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International Labour Conference  
77th Session 1990

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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  
77th Session 1990

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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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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 1989.

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, 111, 139	141	100, 137, 140, 142
Algeria	87, 98	6, 13, 29, 62, 68, 77, 78, 81, 88, 89, 91, 92, 94, 100, 105, 111, 122, 127, 138, 142, 150	17, 42	11, 97
Angola		29, 91, 100, 111		
Antigua and Barbuda	111			
Argentina	129, 144, 151, 159	1, 27, 34, 42, 68, 81, 100, 124	12, 17	29, 41, 45, 90

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Australia	160	27, 29, 42, 81, 100, 142, 150	88, 89	105, 121
Austria	160	6, 27, 29, 100, 112	17, 42, 81, 88, 135, 141	12, 45, 105
Bahamas		29, 88	17, 89, 117, 144	12, 26, 42, 45, 81, 105
Bangladesh		81, 90, 105, 107, 149		18, 29, 45, 89
Barbados		29, 100, 102, 105		12, 17, 42, 81, 90, 108, 135
Belgium		1, 6, 27, 29, 62, 81, 89, 100, 105, 111, 121, 147	8, 12, 17, 14, 22, 23, 26, 73, 88, 97, 101, 114	19, 45, 90, 95
Belize		81, 88	101, 120	12, 42, 89, 108, 115
Benin		18, 100, 111		
Bolivia		5, 77, 78, 81, 88, 89, 100, 120, 122, 129		45, 90



Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Botswana	14, 19			
Brazil		5, 29, 45, 88, 89, 100, 103, 131, 142, 148	12	
Bulgaria		27, 29, 111		6, 12, 17, 42, 45, 81, 100, 108, 127
Burkina Faso		29, 81, 87, 129	17, 18, 135	6, 41, 100
Burundi		27, 29, 81, 105	12, 17	42, 89, 90
Byelorussian SSR		29, 111	149	27, 45, 90, 100
Cameroon		29, 81, 100, 105, 108		45, 89, 90, 135
Canada		1, 27, 100, 105	17, 50, 88	108
Cape Verde	19, 118	29, 81, 98, 100, 105, 111		
Central African Republic		29, 87, 88, 100, 105, 111, 119	2, 17, 18, 19, 81, 98	6, 33, 52, 118

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Chad		6, 13, 29, 81, 100, 105, 111	12	41
Chile		1, 2, 3, 6, 20, 27, 29, 30, 100, 111, 122	17, 18, 24, 25, 35, 37, 38	45, 127
China		45		
Colombia		2, 3, 29, 81, 88, 100, 105, 111, 129	9, 12, 17, 18, 87	4, 6, 22, 106
Comoros		1, 29, 105, 122	87, 98	
Congo	149, 150, 152	29, 119	87	5, 11, 13, 26, 33
Costa Rica		1, 29, 81, 88, 105, 129, 135, 150		11, 45, 89, 90, 127
Côte d'Ivoire	81, 144	29, 95, 100, 111, 136	18	6, 41, 45, 52, 105, 135
Cuba		27, 29, 42, 79, 88, 89, 90, 105, 108, 148, 155	12, 17, 81, 135, 151	45, 100, 141

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Cyprus	152, 159, 160	105, 114, 122, 158, 160	81, 88, 119, 141, 151	45, 89, 90
Czechoslovakia		27, 29, 111	12, 17, 42, 88, 89, 159	45, 90
Democratic Yemen		29, 59, 95, 98, 105		19
Denmark		27, 29, 100, 147, 149, 151	6, 42, 81, 98	12, 105, 129, 135, 141
Faeroe Islands		9, 29, 53, 105		6, 7, 11, 12, 98
Greenland		6, 122		7
Djibouti		9, 29, 53, 69, 81, 91, 96, 120, 122, 125, 126	19, 36, 37, 38	1, 5, 10, 11, 13, 26, 33, 63, 87, 99, 105, 123
Dominica	100, 111	29, 87, 105, 138	1, 81	12, 94, 97, 98, 108
Dominican Republic		81, 88, 100, 111	87, 98, 119	5, 10, 19, 26, 45, 89, 90
Ecuador		103, 119, 122, 149	97	

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Egypt		29, 69, 73, 81, 88, 100, 105, 111, 147	2	18, 45, 89, 135, 149
El Salvador	159, 160	17, 105		
Equatorial Guinea	100	1, 30, 138		
Ethiopia		88	2, 98	11
Fiji		29, 84, 105		8, 12, 45, 58, 85, 108
Finland	149, 160, 161	27, 53, 81, 100, 111, 121, 148, 151, 153, 155, 156, 159	2, 135, 141, 154	12, 45, 108, 129, 147
France	149	29, 42, 69, 100, 105, 111, 122, 142	12, 17, 35, 36, 37, 38, 42, 68, 74, 92, 97, 108, 118, 126, 127, 135, 141	89, 123, 144
<u>Overseas Departments:</u>  French Guiana	142, 149		6, 12, 17, 42, 68, 92, 126	9, 29, 81, 89, 95, 100, 105, 108, 123, 129, 135, 141, 144

