Article 2 of the Convention and report form adopted by the ILO Governing Body);
- (b) the text of the provisions in force concerning labour protection in maritime navigation referred to by the Government in its previous reports. Please indicate also the provisions which give effect to Article 4, paragraphs 2 and 3 and Article 5 of the Convention (specific measures for the prevention of accidents due to particular hazards of maritime employment and the obligation of shipowners, seafarers and others concerned to observe such measures).

[The Government is asked to report in detail for the period ending 30 June 1988.]

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Costa Rica, Denmark, Egypt, Finland, Greece, Israel, Italy, Mexico, Nigeria, Norway.

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

### Convention No. 135: Workers' Representatives, 1971

#### Finland (ratification: 1976)

The Committee notes with satisfaction that Act No. 29 to amend the Act on Supervision of Labour Protection (No. 131) was promulgated on 16 January 1987 and will come into force on 1 September 1988, thus giving full effect to Article 1 of the Convention.

#### Portugal (ratification: 1976)

The Committee takes note of the observations, transmitted with the Government's report, by the General Confederation of Portuguese Workers (CGTP-IN) concerning the application in practice of the national legislation ensuring the protection and facilities set out in the Convention, in particular the alleged refusal or weak approach of the Labour Inspectorate when requested to intervene to punish violations of the rights of workers' representatives in the undertaking.

The Committee notes that the Government not only denies this allegation, but provides statistics on the role of the Labour

Inspectorate in ensuring respect for the provisions of the trade union legislation.

Having examined all the information at its disposal, the Committee concludes that the CGTP-IN's comments do not contain information which might bring into question the application of the Convention.

Romania (ratification: 1975)

The Committee takes note of the information supplied by the Government in reply to its previous comments clarifying that there is no new trade union legislation although the question of revising the current legislation is still on the agenda.

In the future, if and when a decision is taken to revise the current texts, the Committee requests the Government to inform it of developments.

Sri Lanka (ratification: 1976)

The Committee notes the Government's reply to its previous observations concerning progress in the adoption of new labour relations legislation which would, in addition to the existing provisions, ensure full conformity with Article 1 of the Convention. In particular, the Committee notes the Government's assurance that this matter will be pursued once the situation prevailing in the country permits it.

It also notes the information provided by the Government to the Committee of the Conference, in the context of Convention No. 98, that certain documentation to provide protection against acts of anti-union discrimination was to be finalised and placed before the Cabinet of Ministers shortly. The Committee accordingly requests the Government to keep it informed of the adoption of this new legislation.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Costa Rica, Guyana, Iraq, Jordan, Netherlands, Yemen.

Information supplied by Guinea, Syrian Arab Republic and the United Republic of Tanzania in answer to a direct request has been noted by the Committee.

**Convention No. 136: Benzene, 1971**

Côte d'Ivoire (ratification: 1972)

The Committee notes from the Government's reply to its previous observations that the draft Decree to amend Decree No. 67-321 of 21 July 1967 codifying the regulatory provisions concerning occupational

safety, health and medicine issued under the Labour Code has been approved by the Health and Safety Technical Advisory Committee to which it had been submitted for its opinion.

The Committee therefore reiterates the hope that this draft will be adopted in the very near future thereby giving effect to the following provisions of the Convention: Articles 1 and 4 (prohibition of the use of products the benzene content of which exceeds 1 per cent by volume); Article 2 (use of harmless or less harmful substitute products instead of benzene or products containing benzene); Article 6, paragraph 2 (fixing the maximum concentration of benzene in the air of the places of employment at a level not exceeding 80 mg/m<sup>3</sup>); Article 8, paragraph 1 (adequate means of personal protection); Article 11, paragraph 2 (employment of young people under the age of 18 years only when they are undergoing education or training and are under adequate technical and medical supervision).

The Committee requests the Government to indicate the progress made in this respect in its next report.

[The Government is asked to report in detail for the period ending 30 June 1989.]

#### Greece (ratification: 1977)

With reference to its previous comments, the Committee notes with satisfaction the adoption of Ministerial Order No. 130879 of 29 May 1987 which defines the methods for measuring the concentration of benzene in the air of places of employment in conformity with Article 6, paragraph 3, of the Convention.

#### Morocco (ratification: 1974)

The Committee refers to the observations it has been making over a number of years and notes with regret that no measures have yet been taken to adopt regulations giving effect to the Convention whose provisions, for the most part, are not currently applied. However, the Committee notes the Government's statement to the effect that detailed provisions for the prevention of occupational diseases caused by benzene are to be included in the regulations part of the Labour Code and that the assistance of the ILO has been requested in this connection.

The Committee can therefore only urge the Government to ensure that the necessary measures are taken in the very near future to give effect to the following provisions of the Convention.

Articles 1 and 3, paragraph 1, of the Convention. (Determination of the application of the national provisions concerning the prevention of benzene poisoning 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 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.)

The Committee requests the Government to indicate the measures taken and the progress made in this connection.

[The Government is asked to supply full particulars to the Conference at its 75th Session, 1988, and to report in full for the period ending 30 June 1988.]

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Colombia, Finland, Greece, Guyana, Iraq, Israel, Italy, Kuwait, Nicaragua, Romania, Switzerland, Uruguay, Zambia.

Information supplied by Cuba, the Federal Republic of Germany and Syrian Arab Republic in answer to a direct request has been noted by the Committee.

### Convention No. 137: Dock Work, 1973

Requests regarding certain points are being addressed directly to the following States: Afghanistan, Egypt, Guyana.

### Convention No. 138: Minimum Age, 1973

German Democratic Republic (ratification: 1979)

Article 2 of the Convention. In its previous direct requests, the Committee had noted that under section 39, subsection 1, of the Labour Code, an employment relationship may be concluded on the basis of a contract of employment with a young person who has reached the age of 14 years and who, for any reason, has prematurely left school on the decision of the headmaster. Since the minimum age specified by the Government under Article 2, paragraph 1, of the Convention is 16 years, the Committee had requested the Government to take the

necessary steps to bring the legislation into full conformity with the Convention.

In reply, the Government indicates in its last report that it has carried out tripartite consultation with respect to this Article of the Convention which has confirmed its previous position, and that there has been no change in this respect. The Committee observes that exceptions to the specified minimum age for children who have reached the age of 14 would not be incompatible with the Convention if they were restricted to contracts of apprenticeship or to work carried out in vocational training schools or institutions, which, under Article 6 of the Convention are excluded from the Convention. However, the Government has confirmed that the exceptions under section 39, subsection 1, of the Labour Code, are for normal contracts of employment. The Committee hopes that the Government will reconsider its position and that it will indicate in its next report the measures taken or envisaged to bring this provision into full conformity with Article 2, paragraph 1, of the Convention.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Antigua and Barbuda, Costa Rica, Cuba, Equatorial Guinea, Federal Republic of Germany, Honduras, Iraq, Ireland, Israel, Italy, Kenya, Libyan Arab Jamahiriya, Luxembourg, Nicaragua, Niger, Norway, Romania, Rwanda, Spain, Togo, Yugoslavia, Zambia.

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

### Convention No. 139: Occupational Cancer, 1974

#### Federal Republic of Germany (ratification: 1976)

Further to its previous direct requests, the Committee notes with satisfaction that under Sections 12 and 13 of the Accident Prevention Regulations on preventive occupational medicine (VB6 100) of October 1984, workers who have been exposed to carcinogenic substances are provided with such medical examinations and other tests as are necessary to supervise their health, following the period of employment involving such exposure, in accordance with Article 5 of the Convention.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Argentina, Denmark, Egypt, Guyana, Hungary, Iraq, Italy, Nicaragua, Norway, Sweden, Uruguay, Venezuela, Yugoslavia.

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

**Convention No. 140: Paid Educational Leave, 1974**Afghanistan (ratification: 1979)

The Committee notes that the Government's report gives no further information in reply to the earlier direct requests. It must again raise the matter in a new direct request. It hopes that the Government will not fail to take the necessary steps and supply the information requested.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Kenya, United Kingdom, Yugoslavia.

**Convention No. 141: Rural Workers' Organisations, 1975**

Requests regarding certain points are addressed directly to the following States: Afghanistan, France, Guyana, Nicaragua, Philippines, Venezuela, Zambia.

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

**Convention No. 142: Human Resources Development, 1975**Finland (ratification: 1977)

Further to its previous observation, the Committee takes note of the report transmitted by the Government as well as the information communicated to the Conference in 1984. The Committee has also taken due note of the comments of the Finnish Employers' Confederation (STK), the Employers' Confederation of Service Industries (LTK) and the Confederation of Salaried Employees in Finland (TVK).

1. The Committee recalls the previous comments of the STK and the LTK calling for the development of tripartite co-operation on vocational guidance and training in accordance with Article 5 of the Convention. It notes now the STK's statement that such matters have increasingly been dealt with on a tripartite basis; however, the STK and the LTK consider that employers' realistic demands and statements have not been taken into account. In the Government's view, the labour market parties have the opportunity to take part in the planning of vocational guidance and education in accordance with the Convention. The Committee recalls that, under Article 5, policies and programmes for vocational guidance and training should be formulated and implemented in co-operation with employers' and workers' organisations, amongst others. It hopes that all parties concerned will endeavour to ensure that the necessary co-operation is achieved,

and that the Government will provide all due information in future reports.

2. The Committee recalls that the Central Organisation of Finnish Trade Unions (SAK) has previously opposed the provision of part of vocational training at the workplace, where it may be more narrow and less well supervised. The TVK now observes that the goals of educational reform have not yet been reached, and some employers have misused the apprenticeship training scheme as a means of obtaining cheap labour; the TVK also considers it should be better supervised. The STK and LTK, however, favour a permanent increase in practical training at the workplace under the until now temporary training contracts system. The Government has stated that the practical training system is due to be established in 1988. The Committee considers that the apparently differing views on this question should also be the subject of the co-operation referred to in Article 5 of the Convention, as a means of ensuring that these measures of vocational training form an integral part of overall policies and programmes within the terms of Article 1 of the Convention. It hopes that the Government will provide further details of the practical effect of this aspect of its vocational training strategy.

#### United Kingdom (ratification: 1977)

In its previous observation, the Committee referred to the establishment alongside the statutory Industrial Training Boards (ITBs), of Non-Statutory Training Organisations (NSTOs). The Government had stated that "internal labour market training" was the primary source of training in the UK and was funded almost entirely by individual employers, as well as being largely provided by them. In its latest report (received 1 February 1988), the Government states that there has now been a substantial increase in public funding of the internal labour market. Statistical and other practical information on NSTO activities are not available, but the Government recognises the need for more information about employers' needs - especially training - and NSTO activities: a comprehensive study of vocational education and training funding is due to be completed by the Manpower Services Commission in spring 1988, and a skills unit was set up in 1986 to improve information on skills demand and supply. The Government has provided a summary of the most recent labour force survey (relating to spring 1985) and global figures for Youth Training Scheme training (in ITBs and NSTOs combined, also relating to 1985). The Government's report includes details and documentation on the policies behind a large number of training activities and general indications as to how they are carried out.

In comments received on 16 February 1988, and forwarded to the Government, the Trades Union Congress refers to certain measures concerning the organisation of the Public Employment Service and certain legislative proposals falling outside the reporting period. The Committee hopes that the Government will include any comment it considers appropriate in this connection in its next report.



The Committee welcomes the Government's decision as to the improvement of data concerning employment needs and training, given the fundamental importance of up to date, comprehensive and reliable statistics in ensuring policies and programmes of vocational guidance and training which are effective and appropriate to national conditions and can be adopted and developed as required by the Convention. It hopes the next report will include full information on the results of the work of the skills unit. As regards funding, the Committee has noted that the financial basis of "internal labour market training" has substantially switched from individual employers to public funding. It hopes the next report will also include details of the study of funding referred to and any further adjustment of policies for the implementation of the Convention considered appropriate.

[The Government is asked to report in detail for the period ending 30 June 1988.]

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Algeria, Argentina, Austria, Brazil, Byelorussian SSR, Cuba, Ecuador, Egypt, France, Guinea, Guyana, Hungary, Iraq, Italy, Jordan, Kenya, Mexico, Netherlands, Nicaragua, Poland, Portugal, San Marino, Spain, USSR, Venezuela, Yugoslavia.

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

### Convention No. 143: Migrant Workers (Supplementary Provisions), 1975

#### Italy (ratification: 1981)

1. Further to its previous direct request, the Committee notes with satisfaction the adoption of Act No. 943 of 30 December 1986 laying down provisions on the placement and treatment of migrant workers from countries outside the European Community and against clandestine immigration. The Act guarantees to the above-mentioned migrant workers who are lawfully resident in Italy and their families equal treatment and full equality of rights with Italian workers and sets up mechanisms and procedures aiming at enabling the Government to better monitor and regulate migratory flows, prevent and prohibit the illegal employment of migrant workers and the organisation of abusive immigration movements, and implement its policy of equality of treatment and opportunity for migrant workers. In particular, the Act now gives effect to the following provisions of the Convention:

Articles 2 and 6 (measures to determine the existence of illegal movements of immigration and to detect the illegal employment of migrant workers).

Articles 3, 4 and 5 (measures within the Government's jurisdiction and in collaboration with other Members to suppress clandestine movements of migrants and illegal employment of migrants

and against those who organise illicit or clandestine movements of migrants and those who employ migrants illegally).

Article 6 (definition of sanctions against those who employ migrants illegally and those who organise abusive movements of migrants for employment).

Article 8, paragraph 1 (guarantee that the loss of employment shall not entail the withdrawal of the authorisation of residence).

Article 8, paragraph 2 (equality of treatment in respect of the provision of retraining).

Article 9, paragraph 1 (equality of treatment in respect of rights arising out of past employment).

Article 12, paragraph (c) (promotion of educational programmes and development of activities aimed at acquainting migrant workers with the policy of equality and at providing assistance to them in the exercise of their rights).

Article 12, paragraphs (e) and (f) (application of a social policy enabling migrant workers and their families to share in advantages enjoyed by nationals, while taking account of their special needs and in particular of their cultural and linguistic identity).

Article 13 (measures to facilitate family reunification).

Article 14(a) (repeal of limitations to the free choice of employment going beyond those permitted by the Convention, for domestic workers).

2. The Committee would be grateful if the Government would provide in its next report information on the practical application of Act No. 943. In particular, it hopes that the next report will indicate the results achieved in obtaining data on migratory movements and eliminating manpower trafficking and illegal employment of migrant workers and on the practical measures taken, in accordance with Article 12 of the Convention, to promote and ensure the observance of the policy of equality of treatment.

3. With reference to the observations submitted in 1984 by the Italian General Confederation of Labour (CGIL) on the application of this Convention and of Convention No. 97, the Committee notes that most of the points raised in these observations are superseded by the adoption of Act No. 943. However, as regards migrant domestic workers, which represent an important proportion of the migrant labour force in Italy, the CGIL, while recognising that the relevant collective agreement is applicable to all workers in this branch of activity, stresses that the conditions prescribed are minimum ones, which in fact now only apply to foreigners. While noting that Act No. 943 has removed certain limitations which were especially applicable to the employment of migrant domestic workers, the Committee recalls that Part I of the Convention does not only call for the elimination of discrimination against migrant workers lawfully in the country. It requires action by the public authorities to promote equality of opportunity in practice (see in this regard paragraphs 285 and ff. of the Committee's 1980 General Survey on Migrant Workers). The Committee therefore hopes that the Government will be able, in co-operation with employers' and workers' organisations, to take and promote such measures as may be appropriate to secure the acceptance and observance in practice of the policy of equal opportunity and treatment in respect of domestic workers, as required by Article 12

(a) and (b) of the Convention. It hopes that the next report will contain information in this regard.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Guinea, Italy, Kenya, Sweden, Venezuela.