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Guadeloupe	142, 149		6, 12, 17, 42, 68, 92, 126	9, 29, 81, 89, 95, 100, 105, 108, 123, 129, 135, 141, 144
Martinique	142, 149		6, 12, 17, 42, 68, 92, 126	9, 29, 81, 89, 95, 100, 105, 108, 123, 129, 135, 141, 144
Réunion	142, 149		6, 12, 17, 42, 68, 92, 126	9, 29, 81, 89, 95, 100, 105, 108, 123, 129, 135, 141, 144
Territorial Community of St. Pierre and Miquelon	142, 149	77, 78	6, 12, 17, 42, 122, 126	9, 63, 81, 89, 95, 100, 108, 123, 129, 141
<u>Overseas Territories:</u>				
French Polynesia	149	81, 127, 129	42, 88	6, 12, 45, 89, 105, 120, 141
New Caledonia	144, 149	13, 100, 124, 141	42, 127	6, 12, 17, 29, 81, 105, 108, 129

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Gabon		29, 81, 100, 105	98	6, 12, 41, 45, 135
German Democratic Republic		27, 111, 122	127, 135	45, 95, 108
Germany, Federal Republic of		111, 121, 128	12, 135, 147	45, 81, 129, 141
Ghana	149	26, 30, 100	119	
Greece	138	27, 29, 87, 89, 90, 98, 100, 103, 105, 111, 115, 122, 147, 150	12, 42, 81, 88	45, 108
Guatemala	1, 10, 11, 14	88, 105, 127	81, 98, 100	45, 89, 90, 108
Guinea	149	29, 81, 100, 105, 121, 139, 143, 148, 152	118	12, 45, 89, 90, 134, 135, 141
Guinea-Bissau		27, 29, 45, 81, 88, 105, 108	17	18, 89

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Guyana		81, 98, 100, 111, 129, 135, 137, 139, 144, 149, 150, 151	42, 87	131, 136
Haiti		45, 81, 100	24, 25, 42	
Honduras		122		105
Hungary		29, 100	2, 159	6, 12, 17, 42, 45, 135
Iceland		2, 105, 111	87	29, 108
India		26, 27, 81, 100, 107, 123, 141	42	45, 89
Iran, Islamic Republic of		29, 100, 105, 111		108
Iraq	94, 107, 108, 119, 120, 147, 148, 152, 153	27, 29, 92, 95, 135, 138, 149	17, 111	42, 81, 88, 89
Ireland	73	26, 53, 99	100	

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Israel		9, 29, 91, 100, 105, 111, 122	88, 141	1, 30, 81, 90
Italy	148, 150	29, 81, 87, 92, 97, 98, 105, 111, 122, 127, 129, 134, 143, 149, 151	12, 27, 42, 120, 141	108, 118, 135
Jamaica	149	29, 81, 100, 105, 122	8, 87, 98	16, 58
Japan		27, 29, 81, 100, 102, 121	87, 88	45, 147
Jordan		29, 81, 100, 105, 111, 119, 120, 122, 135		
Kenya		27, 29, 105, 138	2, 12, 17, 129, 135, 141	26, 45, 81, 88, 89, 98
Kuwait		29, 105		81, 111
Lao People's Democratic Republic		13, 29		4, 6



Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Lesotho		29		26, 45
Liberia		29, 55, 105	98	87
Libyan Arab Jamahiriya		1, 103, 111, 122, 131	98	81, 96
Luxembourg		27, 29, 100, 102, 121	12, 98, 135	81, 90, 105
Madagascar		29, 81, 100, 111, 119, 124, 127		11, 12, 26, 41
Malawi	149, 159			
Malaysia		12, 17, 29, 81, 105	7, 88	11, 45, 97
Peninsular Malaysia		12, 17		
Sarawak		12, 17		
Mali		29, 81, 100, 111		5, 17, 18, 41, 105
Malta	1, 4, 13, 14, 21	29, 81	2, 88	12, 42, 89, 105, 108

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Mauritania				26
Mauritius		29, 42, 81, 105	2, 12, 17, 108	
Mexico	161	27, 29, 34, 90, 100, 115, 155	17	12, 42, 45, 105, 108, 135, 141
Mongolia		122	17, 87, 98	103
Morocco		29, 105, 136	2, 42, 81	12, 27, 41, 45, 111, 129
Mozambique		88, 105	17, 18	81, 100
Myanmar		29	2, 17	6, 14, 27, 42
Nepal		100		14
Netherlands		29, 96, 100, 103, 111, 121, 129, 135	12, 17, 81, 87, 88, 141, 147	90, 105
Aruba	29, 87			89, 141