**Convention No. 144: Tripartite Consultation (International Labour Standards)  
1976**

Requests regarding certain points are being addressed directly to the following States: Barbados, Ecuador, Greece, San Marino, Sierra Leone, Suriname, Syrian Arab Republic.

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

**Convention No. 145: Continuity of Employment (Seafarers), 1976**

Requests regarding certain points are being addressed directly to the following States: Egypt, Italy.

**Convention No. 146: Seafarers' Annual Leave with Pay, 1976**

Italy (ratification: 1981)

The Committee refers to its previous observations, in which it noted the comments of the workers' organisation FEDERMAR (the Maritime Federation). FEDERMAR referred to a judgement of the Palermo Labour Court dated 16 October 1985 ruling that annual paid leave due under the Convention was effective from 29 July 1982 (viz. the day after the date on which the present Convention in fact came into force for Italy). FEDERMAR pointed out that the collective agreement of 20 December 1984 had only fixed a date of 1 January 1985 for applying the provisions of the Convention. FEDERMAR also observed that the collective agreement provided for Sundays and other public holidays not to be counted as part of annual paid leave, but failed to make such provision for Saturdays: Saturdays worked on board had previously given entitlement to compensatory shore leave or payment. The increase in annual paid leave from 26 to 30 days was also achieved, according to FEDERMAR, by incorporating an abolished public holiday. FEDERMAR has considered these developments in conflict with Article 3, paragraph 3, and Article 6 of the Convention. It states that it was compelled to sign the agreement in question, following strikes and other attempts to obtain satisfaction, but it was unable to obtain any changes regarding the matters at issue.

These comments were forwarded to the Government in 1985 for any comments it wished to make. In its report dated 2 June 1987, the Government has now confirmed that the Palermo court of first instance had admitted complaints brought by a number of maritime workers alleging non-compliance with obligations imposed by the introduction of the present Convention into the domestic legal system (through ratification) and alleging that the treatment accorded to seafarers in respect of holidays was incompatible with such obligations. However, on appeal, the Civil Court of Palermo overruled the first instance judgement and rejected the claims of the maritime workers. The Government has stated that information on further developments in the proceedings is awaited. In another report dated 21 October 1987, the Government indicated that there have been no further changes in legislation or agreements relating to the Convention.

The Committee has taken due note of FEDERMAR's comments and the brief response of the Government. It recalls that the Convention came into force for Italy on 28 July 1982, from which time the Government is bound to guarantee the protection laid down in, *inter alia*, Articles 3 and 6. As regards Article 6, the Committee recalls that under paragraph (a) public and customary holidays and under paragraph (c) temporary shore leave may not be counted as part of the minimum annual leave with pay; compensatory leave of any kind - under conditions to be determined by the competent authority or through the appropriate machinery - also may not be counted as part of the minimum annual leave with pay (paragraph (d) of this Article). In regard to Saturdays worked on board ship, it appears from the observations of FEDERMAR that under conditions operating up to 20 December 1984 compensatory leave was granted as of right, but that this arrangement has been altered through appropriate national machinery, i.e. the collective agreement of 20 December 1984. The Committee would be grateful if the Government would indicate how, under present conditions, it is ensured that Article 6 of the Convention is fully applied in practice. In regard to the public holiday which has been abolished, it would appear to the Committee that the provisions of paragraph (a) of Article 6 concerning public holidays have ceased to be applicable. The Committee would hope the Government will supply its own comments on this matter.

The Committee must repeat its request that the Government supply a copy of the collective agreement of 20 December 1984. It hopes the Government will also supply a copy of the judgement of the Civil Court of Palermo and any other judicial decisions relating to the application of the Convention. The Committee trusts the Government will provide full information on the above matters in its next report.

\* \* \*

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

**Convention No. 147: Merchant Shipping (Minimum Standards), 1976**Spain (ratification: 1978)

Article 2, paragraph (e) of the Convention. With reference to the comments submitted by the College of Merchant Navy Officers of Spain (COMME) and the Government's reply in this connection, see under Convention No. 53.

In a direct request the Committee refers to other aspects of the application of the Convention.

United Kingdom (ratification: 1980)

The Committee has noted the information provided by the Government in reply to its previous comments.

1. Article 2(a)(i) of the Convention. In its previous observation the Committee referred to the comment of the Trades Union Congress (TUC) that hours of work are subject to collective bargaining: working excessive hours was said to be widespread and could have a serious effect on the work performance of seafarers and at times affect the safety and operation of vessels. The Government indicated that it was considering its position with regard to hours of work. In its latest report the Government states that it has reconsidered the necessity for regulating the hours of work of watchkeepers: it now takes the view that there is no demonstrable correlation between the hours of work of watchkeepers and shipping casualties and therefore insufficient reason to limit the shipowner's right to manage his ships or the seafarer's ability to earn overtime payments by introducing regulations. The Committee recalls that, in the terms of the Convention, laws or regulations laying down safety standards including hours of work are a matter of ensuring the safety of life on board ship. Such safety standards are not limited in application to watchkeepers. The Committee would therefore be grateful if the Government would indicate the measures taken or proposed in this respect. The Committee hopes that the Government will also include in its next report any comments it considers appropriate following the observations regarding this matter received through the TUC from the National Union of Seamen and forwarded to the Government on 25 February 1988.

2. Article 2(a). (Conventions listed in the Appendix to Convention No. 147 but not ratified by the United Kingdom.)

Convention No. 73: Article 1, paragraph 3(a), and Article 5, paragraph 1. In reply to the Committee's previous comments, the Government states that in view of the current level of medical knowledge and the general level of health of the population of the United Kingdom, it is quite sufficient to allow most people under the age of 40 to be medically examined every five years; that neither the employers' nor the workers' representatives have asked for the period to be reduced; and that a doctor has discretion to limit the validity of the medical certificate of any seafarer he believes likely to decline in health. The Committee had pointed out that the discrepancy between the requirements as to the frequency of medical examinations

for seafarers in the national Regulations (every five years for those under 40) and in the Convention (every two years for all seafarers covered by the Convention) is too wide to be considered substantially equivalent for the purposes of the present Convention. The Committee hopes the Government will consider the matter further with a view to ensuring that the national Regulations more closely conform with the provisions of Convention No. 73 in this respect, as required by Article 2(a) of the present Convention.

As regards the scope of application of the provisions of Convention No. 73, the Government states that it applies Convention No. 147 but not Convention No. 73, which it has not ratified. It states that the definition of a small vessel which has been adopted for Convention No. 147 is the only one applicable to all aspects of that Convention and the exclusion in Article 1, paragraph (3)(a), of Convention No. 73 is not relevant for this purpose. The Committee recalls that the Regulations concerning medical examination of seafarers apply only to ships of 1,600 or more gross registered tons (GRT), whilst Convention No. 73 allows the exclusion of vessels of less than only 200 GRT. The Committee considers that in determining, under Article 1, paragraph (4)(c), which are the "small vessels" which may be excluded from the requirements of Convention No. 147, regard must be had to the provisions of the respective Conventions referred to in the Appendix to Convention No. 147. Thus the discretion granted under Article 1, paragraph (4)(c), to the competent authority in consultation with the most representative organisations of shipowners and seafarers to exclude "small vessels" is not unlimited. Whereas ratification of Convention No. 147 involves the undertaking by a member State to satisfy itself that its laws or regulations are substantially equivalent to unratified Conventions referred to in its Appendix - viz. Convention No. 73 in this case - the Committee has noted that the difference of 1,400 GRT between the tonnages referred to in Convention No. 73 and the national Regulations respectively appears to be too wide to be considered substantially equivalent for present purposes. The Committee hopes the Government will therefore reconsider the scope of the national Regulations, in consultation with shipowners' and seafarers' representative organisations, with a view to bringing them more into line with the requirements of Convention No. 73.

3. Article 2(f). In its previous observation, the Committee noted the TUC's concern as to the number of inspectors available and the consistency of inspections of United Kingdom registered ships. In its latest report, the Government includes information as to the numbers and results of inspections of ships and the action taken. The Committee hopes the Government will continue to supply such information.

4. Article 4. The Committee notes the information provided by the Government, following its previous observation and the comments of the TUC, regarding the numbers of inspections and delays/detentions of ships covered by the Paris Memorandum of Understanding on Port State Control broken down by flag State, extracted from the Annual Report of the Secretariat of the Memorandum. It hopes the Government will continue to supply such information.

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In addition, requests regarding certain points are being addressed directly to the following States: Belgium, Costa Rica, Denmark, Egypt, Greece, Japan, Liberia, Morocco, Spain.

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

**Convention No. 148: Working Environment (Air Pollution, Noise and Vibration),  
1977**

Spain (ratification: 1980)

In its observation of 1986, the Committee had referred to comments made by the Spanish Confederation of Employers' Organisations (CEOE) and by the General Union of Workers (UGT). The comments of the CEOE related to the application of Article 8 of the Convention and called for a comprehensive and urgent updating of the technical criteria for determining the permissible levels of exposure to chemical and physical pollutants, since the Spanish legislation was stated to be out of date and so worded as to be difficult to apply. The comments of the UGT also related to Article 8 and pointed out that asbestos was the only occupational risk for which an exposure limit had been fixed by law after consultations with this trade union. The UGT had also made comments on the application of Article 9, under which every hazard covered by the Convention shall be eliminated as far as possible by technical measures and by supplementary organisational measures, and of Article 13, under which all persons concerned shall be informed of occupational risks and instructed on measures of prevention.

The Committee notes the Government's reply to its previous observation and would like to draw attention to the following points:

Article 8, paragraphs 1 and 3, of the Convention. The Committee notes the adoption of Order No. 10125 dated 9 April 1986 for the prevention of occupational risks due to lead and its ionic compounds and Order No. 10939 dated 9 April 1986 on the prevention of occupational risks due to mono vinyl chloride. It notes with satisfaction that both Orders, set, inter alia, exposure limits in accordance with current international knowledge and data and that they were adopted after consultation with the most representative employers' and workers' organisations in conformity with paragraph 2 of the above-mentioned Article and of Article 5 of the Convention.

The Committee also notes that the draft amendment and updating of the chapter on noise and vibration in the General Ordinance on Occupational Safety and Health is awaiting the publication of a corresponding EEC directive. The Committee hopes that this draft, as well as the draft regulations for the prevention of occupational risks to workers, to which the Government made reference in its previous report, will establish criteria for determining hazards of exposure and, where appropriate, specify exposure limits in the light of current national and international knowledge and data and that they will be adopted in consultation with the most representative employers' and workers' organisations.

The Committee also notes the activities of the Occupational Health and Safety Institute in the field of protection against occupational risks and its activity in the elaboration and updating of standards in this area. It would be grateful if the Government would continue to indicate the progress made in this field, giving details of the criteria established and information on how these criteria and exposure limits are regularly supplemented and revised in the light of current national and international knowledge and data. Please also indicate how account is taken of any increase in occupational hazards resulting from several harmful factors at the workplaces required by paragraph 3 of this Article of the Convention.

Article 9. The Committee notes the information supplied concerning the labour inspection and medical examination services as well as the activities of the Occupational Health and Safety Institute in the field of protection against occupational risks. However, this information does not respond to the UGT's comment that no provision has been made for any kind of technical or supplementary organisational measures to eliminate hazards due to air pollution or noise. The Committee notes in this regard that certain measures are prescribed in sections 30 and 31 of the General Ordinance on Occupational Safety and Health and that specific technical as well as organisational measures are prescribed in sections 5 and 6 of Order No. 24732 regulating work involving risks from asbestos, dated 31 October 1984, in sections 5 and 6 of Order No. 10125, dated 9 April 1986, regulating occupational risks due to lead and its ionic compounds and in sections 4 and 5 of Order No. 10939, dated 9 April 1986, regulating occupational risks due to mono vinyl chloride.

The Committee asks the Government to supply information on the practical implementation of these provisions as well as information on any other technical measures prescribed for the design or installation of new plants or processes or for those already existing (such as the use of enclosed systems, substitution of dangerous materials, isolation of dangerous operations or machinery) and for organisational measures of work (such as reduction of working time, rotation of jobs, limitation of the number of persons exposed) in conformity with this Article of the Convention.

Article 13. The Committee notes from the Government's reply that the social partners participate in the elaboration of standards concerning the working environment and that they are represented on the General Council of Occupational Safety and Health Institute. However, in its comments, the UGT had referred to the lack of information received by individual workers in the workplaces concerning their exposure to occupational hazards. As, however, under various legislative provisions, workers are entitled to receive, for example through the health and safety committees at the undertaking level, instruction and information on health and safety matters, the Committee again requests the Government to provide in its next report detailed information on the practical application of this Article of the Convention, including the manner in which the workers are adequately informed of the occupational hazards in the workplace, the contents of such information on occupational risks, particularly in regard to the types of chemicals handled in the workplace and the manner in which workers and their occupational organisations



(including health and safety committees) may receive reports on occupational hazards or methods of prevention prepared by the Occupational Safety and Health Institute.

Zambia (ratification: 1980)

Further to its previous direct requests, the Committee notes that there is no legislation at the moment which applies the provisions of the Convention. It notes from the Government's last report that draft legislation is still under consideration by the relevant authorities; however, the report does not indicate what, if any, progress has been made in this respect. The Committee hopes that the Government will take all necessary measures to adopt legislation to give effect to the Convention in the very near future, and that the next report will contain information on the progress made in this respect, including copies of the legislative texts if enacted.

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In addition, requests regarding certain points are being addressed directly to the following States: Brazil, Costa Rica, United Republic of Tanzania, Yugoslavia.

**Convention No. 149: Nursing Personnel, 1977**

Requests regarding certain points are being addressed directly to the following States: Denmark, Egypt, Guyana, Iraq, Portugal, Venezuela, Zambia.

**Convention No. 151: Labour Relations (Public Service), 1978**

Finland (ratification: 1980)

With reference to its previous observations, the Committee notes with interest that the Government has supplied a copy of Act No. 764/86 (which came into force on 1 January 1988) to amend Act No. 664/70 on Civil Service Collective Agreements. The Committee is addressing a direct request to the Government on certain aspects of this Act.

Guinea (ratification: 1982)

With reference to its previous observation, the Committee notes with satisfaction that Ordinance No. 114/PRG of 28 August 1986 has repealed the legislation which had placed the National Confederation of Workers of Guinea (CNTG) - the private and public sector union - under supervision.

Peru (ratification: 1980)

The Committee notes with interest as regards Article 7 of the Convention that following the deliberations of the joint commission referred to in earlier reports, Supreme Decree No. 069-85-PCM has been promulgated setting up procedures for the bilateral negotiation of increases in remuneration and conditions of work for local government employees. It likewise notes that, with Supreme Decrees Nos. 057-86-PCM and 107-87-PCM, stages I and II of the gradual equalisation process for the unified remuneration system for the public service have been implemented.

The Committee trusts that the Government will continue to supply information on the conclusions of the Committee responsible for revising certain freedom of association standards - which has been working since 1985 according to Government reports - in the context of its reports on Conventions Nos. 87 and 98.

United Kingdom (ratification: 1980)

With reference to its previous observation requesting further information on certain practical problems in the application of Articles 1, 4 and 8 of the Convention, the Committee takes note of the information supplied in the Government's report.

The Committee is examining under Convention No. 98 certain comments on the application of Article 7 of the Convention with relation to the Teachers' Pay and Conditions Act 1987, presented by the World Confederation of Organisations of the Teaching Profession (WCOTP) in December 1986 and replied to by the Government in 1987.

1. Article 1. As regards the non-application of employment legislation to the staff of the Houses of Parliament, the Committee notes with interest that, following a recent High Court decision, it now appears that the House of Commons staff, although not civil servants, do enjoy normal employees' rights. The position of the House of Lords staff (who are also not civil servants) remains subject to a House agreement that basic employment protection applies to its staff by analogy; in addition the Government states that it is held that the provisions of the Trade Union and Labour Relations Act 1974 relating to trade union immunities and peaceful picketing also apply to these employees. The Committee requests the Government to explain the change in position on this latter point and to clarify whether it was the recent High Court decision which held that the 1974 Act covers House of Lords staff.
2. Article 4. In reply to the question of whether certain trade unionists in the civil service were subject to anti-union discrimination when warned about the form of the lobbying of Members of Parliament on the closure of Manpower Services Commission skills centres, the Committee notes the Government's assertion that there is no ban on bona fide lobbying of MPs. The Committee considers that there is no information before it to change its earlier position on this matter, namely that given the special circumstances of the particular incident, the

Government's action did not go beyond the guarantees laid down in this Article.

3. The Committee is addressing a direct request to the Government on Articles 7 and 8 of the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: Finland, Guinea, Guyana, Spain, United Kingdom, Zambia.

### **Convention No. 152: Occupational Safety and Health (Dock Work), 1979**

#### Finland (ratification: 1981)

The Committee notes with satisfaction the adoption of new Regulations to be observed when loading and unloading ships (Council of State Decision No. 915/1985) and the provisions passed in 1986 by the Ministry of Health and Social Affairs regarding appliances and loose gear to be used when loading and unloading ships, their inspection, use and approval pursuant to the said Regulations. The above regulations and provisions give effect to the following Articles of the Convention:

Article 2, paragraph 2 (application of the safety provisions to ships of less than 200 gross registered tons); Article 4, paragraph 1(c) (information and training); Article 4, paragraph 2(a) (construction, equipping and maintenance of places at which dock work is carried out); Article 8 (taking of protective measures when a workplace has become unsafe); Article 16, paragraph 1 (safe embarking, transport and disembarking to and from a ship); Article 18, paragraphs 2 and 4 (safe lifting of hatch covers and appointment of an authorised person); Article 19, paragraphs 1 and 2 (protection of openings in or on a deck and hatchways); Article 20, paragraph 1 (safety of workers in the hold or on a cargo deck); Article 29 (safety requirements for pallets and similar devices); and Article 31, paragraph 1 (lay out of freight container terminals).

The Committee addresses directly to the Government a request concerning some other aspects of the application of the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: Cuba, Finland, Federal Republic of Germany, Mexico, Norway, Spain, Sweden.

**Convention No. 153: Hours of Work and Rest Periods (Road Transport), 1979**

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

**Convention No. 154: Collective Bargaining, 1981**

Requests regarding certain points are being addressed directly to the following States: Norway, Spain.

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

**Convention No. 155: Occupational Safety and Health, 1981**

Requests regarding certain points are being addressed directly to the following States: Cuba, Finland, Mexico, Norway.

**Convention No. 156: Workers with Family Responsibilities, 1981**

Requests regarding certain points are being addressed directly to the following States: Finland, Norway, Sweden, Venezuela.

**Convention No. 158: Termination of Employment, 1982**

Requests regarding certain points are being addressed directly to the following States: Spain, Sweden.

**Convention No. 159: Vocational Rehabilitation and Employment (Disabled Persons), 1983**

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

**Appendix I. Receipt of Detailed Reports on Ratified Conventions (Member States)  
as at 23 March 1988**

*(Art. 22 of the Constitution)*

Reports requested: 1,793      Reports received: 1,408      Reports not received: 385

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Afghanistan . . . . .	0		8	13, 100, 105, 111, 139, 140, 141, 142	8
Algeria . . . . .	17	13, 19, 29, 32, 62, 63, 69, 73, 74, 81, 96, 100, 105, 120, 127, 138, 142	0		17
Angola . . . . .	9	19, 27, 29, 69, 73, 74, 81, 100, 105	0		9
Antigua and Barbuda . . . . .	6	17, 19, 29, 81, 105, 138	0		6
Argentina . . . . .	19	5, 10, 13, 16, 19, 27, 29, 32, 33, 34, 53, 73, 81, 100, 105, 124, 129, 139, 142	0		19
Australia . . . . .	12	10, 16, 19, 27, 29, 63, 81, 100, 105, 123, 142, 150	0		12
Austria . . . . .	14	5, 10, 13, 19, 27, 29, 33, 63, 81, 100, 105, 135, 141, 142	0		14
Bahamas . . . . .	5	5, 10, 19, 29, 81	1	105	6
Bahrain . . . . .	3	29, 81, 89	0		3
Bangladesh . . . . .	10	16, 19, 27, 29, 32, 59, 81, 96, 105, 118	1	107	11
Barbados . . . . .	16	5, 10, 19, 29, 63, 74, 81, 87, 98, 100, 105, 111, 118, 122, 135, 144	0		16
Belgium . . . . .	22	5, 10, 13, 16, 19, 27, 29, 32, 33, 53, 62, 69, 73, 74, 81, 96, 100, 105, 113, 123, 125, 147	0		22
Belize . . . . .	6	5, 10, 16, 19, 81, 105	1	29	7

## REPORT OF THE COMMITTEE OF EXPERTS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Benin . . . . .	8	5, 13, 29, 33, 85, 100, 105, 111	0		8
Bolivia . . . . .	9	5, 19, 81, 96, 100, 118, 123, 129, 136	0		9
Brazil . . . . .	6	5, 16, 19, 29, 142, 148	15	53, 94, 95, 98, 100, 105, 107, 113, 115, 117, 118, 122, 124, 125, 131	21
Bulgaria . . . . .	14	13, 16, 19, 27, 29, 32, 53, 62, 69, 73, 81, 100, 113, 138	0		14
Burkina Faso . . . . .	10	5, 13, 19, 29, 33, 81, 100, 111, 129, 135	0		10
Burma . . . . .	6	16, 17, 19, 27, 29, 63	0		6
Burundi . . . . .	7	19, 27, 29, 59, 62, 81, 105	0		7
Byelorussian SSR . . . . .	7	16, 27, 29, 32, 100, 138, 142	0		7
Cameroon . . . . .	12	5, 10, 13, 16, 19, 29, 33, 81, 100, 105, 123, 135	0		12
Canada . . . . .	9	16, 27, 32, 63, 69, 73, 74, 100, 105	0		9
Cape Verde . . . . .	0		4	29, 81, 100, 105	4
Central African Republic . .	0		14	5, 10, 13, 18, 19, 29, 33, 62, 81, 87, 98, 100, 105, 118	14
Chad . . . . .	14	5, 11, 13, 14, 29, 33, 52, 81, 87, 95, 98, 100, 105, 111	0		14
Chile . . . . .	11	2, 5, 10, 13, 16, 19, 27, 29, 32, 63, 100	0		11
China . . . . .	5	16, 19, 27, 32, 59	0		5
Colombia . . . . .	13	5, 6, 10, 13, 16, 19, 29, 62, 81, 100, 105, 129, 136	0		13
Comoros . . . . .	8	5, 10, 19, 29, 33, 81, 100, 105	1	13	9
Congo . . . . .	0		5	5, 13, 29, 33, 87	5
Costa Rica . . . . .	8	29, 81, 105, 129, 135, 138, 148, 150	5	96, 100, 113, 134, 147	13

## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Côte d'Ivoire . . . . .	11	5, 13, 19, 29, 33, 85, 96, 100, 105, 135, 136	0		11
Cuba . . . . .	20	13, 16, 19, 27, 29, 53, 63, 81, 96, 100, 105, 113, 135, 136, 138, 141, 142, 151, 152, 155	0		20
Cyprus . . . . .	11	16, 19, 29, 81, 105, 114, 123, 141, 142, 151, 158	0		11
Czechoslovakia . . . . .	12	5, 10, 13, 19, 27, 29, 63, 100, 123, 136, 142, 159	0		12
Democratic Yemen . . . . .	0		7	16, 19, 29, 59, 94, 95, 105	7
Denmark . . . . .	18	5, 16, 19, 27, 29, 32, 53, 63, 73, 100, 105, 118, 134, 135, 141, 147, 149, 151	6	62, 81, 129, 139, 142, 159	24
Djibouti . . . . .	0		17	5, 10, 13, 16, 19, 29, 33, 53, 63, 69, 73, 81, 96, 100, 105, 123, 125	17
Dominica . . . . .	12	14, 19, 29, 81, 95, 97, 98, 100, 105, 108, 111, 138	3	16, 22, 94	15
Dominican Republic . . . . .	9	52, 77, 87, 95, 98, 105, 106, 107, 111	6	5, 10, 19, 29, 81, 100	15
Ecuador . . . . .	13	29, 81, 87, 100, 105, 113, 118, 123, 136, 139, 141, 142, 144	1	98	14
Egypt . . . . .	18	19, 29, 53, 62, 63, 69, 73, 74, 81, 96, 100, 105, 134, 135, 139, 142, 147, 149	0		18
El Salvador . . . . .	0		1	105	1
Equatorial Guinea . . . . .	4	30, 100, 103, 138	0		4
Ethiopia . . . . .	1	87	0		1
Fiji . . . . .	0		9	8, 11, 19, 29, 59, 84, 85, 98, 105	9
Finland . . . . .	29	13, 16, 19, 27, 29, 53, 62, 63, 73, 81, 96, 100, 105, 118, 129, 134, 135, 136, 138, 139, 141, 142, 147, 151, 152, 154, 155, 156, 159	0		29

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
France . . . . .	26	5, 10, 13, 19, 27, 29, 33, 53, 62, 63, 69, 74, 90, 96, 97, 100, 105, 118, 125, 129, 135, 136, 147, 148, 149, 152	12	16, 73, 77, 78, 81, 113, 123, 127, 134, 140, 141, 142	38
Gabon . . . . .	13	5, 10, 13, 19, 29, 33, 81, 96, 100, 105, 123, 124, 135	0		13
German Democratic Republic . . . . .	6	16, 27, 100, 135, 138, 142	0		6
Germany, Federal Republic of . . . . .	24	16, 19, 27, 29, 62, 63, 73, 81, 96, 100, 105, 111, 113, 118, 129, 134, 135, 136, 138, 139, 141, 142, 147, 152	0		24
Ghana . . . . .	7	16, 19, 59, 69, 74, 81, 96	3	29, 100, 105	10
Greece . . . . .	18	5, 13, 16, 19, 27, 29, 42, 62, 68, 69, 73, 81, 100, 103, 105, 134, 136, 147	2	150, 159	20
Grenada . . . . .	0		13	5, 8, 10, 14, 16, 19, 29, 81, 94, 95, 97, 98, 105	13
Guatemala . . . . .	10	19, 62, 63, 81, 96, 100, 105, 113, 118, 127	0		10
Guinea . . . . .	19	5, 10, 13, 16, 29, 33, 62, 100, 105, 113, 118, 134, 135, 136, 139, 142, 148, 151, 152	1	81	20
Guinea-Bissau . . . . .	15	14, 19, 27, 29, 69, 73, 74, 81, 98, 100, 104, 105, 106, 107, 111	0		15
Guyana . . . . .	18	5, 10, 19, 29, 42, 81, 100, 105, 129, 131, 135, 136, 137, 139, 141, 142, 149, 151	0		18
Haiti . . . . .	0		17	5, 14, 19, 24, 25, 29, 42, 77, 78, 81, 87, 98, 100, 105, 106, 107, 111	17
Honduras . . . . .	8	27, 29, 32, 62, 81, 100, 108, 138	1	105	9
Hungary . . . . .	13	10, 13, 16, 19, 27, 29, 62, 100, 123, 135, 136, 139, 142	0		13
Iceland . . . . .	3	29, 100, 105	1	102	4



## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
India . . . . .	11	5, 16, 19, 27, 29, 32, 81, 100, 118, 123, 141	0		11
Indonesia . . . . .	4	19, 27, 29, 100	0		4
Iran, Islamic Republic of . . .	2	105, 106	7	19, 29, 95, 100, 108, 111, 122	9
Iraq . . . . .	18	13, 16, 19, 27, 29, 81, 100, 105, 118, 135, 136, 138, 139, 142, 146, 148, 149, 150	3	147, 152, 153	21
Ireland . . . . .	13	8, 16, 19, 27, 53, 62, 63, 69, 74, 96, 118, 124, 138	6	29, 32, 81, 100, 105, 142	19
Israel . . . . .	13	19, 29, 53, 81, 96, 100, 105, 118, 134, 136, 138, 141, 142	0		13
Italy . . . . .	24	8, 13, 22, 23, 32, 53, 55, 71, 74, 81, 92, 100, 103, 111, 114, 132, 135, 137, 139, 141, 142, 145, 146, 147	18	16, 19, 27, 29, 69, 73, 94, 96, 105, 118, 129, 134, 136, 138, 148, 149, 150, 151	42
Jamaica . . . . .	3	81, 100, 117	9	8, 16, 19, 29, 58, 105, 122, 149, 150	12
Japan . . . . .	14	5, 10, 16, 19, 27, 29, 69, 73, 81, 96, 100, 134, 139, 147	0		14
Jordan . . . . .	13	29, 81, 98, 100, 105, 106, 111, 117, 118, 122, 124, 135, 142	1	123	14
Democratic Kampuchea . . .	0		5	4, 6, 13, 29, 122	5
Kenya . . . . .	16	16, 17, 19, 27, 29, 32, 63, 81, 105, 118, 129, 135, 138, 140, 141, 142	0		16
Kuwait . . . . .	0		4	29, 81, 105, 136	4
Lao People's Democratic Republic . . .	0		2	13, 29	2
Lebanon . . . . .	0		27	1, 14, 15, 17, 19, 29, 30, 45, 52, 59, 77, 78, 81, 88, 89, 90, 95, 98, 100, 105, 106, 111, 115, 120, 122, 127, 131	27
Lesotho . . . . .	3	5, 19, 29	0		3

## REPORT OF THE COMMITTEE OF EXPERTS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Liberia . . . . .	7	29, 53, 87, 105, 108, 113, 147	0		7
Libyan Arab Jamahiriya . . .	0		9	29, 53, 81, 96, 98, 100, 105, 118, 138	9
Luxembourg . . . . .	13	13, 16, 19, 27, 28, 29, 81, 96, 100, 105, 130, 135, 138	0		13
Madagascar . . . . .	12	5, 13, 19, 29, 33, 81, 87, 100, 118, 123, 127, 129	2	111, 122	14
Malawi . . . . .	4	19, 81, 100, 129	0		4
Malaysia . . . . .	4	29, 81, 105, 123	0		4
Peninsular Malaysia . . . .	1	19	0		1
Sabah . . . . .	1	16	0		1
Sarawak . . . . .	2	16, 19	0		2
Mali . . . . .	8	5, 13, 19, 29, 33, 81, 100, 105	0		8
Malta . . . . .	7	5, 10, 16, 29, 32, 81, 105	1	19	8
Mauritania . . . . .	0		16	5, 11, 13, 14, 19, 23, 29, 33, 52, 53, 62, 81, 96, 101, 114, 118	16
Mauritius . . . . .	8	16, 19, 29, 59, 63, 74, 81, 105	1	32	9
Mexico . . . . .	18	13, 16, 19, 27, 29, 34, 53, 62, 63, 100, 105, 118, 123, 134, 135, 141, 142, 152	0		18
Mongolia . . . . .	3	59, 100, 123	0		3
Morocco . . . . .	13	13, 19, 27, 29, 30, 81, 98, 100, 105, 111, 129, 136, 147	0		13
Mozambique . . . . .	3	81, 100, 105	0		3
Nepal . . . . .	2	14, 100	0		2
Netherlands . . . . .	22	13, 16, 19, 27, 29, 32, 62, 63, 69, 73, 74, 81, 96, 100, 105, 118, 129, 135, 138, 141, 142, 147	1	121	23
New Zealand . . . . .	14	10, 16, 29, 32, 42, 53, 59, 63, 69, 74, 81, 100, 105, 134	0		14

## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Nicaragua . . . . .	16	13, 16, 19, 27, 29, 63, 88, 100, 105, 110, 135, 136, 138, 139, 141, 142	0		16
Niger . . . . .	10	6, 11, 13, 29, 41, 81, 100, 105, 135, 138	3	154, 156, 158	13
Nigeria . . . . .	8	16, 29, 32, 59, 81, 100, 105, 123	3	8, 19, 134	11
Norway . . . . .	27	13, 16, 19, 27, 29, 42, 53, 63, 69, 73, 81, 96, 100, 105, 113, 118, 129, 134, 135, 139, 141, 142, 147, 151, 152, 155, 156	2	138, 154	29
Pakistan . . . . .	22	11, 14, 16, 18, 19, 22, 27, 29, 32, 45, 59, 81, 87, 89, 90, 96, 98, 105, 106, 107, 111, 118	0		22
Panama . . . . .	0		24	10, 13, 16, 19, 27, 29, 32, 52, 53, 63, 69, 73, 74, 81, 96, 100, 105, 107, 113, 114, 122, 123, 125, 126	24
Papua New Guinea . . . . .	0		8	8, 10, 19, 27, 29, 85, 98, 105	8
Paraguay . . . . .	7	29, 59, 60, 81, 100, 105, 123	0		7
Peru . . . . .	15	10, 19, 29, 32, 53, 59, 62, 69, 73, 81, 100, 105, 113, 139, 151	1	27	16
Philippines . . . . .	6	17, 53, 59, 100, 105, 141	0		6
Poland . . . . .	21	13, 16, 19, 27, 29, 62, 69, 73, 74, 87, 96, 98, 100, 105, 113, 123, 134, 135, 138, 142, 151	0		21
Portugal . . . . .	26	19, 27, 29, 63, 69, 73, 74, 81, 96, 100, 103, 105, 108, 120, 124, 127, 129, 131, 135, 142, 147, 148, 149, 151, 155, 156	0		26
Qatar . . . . .	1	81	0		1
Romania . . . . .	11	13, 16, 27, 29, 81, 100, 129, 134, 135, 136, 138	0		11
Rwanda . . . . .	7	19, 62, 81, 100, 105, 123, 138	0		7

REPORT OF THE COMMITTEE OF EXPERTS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Saint Lucia . . . . .	0		19	5, 8, 11, 12, 14, 16, 17, 19, 29, 87, 94, 95, 97, 98, 100, 101, 105, 108, 111	19
San Marino . . . . .	6	88, 100, 142, 143, 144, 159	0		6
Sao Tome and Principe . . . .	0		5	18, 19, 81, 100, 111	5
Saudi Arabia . . . . .	5	29, 81, 100, 105, 123	0		5
Senegal . . . . .	13	5, 10, 13, 19, 29, 33, 81, 96, 100, 105, 120, 125, 135	0		13
Seychelles . . . . .	0		5	5, 10, 16, 29, 105	5
Sierra Leone . . . . .	2	119, 144	11	16, 19, 29, 32, 59, 81, 88, 100, 105, 125, 126	13
Singapore . . . . .	7	5, 16, 19, 29, 32, 81, 98	0		7
Solomon Islands . . . . .	4	16, 19, 29, 81	0		4
Somalia . . . . .	7	16, 17, 19, 23, 29, 85, 105	0		7
Spain . . . . .	33	13, 16, 19, 27, 29, 53, 62, 63, 69, 73, 74, 81, 96, 100, 105, 113, 123, 129, 134, 135, 136, 138, 141, 142, 147, 151, 152, 153, 154, 155, 156, 157, 158	0		33
Sri Lanka . . . . .	8	5, 16, 29, 63, 81, 96, 106, 135	0		8
Sudan . . . . .	2	29, 105	3	19, 81, 100	5
Suriname . . . . .	11	13, 19, 27, 29, 62, 81, 96, 105, 118, 135, 151	0		11
Swaziland . . . . .	11	19, 29, 45, 59, 81, 89, 90, 96, 100, 105, 123	0		11
Sweden . . . . .	26	10, 13, 16, 19, 27, 29, 63, 73, 81, 96, 100, 105, 118, 129, 134, 135, 139, 141, 142, 147, 151, 152, 154, 155, 156, 157	1	143	27
Switzerland . . . . .	18	5, 16, 19, 27, 29, 62, 63, 81, 100, 105, 123, 136, 139, 141, 142, 151, 154, 159	0		18

## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Syrian Arab Republic . . . . .	17	19, 29, 53, 63, 81, 96, 100, 105, 106, 118, 123, 125, 129, 135, 136, 139, 144	1	87	18
Tanzania, United Republic of . . . . .	21	11, 16, 17, 19, 29, 59, 63, 94, 95, 98, 105, 131, 134, 135, 137, 140, 142, 144, 148, 149, 152	0		21
Tanganyika . . . . .	2	81, 101	0		2
Zanzibar . . . . .	0		1	85	1
Thailand . . . . .	3	19, 29, 123	1	105	4
Togo . . . . .	5	13, 29, 85, 100, 138	0		5
Trinidad and Tobago . . . . .	4	29, 85, 105, 125	2	16, 19	6
Tunisia . . . . .	14	13, 16, 19, 29, 59, 62, 73, 81, 100, 105, 113, 118, 123, 127	0		14
Turkey . . . . .	5	81, 96, 100, 105, 118	0		5
Uganda . . . . .	3	29, 81, 123	3	5, 19, 105	6
Ukrainian SSR . . . . .	10	16, 27, 29, 32, 69, 73, 100, 113, 138, 142	0		10
USSR . . . . .	10	16, 27, 29, 32, 69, 73, 100, 113, 138, 142	0		10
United Arab Emirates . . . . .	1	29	2	81, 89	3
United Kingdom . . . . .	20	5, 10, 16, 19, 29, 32, 63, 69, 74, 81, 85, 87, 100, 105, 126, 135, 141, 142, 147, 151	0		20
United States . . . . .	2	53, 74	0		2
Uruguay . . . . .	21	9, 13, 16, 19, 22, 27, 32, 62, 63, 73, 81, 96, 105, 113, 114, 118, 129, 134, 136, 138, 139	0		21
Venezuela . . . . .	8	29, 100, 102, 118, 121, 141, 155, 158	9	5, 13, 19, 27, 81, 87, 105, 139, 142	17
Yemen . . . . .	0		5	29, 81, 100, 132, 135	5
Yugoslavia . . . . .	14	13, 16, 19, 27, 32, 73, 81, 100, 113, 129, 131, 136, 139, 148	8	29, 53, 69, 74, 135, 138, 142, 158	22

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State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Zaire . . . . .	7	19, 27, 29, 62, 81, 100, 118	0		7
Zambia . . . . .	10	19, 29, 100, 122, 123, 135, 138, 141, 149, 151	2	105, 136	12
Zimbabwe . . . . .	1	19	0		1
<i>Other States</i>					
Albania <sup>1</sup> . . . . .	0		14	6, 10, 11, 16, 29, 52, 58, 59, 77, 78, 87, 98, 100, 112	14
Nauru . . . . .	0		5	19, 27, 29, 42, 105	5
Samoa . . . . .	0		2	14, 29	2
South Africa <sup>1</sup> . . . . .	2	19, 63	0		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 23 March 1988

(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	1 412	84.6
-1985	1 666	189	11.3	1 312	78.7	1 471	88.2
-1986	1 752	207	11.8	1 388	79.2	1 529	87.3
-1987	1 793	171	9.5	1 408	78.4	—	—

<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**

#### Denmark

##### Greenland

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 supply the reports due on the application of ratified Conventions.

#### New Zealand

The Committee notes with regret that for the seventh year in succession the Government has not supplied the reports due in respect of the application of Conventions in the Cook Islands and that the reports due for the third year in succession in respect of the Niue Island have not been received. It trusts that the Government will not fail to take the necessary steps to ensure that the reports in question are available for examination by the Committee at its next session.

\* \* \*

In addition, a request regarding certain points is being addressed directly to the Netherlands (Netherlands Antilles).

### **B. INDIVIDUAL OBSERVATIONS**

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

A request regarding certain points is being addressed directly to the United Kingdom (Jersey).



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

Article 2 of the Convention. For a number of years, the Committee has been calling the attention of the Government to the fact that the provisions of section 157 of the United Kingdom Merchant Shipping Act 1894 (in conjunction with section 1 of the United Kingdom Merchant Shipping (International Labour Conventions) Act 1925) - both Acts having been made applicable to the territory - are not in conformity with Article 2 of the Convention. Unlike the Convention, section 157 makes the right to the unemployment indemnity in case of shipwreck depend on the proof that the seaman has exerted himself to the utmost to save the ship, cargo and stores.

In its report, the Government states that the Foreign and Commonwealth Office has written to the Governors of the Non-Metropolitan Territories regarding the repeal of the whole of Part II of the 1894 Act and the extension, where appropriate, of the relevant provisions of the 1970 Act. The views of all the Non-Metropolitan Territories have now been obtained and Orders-in-Council effecting the repeal are now being drafted. The Committee notes this information with interest. It hopes that the necessary measures will soon be taken to bring the legislation of Anguilla into full conformity with the Convention, and requests the Government to state any progress made in this connection.

St. Helena

Article 2 of the Convention. With reference to its previous comments the Committee notes with interest that the Government of St. Helena has taken steps to extend to this territory the application of the United Kingdom Merchant Shipping Act, 1970, as amended up to 1 January 1987. For this purpose, the Government has adopted an Ordinance that will come into force on 1 January 1988.

The Committee requests the Government to communicate in its next report the text of the said Ordinance.

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

A request regarding certain points is being addressed directly to the United Kingdom (Jersey).

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

A request regarding certain points is being addressed directly to Australia (Norfolk Island).

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

Requests regarding certain points are being addressed directly to France (French Polynesia, New Caledonia).

**Convention No. 16: Medical Examination of Young Persons (Sea), 1921**DenmarkFaeroe Islands

Article 3 of the Convention. Further to its previous observations concerning the annual repetition of the medical examination of seafarers under the age of 18 years, the Committee notes with interest that paragraph 4, subparagraph 2, of the Seafarers' Act No. 4 of 15 January 1988 provides for the medical examination of all seafarers and for the Faeroe Parliament to issue regulations thereon. It further notes that the Act has been notified but has not yet come into operation. The Committee hopes that the appropriate regulations will be issued soon and will give effect to this Article of the Convention.

[The Government is asked to report in detail for the period ending 30 June 1989.]

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

A request regarding certain points is being addressed to the United Kingdom (Montserrat).

**Convention No. 19: Equality of Treatment (Accident Compensation), 1925**FranceSt. Pierre and Miquelon

With reference to its earlier comments, the Committee notes with interest the Government's statement to the effect that it is in the process of studying the measures to be taken in order to eliminate the difference between the treatment of the foreign worker and that of the French wage earner, who sustain personal injury due to industrial accidents occurring in St. Pierre and Miquelon, and who cease to reside on French territory. The Government of the French Republic is examining the measures to be taken. It is contemplating extending to the territory of St. Pierre and Miquelon the clause contained in the fourth paragraph of section L.434.20 of the Social Security Code, which provides that international treaties or Conventions can modify the provisions of the laws in question.

The Committee hopes that the Government will be in a position to indicate in its next report any developments made in eliminating, in respect of the nationals of any other Member which has ratified the Convention, and their dependants, the restrictions provided in section 18 of Order No. 177 of 15 March 1966 to set up an insurance scheme covering occupational accidents in the territory of St. Pierre and Miquelon and section 29 of Decree No. 57-245 of 24 February 1957 on compensation for occupational accidents and diseases in the Overseas Territories.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: France (French Polynesia, New Caledonia).

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

##### France

##### French Polynesia

Article 3, paragraph 4, of the Convention. Further to its previous comments, the Committee notes with satisfaction that the possibility of refusing cash benefits in the event of sickness, injury or invalidity resulting from the practice of individual or group sports, a refusal which is not authorised by this provision of the Convention, has been repealed by Resolution No. 85-1103 AT of 15 October 1985.

#### **Convention No. 29: Forced Labour, 1930**

##### France

##### French Polynesia

Article 2, paragraph 2(c), of the Convention. On several occasions the Committee has drawn the Government's attention to the provisions of section 81 of Decision No. 76-184 of 30 December 1976, under which persons sentenced to imprisonment, who are obliged to work by virtue of section 60 of this Decision, may be employed outside the prison establishment on behalf of private individuals under the responsibility and supervision of agents furnished by the employer and approved by the administration.

The Committee noted in previous comments information supplied by the Government that the texts respecting the organisation and regulation of the prison system were being amended, and that sections 60 and 81 would be amended to bring them into conformity with the Convention.

The Committee notes the Government's statement in its report that these provisions were to be included in a number of Decisions due to be adopted in 1987 under Act No. 86-845 of 17 July 1986 concerning the general principles of labour law.

The Committee hopes that the Government will be able to indicate in the near future the measures that have been taken to bring the provisions of sections 60 and 81 of Decision No. 76-184 into conformity with the Convention, either by forbidding the employment of prisoners by private individuals or by guaranteeing the normal conditions of a voluntarily accepted employment relationship, particularly with regard to formal consent, wages and social security.

\* \* \*

In addition, requests regarding certain points are being addressed to the United Kingdom (Anguilla, Gibraltar).

Information supplied by Australia (Norfolk Island) and the United Kingdom (Hong Kong) in answer to a direct request has been noted by the Committee.

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

#### Netherlands

##### Netherlands Antilles

Article 5 of the Convention. The Committee notes from the information supplied by the Government in reply to its previous observation, that owing to the constitutional developments in the Netherlands Antilles, a new Labour Committee had to be established and will deal with the draft order on dangerous and unhealthy activities prohibited to young persons under the age of 18 years. The Committee hopes that the Government will soon be in a position to indicate that the draft order has been adopted, as the Committee has drawn attention to the need to give effect to this Article of the Convention for a considerable number of years.

[The Government is asked to supply full particulars to the Conference at its 75th Session and to report in detail for the period ending 30 June 1989.]

\* \* \*

In addition, a request regarding certain points is being addressed directly to France (New Caledonia).

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

A request regarding certain points is being addressed directly to France (French Polynesia).

**Convention No. 53: Officers' Competency Certificates, 1936**

Requests regarding certain points are being addressed directly to the following States: Denmark (Faeroe Islands), France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion, French Polynesia, St. Pierre and Miquelon); United States (American Samoa, Guam, Puerto Rico, Trust Territory of the Pacific Islands, Virgin Islands).

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

Requests regarding certain points are being addressed directly to the United Kingdom (Bermuda, Gibraltar, Montserrat).

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

Requests regarding certain points are being addressed directly to France (Overseas Departments: Guadeloupe, French Guiana, Martinique, Réunion).

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

Requests regarding certain points are being addressed directly to France (French Polynesia, New Caledonia).

**Convention No. 69: Certification of Ships' Cooks, 1946**NetherlandsNetherlands Antilles

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 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.

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: France (French Polynesia), United Kingdom (Isle of Man).

#### **Convention No. 74: Certification of Able Seamen, 1946**

Requests regarding certain points are being addressed directly to the United States (Guam, Puerto Rico, Virgin Islands).

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

Requests regarding certain points are being addressed directly to France (St. Pierre and Miquelon, French Polynesia).

#### **Convention No. 81: Labour Inspection, 1947**

##### Netherlands

##### Netherlands Antilles

The Committee notes that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation which read as follows:

Articles 20 and 21 of the Convention. The Committee has taken note of the annual labour inspection report for 1984 covering Curaçao. It has noted that this report contains no information on the following subjects: staff of the labour inspection service; statistics of workplaces liable to inspection and statistics of occupational diseases (points (b), (c) and (g) of Article 21).

The Committee expresses the hope that, in future, reports covering all the islands and containing information on all the

subjects listed in Article 21 will be published and communicated to the ILO within the time-limits laid down in Article 20.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: France (French Polynesia), United Kingdom (Gibraltar, Guernsey, Isle of Man).

Information supplied by the United Kingdom (Hong Kong) in answer to a direct request has been noted by the Committee.

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

A request regarding certain points is being addressed directly to the Netherlands (Netherlands Antilles).

#### **Convention No. 95: Protection of Wages, 1949**

A request regarding certain points is being addressed directly to the United Kingdom (Jersey).

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

A request regarding certain points is being addressed directly to Australia (Norfolk Island).

#### **Convention No. 100: Equal Remuneration, 1951**

##### France

##### New Caledonia

The Committee notes the information supplied by the Government in reply to its previous comments.

It notes with satisfaction the adoption of Ordinance No. 85-1181 of 13 November 1985 respecting the guiding principles of labour law, and the organisation and operation of the labour inspectorate and the labour tribunal in New Caledonia and its dependent territories. Under section 23 of the above Ordinance all employers must provide equal remuneration for men and women for the same work or for work of equal value. The Committee also notes that the definition of remuneration, as it appears in the second paragraph of this section, corresponds to that laid down by Article 1(a) of the Convention.

The Committee requests the Government to refer also to the request being addressed directly to it.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion; Territorial Community of St. Pierre and Miquelon; Overseas Territories: French Polynesia, New Caledonia), New Zealand (Tokelau), United Kingdom (Gibraltar).

### Convention No. 105: Abolition of Forced Labour, 1957

#### Netherlands

##### Netherlands Antilles

Article 1(c) and (d) of the Convention. Referring to its previous comments regarding sections 413 and 414 of the Criminal Code, under which certain breaches of labour discipline were punishable by imprisonment involving an obligation to perform labour, the Committee notes with interest the Government's indication in its report that the Parliament of the Netherlands Antilles has approved the abrogation of the above-mentioned sections, and that a copy of the Ordinance on the matter will be sent with the next report. The Committee looks forward to receiving it.

#### United Kingdom

##### Non-metropolitan territories

Article 1(c) and (d) of the Convention. In its previous observation the Committee referred to sections 221 to 224 and section 225(1)(b), (c) and (e) of the United Kingdom Merchant Shipping Act, 1894, under which certain breaches of labour discipline are punishable with imprisonment, involving an obligation to perform labour, and which provide for the forcible return of deserters on board ship. The Committee noted that these provisions, which had been repealed for the United Kingdom by the 1970 Merchant Shipping Act, were still in force for a number of non-metropolitan territories. The Committee also noted from the Government's reports that action was being considered in consultation with the territories concerned to extend to them the repeal of the provisions in question.

The Committee notes with interest from the Government's latest report that draft Orders-in-Council will probably be laid before Parliament in January 1988 to effect the repeal of Part II of the 1894 Act and to enable the Merchant Shipping Act 1970 to be extended to certain of the non-metropolitan territories. The Committee also has noted the reports supplied on behalf of various individual



territories. It refers to its observation of satisfaction concerning action taken by the Government of St. Helena under the Convention, and notes with interest the indication by the Government of the Isle of Man that the provisions in question of the 1894 Act did not form part of Manx Law, although they applied to Manx ships and, therefore, the repeal of the sections concerned in the United Kingdom applied to the Isle of Man too. It also notes with interest that the provisions of the 1970 Act, including those repealing sections 221 to 225 and the 1894 Act apply to Gibraltar by virtue of the Gibraltar Merchant Shipping Ordinance.

The Committee notes the indications in the reports supplied on behalf of Anguilla and Montserrat that Orders-in-Council were due to be laid before the British Parliament in January 1987 and would enable the United Kingdom Government to extend the provisions of the 1970 Merchant Shipping Act to these territories.

The Committee, however, notes that no information has been supplied concerning the merchant shipping legislation applicable to Guernsey, Jersey and the Falkland Islands (Malvinas).

The Committee hopes that the Orders-in-Council referred to by the Government will soon be adopted and the repeal of sections 221 to 224 and 225(1)(b),(c) and (e) of the 1894 Act be extended to all of the territories concerned. It requests the Government to supply information on the action taken, including also information on the legislation applying in the territories of Guernsey, Jersey and the Falkland Islands (Malvinas).

#### Bermuda

Article 1(c) of the Convention. Referring to its previous comments on the Bermuda Merchant Shipping Act 1930, the Committee notes with satisfaction that the Bermuda Merchant Shipping Amendment Act 1983 repealed section 3 of the 1930 Act under which seamen absent from service on board could be forcibly returned on board ship.

#### St. Helena

Article 1(c) and (d) of the Convention. Further to its previous comments on the Convention, the Committee notes with satisfaction that by virtue of the English Law (Application) Ordinance, 1987, enacted by the Government of St. Helena, the full 1970 Merchant Shipping Act of the United Kingdom applies to St. Helena, thereby repealing sections 221 to 224 and 225(1)(b), (c) and (e) of the United Kingdom Merchant Shipping Act, 1894, in St. Helena, under which various breaches of discipline could be punished with penalties involving compulsory labour, and seamen absent without leave could be forcibly returned on board ship.

\* \* \*

In addition, requests regarding certain points are being addressed to New Zealand (Niue Island), United Kingdom (Anguilla, British Virgin Islands, Hong Kong).

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

A request regarding certain points is being addressed directly to the Netherlands (Netherlands Antilles).

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

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

**Convention No. 115: Radiation Protection, 1960**

Requests regarding certain points are being addressed directly to France (French Polynesia, New Caledonia).

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

The Committee notes from the Government's reply to its observation of 1986 that a tripartite committee is examining draft regulations to implement the provisions of Act No. 86-845 of 17 July 1986, respecting the general principles of labour law applicable in French Polynesia. The Committee refers to its previous comments, in which it stressed the need to supplement the regulations in force (Order No. 621 IT of 29 May 1950) in order to give full effect to Articles 9, 10, 11, 13 and 15 to 19 of the Convention. The Committee expresses the hope that the above-mentioned draft regulations will be adopted at an early date to give full effect to the Convention and that the Government will be able to communicate a copy of these regulations with its next report.

**Convention No. 122: Employment Policy, 1964**

Requests regarding certain points are being addressed directly to the following States: Australia (Norfolk Island), Denmark (Greenland), France (St. Pierre and Miquelon), Netherlands (Netherlands Antilles), United Kingdom (Hong Kong).

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

A request regarding certain points is being addressed directly to France (New Caledonia).

**Convention No. 140: Paid Educational Leave, 1974**

A request regarding certain points is being addressed directly to the United Kingdom (Jersey).

**Convention No. 141: Rural Workers' Organisations, 1975**

Information supplied by the United Kingdom (Falkland Islands (Malvinas)) in answer to a direct request has been noted by the Committee.

**Convention No. 142: Human Resources Development, 1975**

A request regarding certain points is being addressed directly to the United Kingdom (Gibraltar).

Information supplied by the United Kingdom (Hong Kong) in answer to a direct request has been noted by the Committee.

**Convention No. 148: Working Environment (Air Pollution, Noise and Vibration),  
1977**

Requests regarding certain points are being addressed directly to the United Kingdom (Guernsey, Hong Kong).

**Appendix. Receipt of Detailed Reports on Ratified Conventions  
(Non-Metropolitan Territories) as at 23 March 1988**

*(Articles 22 and 35 of the Constitution)*

Reports requested: 378      Reports received: 288      Reports not received: 90

Countries and Territories	Reports received		Reports not received		Popula- tion <sup>1</sup> (thou- sands)
	Total	Conventions Nos.	Total	Conventions Nos.	
<i>Australia</i> . . . . .	8		0		
Norfolk Island . . . . .	8	10, 11, 27, 29, 87, 98, 105, 122	0		2.1
<i>Denmark</i> . . . . .	7		5		
Faeroe Islands . . . . .	7	5, 16, 19, 27, 29, 53, 105	0		41.9
Greenland . . . . .	0		5	5, 16, 19, 29, 105	49.6
<i>France</i> . . . . .	134		53		
<i>Overseas Departments:</i>					
French Guiana . . . . .	19	5, 10, 13, 14, 19, 27, 29, 32, 52, 53, 62, 69, 74, 100, 105, 114, 125, 135, 136	9	16, 73, 81, 87, 95, 98, 113, 115, 123	73.0
Guadeloupe . . . . .	19	5, 10, 13, 14, 19, 27, 29, 32, 52, 53, 62, 69, 74, 100, 105, 114, 125, 135, 136	9	16, 73, 81, 87, 95, 98, 113, 115, 123	327.0
Martinique . . . . .	19	5, 10, 13, 14, 19, 27, 29, 32, 52, 53, 62, 69, 74, 100, 105, 114, 125, 135, 136	9	16, 73, 81, 87, 95, 98, 113, 115, 123	326.7
Réunion . . . . .	19	5, 10, 13, 14, 19, 27, 29, 32, 52, 53, 62, 69, 74, 100, 105, 114, 125, 135, 136	9	16, 73, 81, 87, 95, 98, 113, 115, 123	515.7
Territorial Community of St. Pierre and Miquelon	23	5, 10, 11, 13, 14, 19, 22, 23, 29, 33, 52, 53, 55, 56, 63, 69, 71, 96, 100, 101, 105, 124, 125	17	16, 24, 45, 73, 77, 78, 81, 82, 87, 94, 95, 98, 106, 115, 122, 123, 144	6.0
<i>Overseas Territories:</i>					
French Polynesia . . . . .	18	5, 10, 13, 16, 19, 29, 33, 53, 63, 69, 73, 81, 96, 100, 105, 120, 123, 125	0		166.7

NON-METROPOLITAN TERRITORIES

Countries and Territories	Reports received		Reports not received		Population <sup>1</sup> (thousands)
	Total	Conventions Nos.	Total	Conventions Nos.	
New Caledonia . . . . .	17	5, 10, 13, 16, 19, 29, 33, 53, 63, 69, 73, 81, 96, 100, 105, 123, 125	0		145.3
Netherlands . . . . .	20		8		
Aruba . . . . .	19	8, 10, 11, 14, 22, 23, 29, 33, 69, 74, 81, 87, 94, 95, 101, 105, 106, 118, 122	1	25	53.1
Netherlands Antilles . . . .	1	105	7	10, 29, 33, 69, 74, 81, 118	218.3
New Zealand . . . . .	4		14		
Cook Islands . . . . .	0		7	11, 14, 29, 82, 84, 99, 105	17.7
Niue . . . . .	0		7	11, 14, 29, 82, 84, 99, 105	3.8
Tokelau . . . . .	4	29, 100, 105, 111	0		1.5
United Kingdom . . . . .	107		10		
Anguilla . . . . .	7	5, 19, 29, 59, 85, 105, 148	0		6.5
Bermuda . . . . .	8	5, 10, 16, 19, 29, 59, 105, 135	0		67.7
British Virgin Islands. . . .	7	5, 10, 19, 29, 59, 85, 105	0		12.0
Falkland Islands (Malvinas) . . . . .	6	19, 29, 32, 59, 105, 141	1	10	1.8
Gibraltar . . . . .	11	16, 19, 29, 59, 63, 81, 100, 105, 135, 142, 151	0		26.4
Guernsey . . . . .	15	5, 10, 16, 19, 29, 32, 63, 69, 74, 81, 105, 135, 141, 142, 151	1	148	53.3
Hong Kong . . . . .	16	5, 10, 16, 19, 29, 32, 59, 63, 74, 81, 105, 141, 142, 147, 148, 151	0		4 986.5
Isle of Man . . . . .	10	16, 19, 29, 32, 63, 68, 69, 74, 105, 147	3	5, 10, 81	64.6

## REPORT OF THE COMMITTEE OF EXPERTS

Countries and Territories	Reports received		Reports not received		Population <sup>1</sup> (thousands)
	Total	Conventions Nos.	Total	Conventions Nos.	
Jersey . . . . .	9	5, 10, 19, 29, 32, 63, 81, 95, 105	5	8, 16, 69, 74, 140	76.0
Montserrat . . . . .	8	5, 16, 17, 19, 29, 59, 85, 105	0		11.6
St. Helena . . . . .	10	5, 10, 16, 19, 29, 59, 63, 85, 105, 151	0		5.1
United States . . . . .	8		0		
American Samoa . . . . .	1	53	0		32.3
Guam . . . . .	2	53, 74	0		105.9
Pacific Islands (Trust Territory) . . . . .	1	53	0		132.9
Puerto Rico . . . . .	2	53, 74	0		3 196.5
United States Virgin Islands . . . . .	2	53, 74	0		96.5

<sup>1</sup> Source: United Nations: *Demographic Year Book*, 1986.

### **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)**

#### Angola

The Committee notes that the Government has not replied to its previous observations. It trusts that the Government will indicate soon that the remaining instruments of the 67th Session (Convention No. 155 and Recommendation No. 164) and the instruments adopted at the 68th, 69th, 70th and 71st Sessions have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 72nd Session have been submitted.

#### Antigua and Barbuda

The Committee notes that the Government has not replied to its previous direct requests. It recalls once again that the instruments adopted at the 68th Session of the Conference, submitted to the Cabinet, should also be submitted, in accordance with article 19, 5(b) and 6(b) of the Constitution of the ILO, to the authorities vested with power to legislate. It therefore hopes that the Government will also submit the above-mentioned instruments, as well as the instruments adopted at the 69th, 70th and 71st Sessions, to the legislative body. Furthermore, it would be grateful if the Government would indicate whether the instruments adopted at the 72nd Session have been submitted.

#### Bolivia

In its previous comments, the Committee noted that Recommendation No. 151, adopted at the 60th Session of the Conference, and the instruments adopted at the 71st Session were shortly to be submitted to the competent legislative authorities. Since no further information has been received in this respect, the Committee hopes that the Government will soon indicate whether the above instruments and Recommendation No. 169 (70th Session) have been submitted. The Committee also hopes that the Government will supply, in respect of the instruments adopted from the 63rd to the 69th Sessions, which have already been submitted, the information and documents called for in the Memorandum adopted by the Governing Body (points II(b) and (c) and

III of the questionnaire). Finally, the Committee notes that procedures for the submission to the legislative authority of the instruments adopted at the 72nd Session of the Conference have already been initiated.

#### Brazil

Further to its previous comments, the Committee notes with interest that, according to the information and documents supplied by the Government, Conventions Nos. 126, 132, 145, 146, 159, 160 and 162, and Recommendations Nos. 168, 170 and 172, adopted at the 50th, 54th, 62nd, 69th, 71st and 72nd Sessions of the Conference, have been submitted to Congress. It also notes that many other Recommendations are being examined by the Presidency of the Republic with a view to their submission to Congress. The Committee trusts that it will be possible to submit these instruments in the near future.

#### Burkina Faso

Further to its previous comments, the Committee notes with satisfaction that, according to the information and documents provided by the Government, the instruments adopted at the 59th, 65th, 68th, 69th, 70th, 71st and 72nd Sessions of the Conference, and the remaining instruments from the 60th Session have been submitted to the competent authorities.

#### Central African Republic

With reference to its previous comments, the Committee notes with interest that, according to the information supplied by the Government, the instruments adopted at the 65th, 69th and 70th Sessions of the Conference have been submitted to the competent authorities. It would be grateful if the Government would indicate whether the instruments adopted at the 71st and 72nd Sessions have been submitted, and would supply, in respect of all the above instruments, the information and documents called for in the Memorandum adopted by the Governing Body (points I, II and III of the questionnaire).

#### Congo

Further to its previous observation, the Committee notes that, according to the information supplied by the Government, Convention No. 153 and Recommendation No. 161, adopted at the 65th Session of the Conference have been submitted to the competent authorities. It also notes that preparations are still under way for the submission of many other instruments to the National Assembly. The Committee therefore hopes that the Government will soon be in a position to indicate that the instruments adopted at the 60th, 61st, 62nd, 68th, 69th, 70th,



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71st and 72nd Sessions and the remaining instruments from the 54th, 55th, 58th, 63rd and 67th Sessions (Conventions Nos. 137, 148 and 156 and Recommendations Nos. 135 to 142, 145, 156, 163, 164 and 165) have been submitted to the People's National Assembly and that it will supply in respect of all the above instruments the information and documents called for in the Memorandum adopted by the Governing Body.

### Democratic Yemen

The Committee notes from the information supplied by the Government that the instruments adopted at the 72nd Session of the Conference have been submitted to the Council of Ministers. It hopes that the Government will shortly be able to state that these instruments have been submitted to the Supreme People's Council as the authority empowered to legislate. Furthermore, the Committee trusts that it will soon provide information on the decisions taken concerning the instruments adopted at the 62nd to 68th Sessions of the Conference and that it will indicate whether the instruments adopted at the 69th, 70th and 71st Sessions have been submitted to the competent authorities.

### Djibouti

With reference to its previous observation, the Committee notes that, according to the information supplied by the Government, the instruments adopted at the 71st and 72nd Sessions of the Conference have been submitted to the competent authorities. It hopes that the Government will soon indicate that the instruments adopted at the 66th, 68th, 69th and 70th Sessions have also been submitted, and that it will supply in respect of all the above-mentioned instruments the information and documents called for in the Memorandum adopted by the Governing Body.

### Dominican Republic

The Committee regrets to note that the Government has not replied to its previous observations. It trusts that it will indicate in the near future that the instruments adopted at the 63rd, 65th, 66th, 67th, 69th, 70th and 71st Sessions of the Conference have been submitted to Congress and that it will supply with respect to the above instruments and those adopted at the 68th Session, which have already been submitted, the information and documents called for in the Memorandum adopted by the Governing Body. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 72nd Session of the Conference have also been submitted.

El Salvador

With reference to its previous observation, the Committee notes the submission to the competent authorities of Recommendation No. 170, adopted at the 71st Session of the Conference. It noted the measures taken to give effect to Recommendation No. 169 (70th Session). The Committee hopes that the Government will specify in this connection whether this instrument has been duly submitted to the competent authorities. It also hopes that it will shortly indicate that the instruments adopted at the 62nd, 65th, 66th, 67th and 68th Sessions of the Conference, and the remaining instruments from the 63rd, 69th, and 71st Sessions have been submitted to the competent authorities and that it will supply in this respect the documents and information called for in the Memorandum adopted by the Governing Body (points II(a), (b) and (c) and III of the questionnaire). Furthermore, the Committee would be grateful if the Government would state whether the instruments adopted at the 72nd Session of the Conference have been submitted.

Gabon

The Committee notes that the Government has not replied to its previous direct requests. It hopes that it will soon indicate that the instruments adopted at the 65th, 66th, 67th, 68th, 69th, 70th and 71st Sessions of the Conference, which have already been submitted to the President, have also been submitted, as in the past, to the National Assembly.

The Committee also hopes that the Government will provide information on the decisions taken concerning Conventions Nos. 133, 134 and 139 and Recommendations Nos. 129 to 132, 136 to 138, 140 to 142, 144, 147, 148 and 154, along with a copy of the document whereby they were submitted to the National Assembly in 1981.

Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 72nd Session of the Conference have been submitted.

Ghana

With reference to its previous observations, the Committee takes note of the explanations supplied by a Government representative to the Conference Committee in 1987 concerning the delay in the submission of the instruments adopted by the Conference. It trusts that the Government will shortly be able to indicate that the instruments adopted at the 66th, 67th, 68th, 69th, 70th, 71st and 72nd Sessions of the Conference have been submitted and that it will supply in this respect the information and documents called for in the Memorandum adopted by the Governing Body.

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### Grenada

Further to its previous observation, the Committee takes note of the explanations supplied by a Government representative to the Conference Committee in 1987 concerning the administrative constraints which delayed the submissions procedure, and of the assurances given concerning this procedure in the future. In the absence of further information, it hopes that the Government will shortly state that Recommendation No. 162 (66th Session of the Conference) and the instruments adopted at the 67th, 68th, 69th, 70th and 71st Sessions have been submitted to the competent authorities. Furthermore, it would be grateful if the Government would indicate whether the instruments adopted at the 72nd Session have been submitted. It recalls in this connection that the authorities to which these instruments must be submitted are those empowered to legislate. The Committee hopes that the Government will also supply the information and documents called for in this respect in the Memorandum adopted by the Governing Body, particularly with regard to the nature of the competent authority and the Government's proposals or comments on the effect to be given to the instruments in question (points I(a) and II(b) of the questionnaire). It also recalls that the obligation to submit does not imply that Governments must propose the ratification or the application of the instrument under consideration. Governments have complete freedom as to the nature of the proposals to be made when submitting Conventions and Recommendations to the competent authorities.

### Guinea

Further to its previous observation, the Committee takes due note of the information supplied by the Government concerning the efforts undertaken to make up rapidly for the delay in the submission of the instruments adopted by the Conference to the competent authorities. It therefore hopes that the Government will soon be in a position to state that the instruments adopted at the 68th, 69th, 70th and 71st Sessions of the Conference have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would state whether the instruments adopted at the 72nd Session have been submitted.

### Haiti

The Committee hopes that the instruments adopted at the 67th to 72nd Sessions of the Conference will be submitted as soon as possible to the competent authorities. With regard to the instruments adopted at the 64th and 65th Sessions, already submitted, the Committee requests the Government to indicate whether, when they were submitted, any proposals were made or decisions taken in their connection.

Islamic Republic of Iran

Further to its previous observation, the Committee notes the statement by a Government representative to the Conference Committee in 1987, indicating that the examination of the instruments not yet submitted is still in process and recalling difficulties which are delaying this examination and, consequently, the whole submissions procedure. It also noted the discussion which followed this statement, and more recent information according to which all remaining instruments are being examined by a tripartite committee in order to be submitted to the Government and the Legislature. The Committee hopes that the Government will shortly be able to indicate that the instruments adopted at the 62nd, 63rd, 64th, 65th, 66th, 67th, 68th, 69th, 70th, 71st and 72nd Sessions of the Conference have been submitted to Parliament.

Jamaica

The Committee notes that the Government has not replied to its previous observation. In earlier comments, it recalled the statement by a Government representative to the Conference Committee in 1984 that Convention No. 132, Recommendation No. 136 and the instruments adopted at the 61st to 69th Sessions of the Conference had been submitted to Parliament. It expressed the hope that the Government would supply the other information and documents called for in the Memorandum adopted by the Governing Body (points I and II of the questionnaire), except as concerns Conventions Nos. 149 and 150 which have been ratified, and the corresponding Recommendations Nos. 157 and 158. It also hoped that the Government would provide information on the proposals made and the decisions taken with respect to the 45 instruments submitted to Parliament by a communication of the Minister of Labour and Employment on 22 November 1976. It requested the Government to indicate whether the instruments adopted at the 70th and 71st Sessions had been submitted. The Committee hopes that the Government will shortly supply the information and documents in question, and would be grateful if it would state whether the instruments adopted at the 72nd Session of the Conference have been submitted.

Democratic Kampuchea

The Committee notes the absence of information concerning the submission of instruments adopted by the Conference to the competent authorities.

Lao People's Democratic Republic

In its previous observation, the Committee noted the information supplied by the Government that steps had been taken with a view to submitting the Conventions and Recommendations adopted by the

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Conference since 1964 to the competent authorities in stages. It hopes that the Government will be able to report in the near future that a first group of instruments has been submitted.

### Lebanon

The Committee hopes that the remaining instruments adopted at the 31st to 72nd Sessions of the Conference will be submitted to the competent authorities as soon as possible.

### Lesotho

The Committee notes that the Government has not replied to its previous observation. It hopes that the Government will indicate in the near future that the instruments adopted at the 66th, 67th, 68th, 69th and 70th Sessions of the Conference have been submitted to the competent authorities, in accordance with article 19, paragraphs 5(b) and 6(b) of the ILO Constitution. It recalls in this respect that the authorities to which these instruments must be submitted are those empowered to legislate, and that the submission of instruments does not entail any obligation to ratify the Conventions or accept the Recommendations.

The Committee also hopes that the Government will supply, with respect to Recommendations Nos. 170 and 171 (71st Session), already submitted, the information and documents called for in this respect in the Memorandum adopted by the Governing Body, particularly with regard to the nature of the competent authority (point I of the questionnaire at the end of the Memorandum), and that it will state whether Conventions Nos. 160 and 161, adopted at the same Session, have been submitted. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 72nd Session of the Conference have been submitted.

### Madagascar

In the absence of a reply to its previous direct requests, the Committee hopes that the Government will shortly provide information concerning the proposals made at the time of submission of the instruments adopted at the 69th Session of the Conference. Furthermore, it hopes that the Government will soon indicate that the instruments adopted at the 55th, 71st and 72nd Sessions have been submitted.

### Malawi

The Committee notes that the Government has not replied to its previous observation. It hopes that the Government will soon state that the remaining instruments, adopted at various sessions from the 55th to the 71st Sessions of the Conference have been submitted to the

competent authorities. Furthermore, the Committee would be grateful if the Government would state whether the instruments adopted at the 72nd Session of the Conference have been submitted.

#### Mauritania

The Committee notes that the Government has not replied to its previous observation. It hopes that it will soon indicate that the instruments adopted at the 68th, 69th, 70th and 71st Sessions of the Conference, and those adopted at the 72nd Session have been submitted to the competent authorities. It also hopes that the Government will supply, in respect of the above instruments, the information and documents requested in the Memorandum adopted by the Governing Body.

#### Mauritius

Further to its previous observation, the Committee takes note of the communication sent by the Government to the Conference Committee, in 1987, in which it reiterates its intention to submit to the Legislative Assembly all the remaining instruments which are at present being examined prior to submission. The Committee therefore hopes that the Government will shortly be able to indicate that the instruments adopted at the 60th Session and 63rd to 72nd Sessions of the Conference, as well as Convention No. 140 and Recommendation No. 148 (59th Session) have been submitted to Parliament, and that it will provide, in this respect, the information and documents called for in the Memorandum adopted by the Governing Body.

#### Nepal

Further to its previous observation, the Committee takes note of the statement made by a Government representative to the Conference Committee in 1987 to the effect that the Government is fully aware of its obligations under article 19 of the ILO Constitution and would be grateful for the assistance of the Regional Adviser on Standards in this respect. The Committee hopes that this will enable a solution to be found, that the instruments adopted at the 51st to 61st Sessions and 66th to 72nd Sessions of the Conference will be submitted to Parliament and that the Government will provide with respect to all the above instruments and those adopted at the 64th and 65th Sessions, already submitted, the information and documents called for in the Memorandum adopted by the Governing Body (points I, II and III of the questionnaire).

#### Nigeria

The Committee notes that the instruments adopted at the 72nd Session of the Conference have been submitted to the competent authorities. It also notes the statement in the Government's report,

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that the proposals and decisions concerning the instruments adopted at the 45th to 59th Sessions and 65th to 70th Sessions will be sent to the ILO as soon as possible. The Committee hopes that the Government will also provide information on the proposals and decisions concerning the instruments adopted at the 71st and 72nd Sessions.

### Panama

The Committee notes that the Government has not replied to its previous direct requests. It hopes that the Government will shortly indicate whether the instruments adopted at the 70th and 71st Sessions of the Conference have been submitted to the competent authority. Furthermore, the Committee would be grateful if the Government would state whether the instruments adopted at the 72nd Session of the Conference have been submitted.

### Papua New Guinea

Further to its previous observation, the Committee takes note of the statement made by a Government representative to the Conference Committee in 1987 that the documents concerning the instruments adopted at the 66th to 71st Sessions of the Conference would probably be submitted to Parliament towards the end of 1987. In the absence of further information, the Committee hopes that the Government will shortly be able to indicate that these instruments and those adopted at the 72nd Session have been submitted to the competent authorities.

### Paraguay

The Committee notes with regret that the Government has not replied to its previous observations. It trusts that it will shortly supply a copy of the letter whereby the Ministry of Foreign Affairs submitted the instruments adopted at the 62nd to 67th Sessions of the Conference to Congress and that it will indicate that the instruments adopted at the 68th, 69th, 70th, 71st and 72nd Sessions have been submitted to the competent authorities.

### Saint Lucia

The Committee notes with regret that the Government has not replied to its previous observations. It trusts that it will shortly indicate that the instruments adopted at the 66th, 67th, 68th, 69th, 70th and 71st Sessions of the Conference have been submitted to the competent authorities. Furthermore, it would be grateful if the Government would state whether the instruments adopted at the 72nd Session have been submitted. It recalls in this respect that the authorities to which these instruments must be submitted are those empowered to legislate. The Committee hopes that the Government will also supply the information and documents called for in this respect

in the Memorandum adopted by the Governing Body, particularly with regard to the nature of the competent authority and the proposals or comments made by the Government on the effect to be given to the instruments in question (points I(a) and II(b) of the questionnaire). The Committee wishes to point out that the obligation to submit does not imply that governments must propose the ratification or application of the instrument in question. Governments have complete freedom as to the nature of the proposals to be made when submitting Conventions and Recommendations to the competent authorities.

#### Sao Tome and Principe

The Committee notes that the Government has not replied to its previous observation. It hopes that the Government will indicate in the near future that the instruments adopted at the 68th, 69th, 70th and 71st Sessions of the Conference have been submitted to the competent authorities. It recalls in this connection that, in accordance with article 19, paragraphs 5(b) and 6, of the ILO Constitution, the authorities to which these instruments must be submitted are those empowered to legislate. It hopes that the Government will soon take the necessary measures and that it will supply, in respect of the above instruments, the information and documents called for in the Memorandum adopted by the Governing Body, particularly as concerns the nature of the competent authority and the Government's proposals or comments on the effect to be given to the instruments in question (Points I(a) and II(b) of the questionnaire). The Committee wishes to point out that the obligation to submit does not imply that governments must propose the ratification of the Convention or the application of the Recommendation in question. Governments have complete freedom as to the nature of the proposals to be made when submitting Conventions and Recommendations to the competent authorities. All the instruments adopted by the Conference must accordingly be submitted to the competent authorities, irrespective of the action the Government intends to take on them.

As regards the instruments adopted at the 72nd Session of the Conference, the Committee notes the decision taken in their respect, which has been communicated by the Government. It requests the latter to indicate whether these instruments have been duly submitted to the competent authorities.

#### Seychelles

The Committee regrets to note that, once again, the Government has not replied to its previous observation. It trusts that the Government will shortly state that the instruments adopted at the 63rd, 64th, 65th, 66th, 67th, 68th, 69th, 70th, 71st and 72nd Sessions of the Conference have been submitted to the competent authorities in accordance with article 19, paragraphs 5(b) and 6(b), of the ILO Constitution. It recalls in this connection that the authorities to which these instruments must be submitted are those empowered to legislate. The Committee hopes that the Government will also provide



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the information and documents called for in this connection in the Memorandum adopted by the Governing Body, particularly with regard to the Government's proposals or comments on the action to be taken with respect to these instruments (point II(b) of the questionnaire). The Committee also wishes to point out that the obligation to submit does not imply that governments must propose the ratification or application of the instruments in question. Governments have complete freedom as to the nature of the proposals to be made when submitting Conventions and Recommendations to the competent authorities.

### Sierra Leone

With reference to its previous observations, the Committee takes note of the decisions communicated by the Government to the Conference Committee in 1987 concerning the instruments adopted at the 46th to 62nd Sessions of the Conference, which had already been submitted. It also takes note of the administrative difficulties which have delayed the submission of the instruments still outstanding, and of the Government's assurance that it would be possible to submit all these instruments to the competent authorities in the near future. In the absence of further information, the Committee trusts that the Government will shortly be able to state that 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, 68th, 69th, 70th, 71st and 72nd Sessions have been submitted to Parliament.

### Somalia

Further to its previous comments, the Committee notes with satisfaction that, according to the information and documents supplied by the Government, the instruments adopted at the 68th to the 72nd Sessions of the Conference have been submitted to the competent authorities.

### Syrian Arab Republic

The Committee notes from the information supplied by the Government that Recommendation No. 162 (66th Session of the Conference), Convention No. 161 and Recommendation No. 171 (71st Session) have been transmitted to the Presidency of the Council of Ministers. It hopes that these instruments will also be submitted to the People's Assembly as being another body empowered to legislate under Article 71 of the Syrian Constitution, along with Convention No. 160 and Recommendations Nos. 160, 161 and 167 to 170 (65th, 69th, 70th and 71st Sessions) which were previously transmitted to the Council of Ministers with a view to submitting them to the People's Assembly. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 72nd Session of the Conference have been submitted.

United Republic of Tanzania

Further to its previous comments, the Committee takes note of the statement made by a Government representative to the Conference Committee in 1987 and of the discussion that followed. The Committee wishes to recall once again that a clear distinction should be drawn between the terms "submission" and "ratification". The former is an obligation of a general nature which applies to both Conventions and Recommendations. However, it does not imply that governments are under the obligation to ratify the Convention or apply the Recommendation in question. The authority competent to receive submissions is therefore not that vested with the power to ratify but the authority empowered to legislate or take other measures to give effect to the Conventions and Recommendations. It is none the less desirable that, even when instruments do not call for measures of a legislative nature, they should also be submitted to the legislative authority in order to achieve the second objective of submission, which is to bring the Conventions and Recommendations to the knowledge of the public.

The Committee therefore hopes that the Government will shortly indicate that the instruments adopted at the 54th to 65th Sessions of the Conference which have already been submitted to the Cabinet, have also been submitted to the National Assembly, along with proposals as to the effect to be given to them. It also hopes that the Government will soon state that all the instruments adopted at the 66th to 72nd Sessions have been submitted to the National Assembly and that it will provide with respect to these instruments and those adopted at the 47th to 53rd Sessions, already submitted, the information and documents called for in the Memorandum adopted by the Governing Body.

Thailand

The Committee notes that the instruments adopted at the 69th to 71st Sessions of the Conference have been submitted to the competent authorities. It hopes that the Government will soon supply in this respect the information and documents called for in the Memorandum adopted by the Governing Body, particularly with regard to points II(b) and (c), and III of the questionnaire. Recalling its earlier comments, the Committee hopes that the Government will also provide these information and documents concerning the instruments adopted at the 67th and 68th Sessions of the Conference, which were submitted in 1984, and the instruments adopted at the 61st to 66th Sessions, submitted in 1981. Furthermore, the Committee would be grateful if the Government would state whether the instruments adopted at the 72nd Session of the Conference have been submitted.

Trinidad and Tobago

The Committee notes that the Government has not replied to its previous observation. It hopes that the Government will provide a copy of the document whereby the instruments adopted at the 65th

## SUBMISSION TO COMPETENT AUTHORITIES

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Session of the Conference were submitted to Parliament. It also hopes that the Government will soon state that the remaining instruments (from the 66th to the 72nd Sessions) have also been submitted to the competent authorities.

### Tunisia

Further to its earlier comments, the Committee notes with interest the information and documents supplied by the Government concerning the submission to the competent authorities of the instruments adopted at the 64th Session and at the 66th to 68th Sessions of the Conference, and of Recommendation No. 167 (69th Session). It also notes the statement made by a Government representative before the Conference Committee in 1987 that a special committee, whose work will shortly be concluded, is preparing comparative studies of the Conventions adopted at the 62nd and 65th Sessions, and that the Ministry of Social Affairs is doing likewise for the Conventions adopted by the Conference at its 69th, 70th, 71st and 72nd Sessions. The Committee hopes that it will soon be possible to submit the above instruments and the Recommendations adopted at the same Sessions of the Conference to the competent authorities. Finally, it notes that the examination of the instruments adopted from the 54th to 60th Sessions has been resumed with a view toward formulating practical proposals in their connection.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Algeria, Argentina, Bahamas, Bangladesh, Belgium, Belize, Benin, Burma, Cameroon, Cape Verde, Chile, Colombia, Comoros, Costa Rica, Cyprus, Denmark, Dominica, Ecuador, Equatorial Guinea, Ethiopia, Fiji, Federal Republic of Germany, Greece, Guatemala, Guinea-Bissau, Guyana, Honduras, India, Iraq, Ireland, Israel, Italy, Jordan, Kenya, Luxembourg, Malta, Mexico, Mongolia, Morocco, Mozambique, Netherlands, New Zealand, Pakistan, Peru, Philippines, Portugal, Qatar, Romania, Rwanda, San Marino, Senegal, Solomon Islands, Spain, Sri Lanka, Sudan, Suriname, Swaziland, United Kingdom, United States, Uruguay, Venezuela, Yemen, Zaire, Zambia, Zimbabwe.

**Appendix I. Information Supplied by Governments with Regard to the Obligation to Submit Conventions and Recommendations to the Competent Authorities**

*(31st to 72nd Sessions of the International Labour Conference, 1948-86)<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 70	71 and 72
Algeria . . . . .	47 to 72	—
Angola . . . . .	61 to 66 and 67 (C 154, 156; R 163, 165)	67 (C 155; R 164), 68, 69, 70, 71 and 72
Antigua and Barbuda . . .	68	69, 70, 71 and 72
Argentina . . . . .	31 to 71	72
Australia . . . . .	31 to 72	—
Austria . . . . .	31 to 72	—
Bahamas . . . . .	61 to 72	—
Bahrain . . . . .	63 to 72	—
Bangladesh . . . . .	58 to 69	70, 71 and 72
Barbados . . . . .	51 to 72	—
Belgium . . . . .	31 to 68, 70 and 71	69 and 72
Belize . . . . .	68	69, 70, 71 and 72
Benin . . . . .	45 to 70	71 and 72
Bolivia . . . . .	31 to 59, 60 (C 141, 142, 143; R 149, 150), 61 to 69	60 (R 151), 70, 71 and 72
Botswana . . . . .	64 to 72	—

<sup>1</sup> The Conference did not adopt any Conventions or Recommendations at its 57th Session (June 1972).

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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)
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, 126; R 126), 51 (C 127; R 128, 131), 53 (R 133, 134), 54 (C 131, 132; 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), 62 (C 145, 146, 147), 63 (C 148; R 156), 65 (C 152), 69 (C 159; R 168), 71 (C 160; R 170) and 72	46 (R 117), 47 (R 118, 119), 48 (R 121, 122), 49 (R 123), 50 (R 127), 51 (C 128; R 129, 130), 52, 53 (C 129, 130), 54 (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 (R 153, 154, 155), 63, (C 149; R 157), 64, 65 (C 153; R 160, 161), 66, 67, 68, 69 (R 167), 70 and 71 (C 161; R 171)
Bulgaria . . . . .	31 to 72	—
Burkina Faso . . . . .	45 to 72	—
Burma . . . . .	31 to 71	72
Burundi . . . . .	47 to 72	—
Byelorussian SSR . . . . .	37 to 72	—
Cameroon . . . . .	44 to 68	69, 70, 71 and 72
Canada . . . . .	31 to 72	—
Cape Verde . . . . .	65 to 68 and 70	69, 71 and 72
Central African Republic . . . . .	45 to 70	71 and 72
Chad . . . . .	45 to 70	71 and 72
Chile . . . . .	31 to 70 and 72	71
China . . . . .	69 to 72	—
Colombia . . . . .	31 to 70	71 and 72
Comoros . . . . .	65 to 71	72
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 to 66 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), 67 (C 156; R 163, 164, 165), 68, 69, 70, 71 and 72
Costa Rica . . . . .	31 to 68, 69 (C 159; R 168) and 70	69 (R 167), 71 and 72
Côte d'Ivoire . . . . .	45 to 72	—

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)
Cuba . . . . .	31 to 72	—
Cyprus . . . . .	45 to 69 and 71	70 and 72
Czechoslovakia . . . . .	31 to 72	—
Democratic Yemen . . . . .	53 to 68	69, 70, 71 and 72
Denmark . . . . .	31 to 72	—
Djibouti . . . . .	64, 65, 67, 71 and 72	66, 68, 69 and 70
Dominica . . . . .	71	68, 69, 70 and 72
Dominican Republic . . . . .	31 to 62, 64 and 68	63, 65, 66, 67, 69, 70, 71 and 72
Ecuador . . . . .	31 to 70	71 and 72
Egypt . . . . .	31 to 72	—
El Salvador . . . . .	31 to 61, 63 (C 149), 64 (C 150), 69 (C 159; R 168), and 71 (C 160; R 170)	62, 63 (C 148; R 156, 157), 64 (C 151; R 158, 159), 65, 66, 67, 68, 69 (R 167), 70 and 71 (C 161; R 171) and 72
Equatorial Guinea . . . . .	67 to 71	72
Ethiopia . . . . .	31 to 72	—
Fiji . . . . .	59 to 70	71 and 72
Finland . . . . .	31 to 72	—
France . . . . .	31 to 72	—
Gabon . . . . .	45 to 71	72
German Democratic Republic . . . . .	59 to 72	—
Germany, Federal Republic of . . . . .	34 to 64, 65 (C 152, 153; R 160), 66, 67 (C 154, 155; R 163, 164), 68 and 69	65 (R 161), 67 (C 156; R 165), 70, 71 and 72
Ghana . . . . .	40 to 65	66, 67, 68, 69, 70, 71 and 72
Greece . . . . .	31 to 71	72
Grenada . . . . .	—	66, 67, 68, 69, 70, 71 and 72
Guatemala . . . . .	31 to 70	71 and 72
Guinea . . . . .	43 to 67	68, 69, 70, 71 and 72

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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 to 70	71 and 72
Guyana . . . . .	50 to 70	71 and 72
Haiti . . . . .	31 to 66	67, 68, 69, 70, 71 and 72
Honduras . . . . .	39 to 66, 68, 69, 71 and 72	67 and 70
Hungary . . . . .	31 to 72	—
Iceland . . . . .	31 to 72	—
India . . . . .	31 to 70	71 and 72
Indonesia . . . . .	33 to 72	—
Iran, Islamic Republic of	31 to 61	62, 63, 64, 65, 66, 67, 68, 69, 70, 71 and 72
Iraq . . . . .	31 to 71	72
Ireland . . . . .	31 to 71	72
Israel . . . . .	32 to 71	72
Italy . . . . .	31 to 72	—
Jamaica . . . . .	47 to 69	70, 71 and 72
Japan . . . . .	35 to 72	—
Jordan . . . . .	39 to 71	72
Democratic Kampuchea .	53, 54 and 56	55, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71 and 72
Kenya . . . . .	48 to 68	69, 70, 71 and 72
Kuwait . . . . .	45 to 72	—
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, 69, 70, 71 and 72
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, 69, 70, 71 and 72

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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)
Lesotho . . . . .	71 (R 170, 171)	66, 67, 68, 69, 70, 71 (C 160, 161) and 72
Liberia . . . . .	31 to 72	—
Libyan Arab Jamahiriya . . . . .	35 to 72	—
Luxembourg . . . . .	31 to 71	72
Madagascar . . . . .	45 to 54, 56 to 70	55, 71 and 72
Malawi . . . . .	49 to 54, 56, 61, 63 (C 149; R 157), 68 (C 158; R 166) and 69 (C 159; R 168)	55, 58, 59, 60, 62, 63 (C 148; R 156), 64, 65, 66, 67, 68 (C 157), 69 (R 167), 70, 71 and 72
Malaysia . . . . .	41 to 72	—
Mali . . . . .	44 to 72	—
Malta . . . . .	49 to 71	72
Mauritania . . . . .	45 to 67	68, 69, 70, 71 and 72
Mauritius . . . . .	53 to 58, 59 (C 139; R 147), 61 and 62	59 (C 140; R 148), 60, 63, 64, 65, 66, 67, 68, 69, 70, 71 and 72
Mexico . . . . .	31 to 69, 71 and 72	70
Mongolia . . . . .	53 to 71	72
Morocco . . . . .	39 to 72	—
Mozambique . . . . .	61 to 72	—
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, 69, 70, 71 and 72
Netherlands . . . . .	31 to 66, 67 (C 154, 156; R 163, 165), 68 and 69 (C 159; R 168)	67 (C 155; R 164), 69 (R 167), 70, 71 and 72
New Zealand . . . . .	31 to 71	72
Nicaragua . . . . .	40 to 72	—
Niger . . . . .	45 to 72	—
Nigeria . . . . .	45 to 72	—
Norway . . . . .	31 to 72	—
Pakistan . . . . .	31 to 68	69, 70, 71 and 72
Panama . . . . .	31 to 69	70, 71 and 72
Papua New Guinea . . . . .	61 to 65	66, 67, 68, 69, 70, 71 and 72



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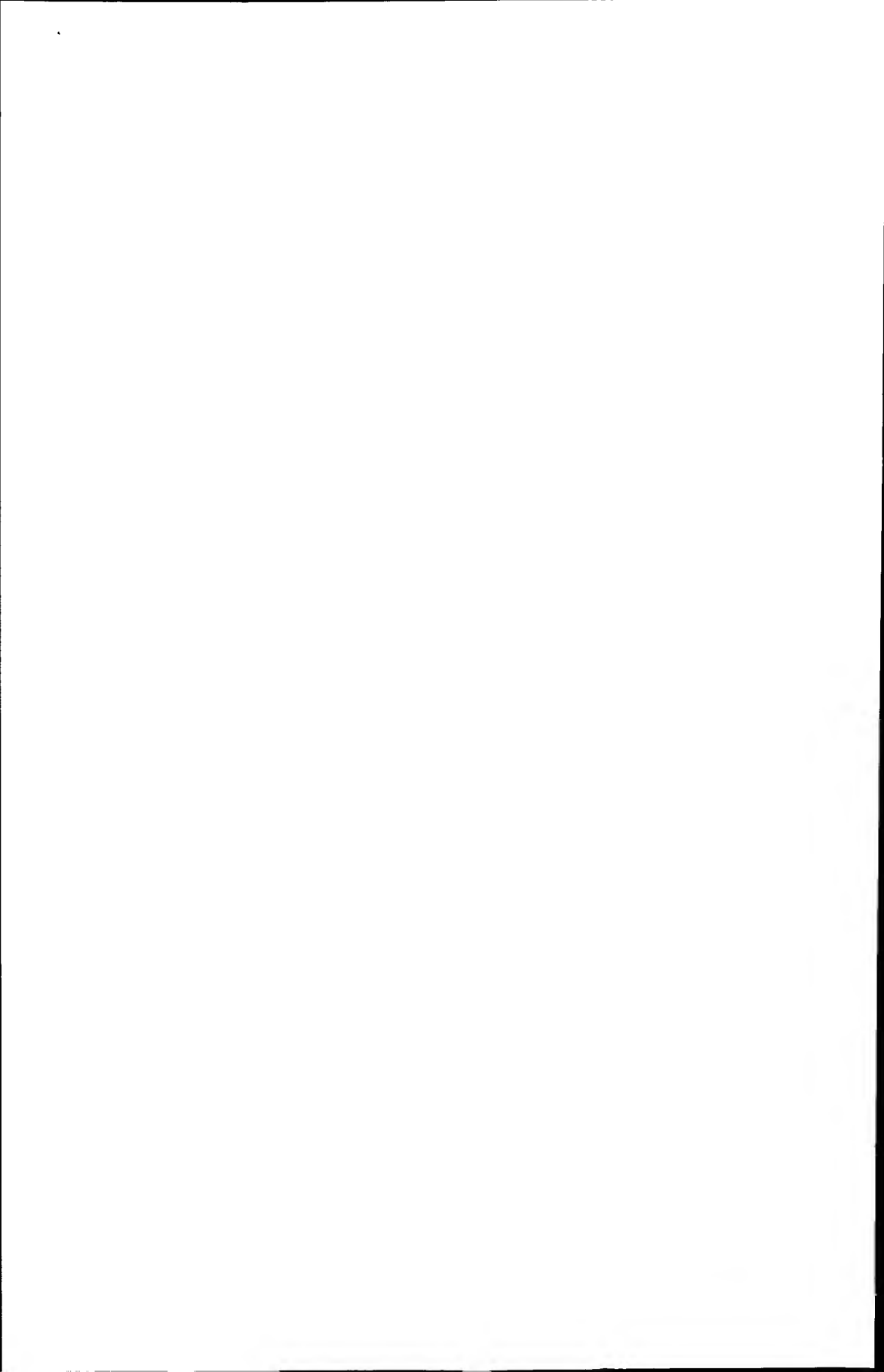
State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Paraguay . . . . .	40 to 67	68, 69, 70, 71 and 72
Peru . . . . .	31 to 64, 65 (C 152; R 160), 66, 67 (C 154, 156; R 163, 165), 68 (C 158, R 166), 69 (C 159; R 168) and 71	65 (C 153; R 161), 67 (C 155; R 164), 68 (C 157), 69 (R 167), 70 and 72
Philippines . . . . .	31 to 66	67, 68, 69, 70, 71 and 72
Poland . . . . .	31 to 72	—
Portugal . . . . .	31 to 72	—
Qatar . . . . .	58 to 71	72
Romania . . . . .	39 to 69, 71 and 72	70
Rwanda . . . . .	47 to 71	72
Saint Lucia . . . . .	—	66, 67, 68, 69, 70, 71 and 72
San Marino . . . . .	69 (C 159; R 168) and 70	68, 69 (R 167), 71 and 72
Sao Tome and Principe . .	—	68, 69, 70, 71 and 72
Saudi Arabia . . . . .	61 to 72	—
Senegal . . . . .	44 to 69, 71 and 72	70
Seychelles . . . . .	—	63, 64, 65, 66, 67, 68, 69, 70, 71 and 72
Sierra Leone . . . . .	45 to 62 (C 145, 147; R 153, 155)	62 (C 146; R 154), 63, 64, 65, 66, 67, 68, 69, 70, 71 and 72
Singapore . . . . .	50 to 72	—
Solomon Islands . . . . .	—	70, 71 and 72
Somalia . . . . .	45 to 72	—
Spain . . . . .	39 to 62, 63 (C 148; R 156, 157), 64 to 68 and 69 (R 167)	63 (C 149), 69 (C 159; R 168), 70, 71 and 72
Sri Lanka . . . . .	31 to 71	72
Sudan . . . . .	39 to 72	—
Suriname . . . . .	61 to 64	65, 66, 67, 68, 69, 70, 71 and 72
Swaziland . . . . .	60 to 67	68, 69, 70, 71 and 72
Sweden . . . . .	31 to 72	—
Switzerland . . . . .	31 to 72	—
Syrian Arab Republic . . .	31 to 71	72

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)
Tanzania, United Republic of . . . . .	46 to 65	66, 67, 68, 69, 70, 71 and 72
Thailand . . . . .	31 to 71	72
Togo . . . . .	44 to 72	—
Trinidad and Tobago . . .	47 to 65	66, 67, 68, 69, 70, 71 and 72
Tunisia . . . . .	39 to 61, 63, 64, 66 to 68 and 69 (R 167)	62, 65, 69 (C 159; R 168), 70, 71 and 72
Turkey . . . . .	31 to 72	—
Uganda . . . . .	47 to 72	—
Ukrainian SSR . . . . .	37 to 72	—
USSR . . . . .	37 to 72	—
United Arab Emirates . .	58 to 72	—
United Kingdom . . . . .	31 to 72	—
United States . . . . .	31 to 70, 71 (C 161; R 171) and 72	71 (C 160; R 170)
Uruguay . . . . .	31 to 68, 69 (C 159; R 167), 70 and 71 (C 161)	69 (R 168), 71 (C 160; R 170, 171) and 72
Venezuela . . . . .	31 to 69 and 71 (C 160; R 170)	70, 71 (C 161; R 171) and 72
Yemen . . . . .	49 to 69	70, 71 and 72
Yugoslavia . . . . .	31 to 72	—
Zaire . . . . .	45 to 69	70, 71 and 72
Zambia . . . . .	49 to 67, 70 and 71	68, 69 and 72
Zimbabwe . . . . .	66 to 69	70, 71 and 72

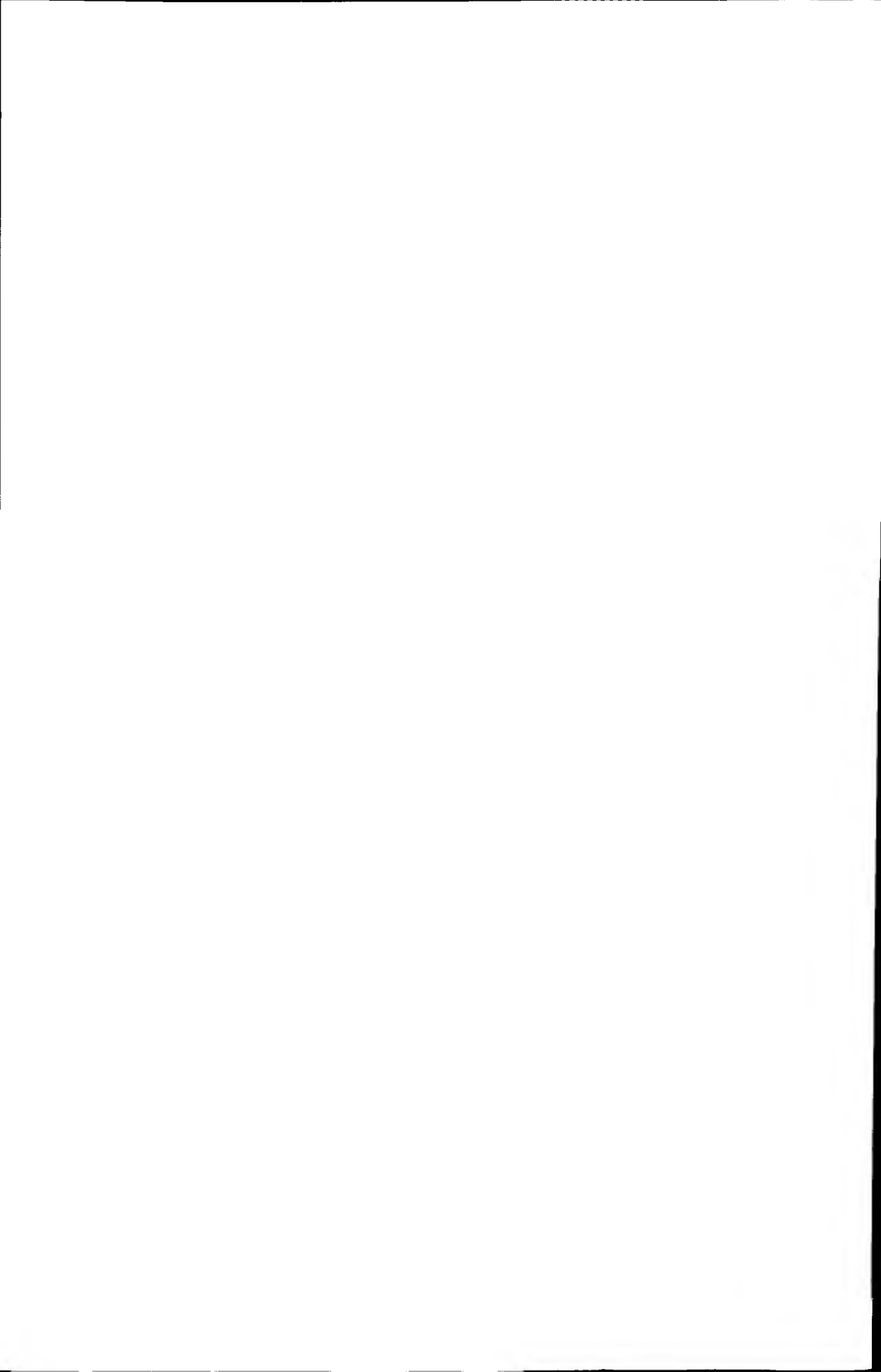
## Appendix II. Over-all position of Member States at 23 March 1988

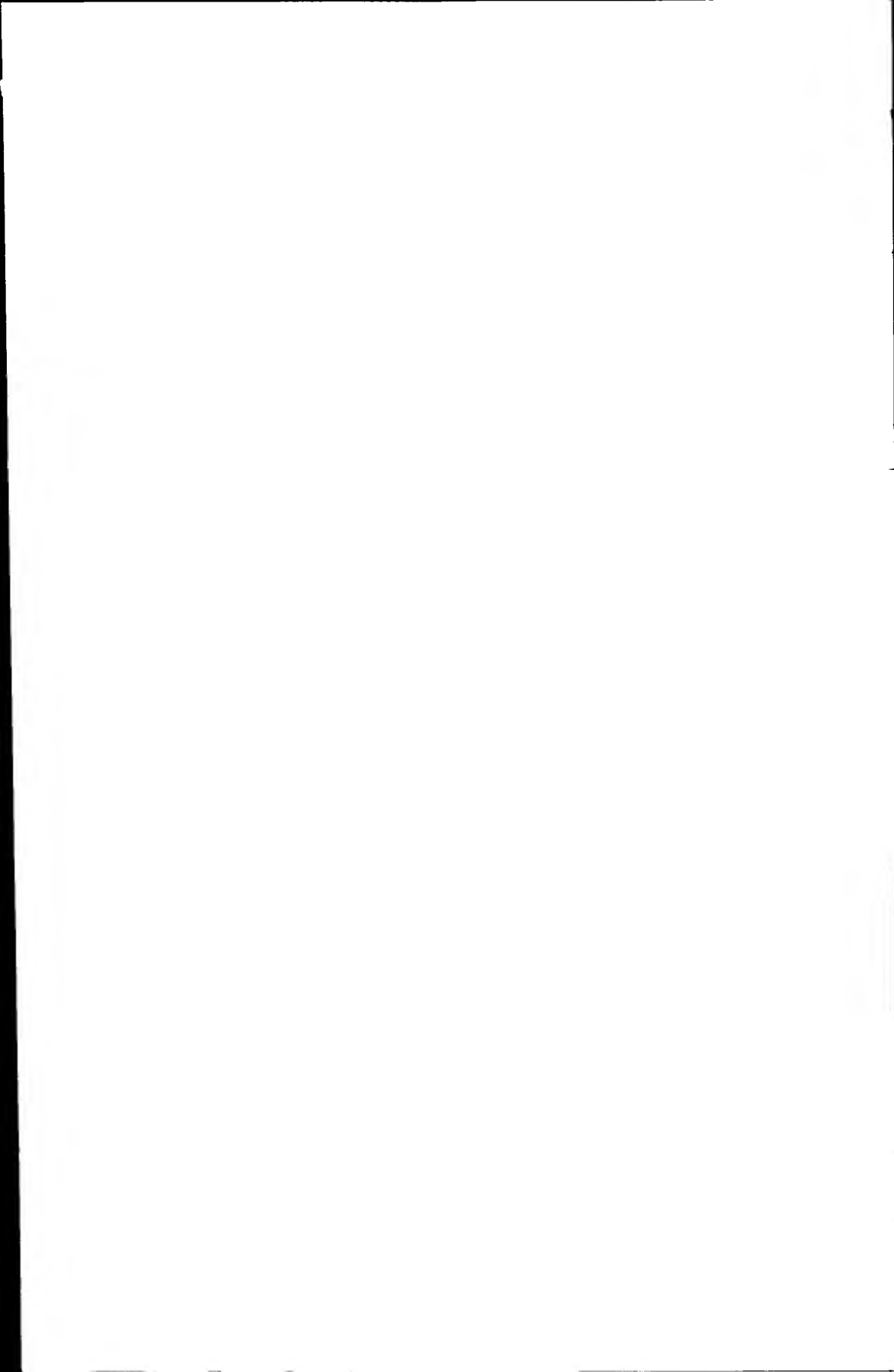
Sessions at which decisions were adopted	Number of States in which, according to information supplied by Government,			Number of States which were Members of the Organisation at the time of the session
	All the texts have been submitted	Some of these texts have been submitted	None of these texts have been submitted (including cases in which no information has been supplied by the Government)	
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	2	69
39 (June 1956) . . . . .	74	—	2	76
40 (June 1957) . . . . .	75	2	—	77
41 (April/May 1958) . . . . .	77	1	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) . . . . .	113	— <sup>1</sup>	5	118
53 (June 1969) . . . . .	118	1	2	121
54 (June 1970) . . . . .	115	4	2	121
55 (October 1970) . . . . .	112	3	6	121
56 (June 1971) . . . . .	113	1	7	121
58 (June 1973) . . . . .	111	3	9	123
59 (June 1974) . . . . .	117	2	6	125
60 (June 1975) . . . . .	115	2	9	126
61 (June 1976) . . . . .	121	—	10	131
62 (October 1976) . . . . .	120	1	11	132
63 (June 1977) . . . . .	110	4	21	135
64 (June 1978) . . . . .	124	2	10	136
65 (June 1979) . . . . .	119	4	16	139
66 (June 1980) . . . . .	112	— <sup>1</sup>	32	144
67 (June 1981) . . . . .	114	4	27	145
68 (June 1982) . . . . .	108	4	38	150
69 (June 1983) . . . . .	100	9	41	150
70 (June 1984) . . . . .	90	— <sup>1</sup>	60	150
71 (June 1985) . . . . .	81	6	63	150
72 (June 1986) . . . . .	61	—	89	150

<sup>1</sup> At this session the Conference adopted one Recommendation only.









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