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Netherlands Antilles		33, 81, 105, 122	42, 88	9, 11, 12, 29, 45, 87, 89, 90
New Zealand	144	81, 88, 100, 105, 111	12, 17, 42	29
Nicaragua		29, 77, 78, 100, 105, 110, 122, 127, 144, 146	18	119, 131
Niger	154, 156, 158	29, 81, 111, 131, 138	87, 98	6, 11, 105, 135
Nigeria	156	88	19, 81, 134	58
Norway	160	27, 29, 42, 111, 122, 147, 148, 154, 155	12, 88, 108, 129, 141, 159	81, 90, 135, 151
Pakistan		105		
Panama		3, 9, 29, 30, 32, 68, 89, 92, 105, 108, 125, 126, 127	12, 17, 42, 87, 98	100
Papua New Guinea		89, 105	8, 12, 42, 98	2, 26, 27, 45, 85

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Paraguay		29, 81, 100, 105, 122		45
Peru	159	27, 41, 56, 67, 68, 69, 71, 77, 78, 100, 105, 122	12, 81, 87, 98	45, 90
Philippines		88, 89, 90, 94, 95, 99, 100, 105, 122, 141, 149	17	
Poland		11, 27, 29, 87, 98, 100, 103, 105, 111, 115, 149	2, 12, 17, 18, 19, 24, 25, 35, 36, 37, 38, 39, 40, 42	45, 90, 127, 135, 151
Portugal		6, 8, 27, 29, 74, 81, 100, 108, 111, 122, 124, 127, 129, 147, 148, 149, 155	12, 17, 18, 19, 135, 151	45, 63, 89, 105
Qatar		81		
Romania		27, 29, 135	127	6, 81, 88, 89, 100, 108, 129
Rwanda		81, 100, 111	12, 17, 42	89, 123

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Saint Lucia		17, 50, 64, 65		11, 12, 87, 97, 105, 108
San Marino	87, 98	143, 144		
Sao Tome and Principe	18	81, 88	17, 19	100
Saudi Arabia		29, 81, 90, 100, 111		45, 89, 105
Senegal		29, 81, 100, 105, 111, 121	135	6, 12, 89
Seychelles		26, 99	10	11, 29
Singapore		29, 81, 88		12, 45
Somalia		105, 111		17, 45, 85
South Africa		2, 89	17, 42	45
Spain		27, 29, 45, 81, 89, 100, 105, 122, 131, 136, 137, 144, 147, 148, 151, 154, 155, 157, 158	42, 79, 87, 88, 98, 108, 127, 135	90, 141

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Sri Lanka	115	81, 135		45, 90
Sudan		2, 29, 81, 100, 122		
Suriname		27, 29, 81, 88, 105	17, 42, 118	41, 135, 151
Swaziland			87	98
Sweden	161	27, 29, 111, 121, 122, 148, 149, 155, 158, 159	147	81, 105, 129, 135, 141, 154
Switzerland	160	27, 29, 81, 100, 111	2, 18, 88, 108, 141, 151, 154, 159	6, 45, 89, 105
Syrian Arab Republic		111	1, 17, 18, 30	45, 89, 135
Tanzania, United Republic of				81
Thailand		88, 127		
Togo		29, 100, 111, 138		6, 41, 85

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Trinidad and Tobago		29, 105		85
Tunisia		29, 55, 73, 105, 111, 113		81, 90
Turkey		77, 81, 88, 94, 95, 99, 100, 105, 127	42	26, 45
Uganda		105, 122, 143	17	5, 19, 29
Ukrainian SSR		27, 29, 52, 100	149	45, 108
USSR		27, 29, 100	149	45, 90, 108
United Arab Emirates		29		81
United Kingdom	160	81, 102, 105, 142, 144, 147, 151	12, 87, 97, 98, 108, 135, 141	29
Anguilla	23	85, 105		12
Bermuda			17	12, 42, 108, 135

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
British Virgin Islands		105		12, 17, 85, 108
Falkland Islands (Malvinas)	23	98, 105	17	10, 12, 42, 45, 87, 108, 141
Gibraltar	23	29, 100, 105		2, 12, 17, 45, 81, 108, 135, 151
Guernsey				105, 108, 135, 141
Hong Kong		29, 147, 148, 151	2, 12, 17, 42, 81, 105, 108, 141	45, 90
Isle of Man	23, 126	102, 105, 122	108	11, 45, 99
Jersey				2, 45, 105, 108
Montserrat		17, 59, 105	12, 42, 108	85
St. Helena				85, 108, 151
United States		74		



Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.	D Conventions Nos.
Guam		74		
Puerto Rico		74		
United States Virgin Islands		74		
Uruguay	144	27, 81, 103, 105, 122, 129, 131, 136, 149	79, 90, 108	
Venezuela		29, 81, 100, 122, 140, 141, 143	87, 98, 142	6, 41, 45, 105
Yemen		29, 100, 111, 131		
Yugoslavia	158	74, 138	11, 69, 135, 143	87, 92, 97, 98
Zaire	102, 150, 158	100		
Zambia		100, 123, 141, 151, 154	12, 17, 18	45, 89, 135, 148
Zimbabwe		19		



Part 2

Summary of reports on

Convention No. 147  
concerning Merchant Shipping (Minimum Standards)

and Recommendation No. 155  
concerning Merchant Shipping (Improvement of Standards)

(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 refer to the Merchant Shipping (Minimum Standards) Convention (No. 147), 1976, and the Merchant Shipping (Improvement of Standards) Recommendation (No. 155), 1976.

The governments of member States were requested to send their reports to the International Labour Office by 1 July 1989.

The report of the Committee of Experts on the Application of Conventions and Recommendations, which will be submitted to the Conference at its 77th (1990) Session, will include a general survey on the reports on the above-mentioned Convention and Recommendation (Report III, Part 4B).



REPORTS RECEIVED ON CONVENTION No. 147  
AND RECOMMENDATION No. 155

Member States	Convention No.147		Recommendation No.155
	Ratified	Art. 19	Art. 19
Afghanistan		-	-
Algeria		X	X
Angola		-	-
Antigua and Barbuda		-	-
Argentina		X	X
Australia		X	X
Austria		X	X
Bahamas		X	X
Bahrain		-	-
Bangladesh		X	X
Barbados		X	X
Belgium	R		X
Belize		X	X
Benin		X	X
Bolivia		-	-
Botswana		X	X
Brazil		-	-
Bulgaria		X	X
Burkina Faso		-	X
Burundi		X	X
Byelorussian SSR		X	X
Cameroon		X	X
Canada		X	X
Cape Verde		X	X
Central African Republic		-	-
Chad		X	X
Chile		X	X
China		X	X
Colombia		X	X
Comoros		-	-
Congo		-	-
Costa Rica	R		-
Côte d'Ivoire		X	X
Cuba		X	X
Cyprus		-	-
Czechoslovakia		X	X
Democratic Yemen		-	-
Denmark	R		X

Member States	Convention No.147	Recommendation No.155
	Ratified Art. 19	Art. 19
Djibouti	-	-
Dominica	-	-
Dominican Republic	-	-
Ecuador	X	X
Egypt	R	X
El Salvador	-	-
Equatorial Guinea	-	-
Ethiopia	X	X
Fiji	-	-
Finland	R	X
France	R	X
Gabon	-	-
German Democratic Republic	X	X
Germany, Federal Republic of	R	X
Ghana	X	X
Greece	R	X
Grenada	-	-
Guatemala	X	X
Guinea	-	-
Guinea-Bissau	X	X
Guyana	-	-
Haiti	-	-
Honduras	X	X
Hungary	X	X
Iceland	X	X
India	X	X
Indonesia	X	X
Iran, Islamic Republic of	-	-
Iraq	R	X
Ireland	X	X
Israel	-	-
Italy	R	X
Jamaica	-	-
Japan	R	X
Jordan	-	-
Democratic Kampuchea	-	-
Kenya	X	-
Kuwait	-	-
Lao People's Democratic Republic	-	-



Member States	Convention No.147		Recommendation No.155
	Ratified	Art. 19	Art. 19
Lebanon		-	-
Lesotho		X	X
Liberia	R		-
Libyan Arab Jamahiriya		-	-
Luxembourg		X	X
Madagascar		-	-
Malawi		X	-
Malaysia		X	X
Mali		X	X
Malta		X	X
Mauritania		-	-
Mauritius		X	X
Mexico		X	X
Mongolia		-	-
Morocco	R		X
Mozambique		X	X
Myanmar		-	-
Nepal		X	X
Netherlands	R		X
New Zealand		X	X
Nicaragua		-	-
Niger		-	-
Nigeria		X	X
Norway	R		X
Pakistan		X	X
Panama		X	X
Papua New Guinea		-	-
Paraguay		-	-
Peru		X	X
Philippines		X	X
Poland		X	X
Portugal	R		X
Qatar		X	X
Romania		X	X
Rwanda		X	X
Saint Lucia		-	-
San Marino		X	X
Sao Tome and Principe		-	-
Saudi Arabia		X	X
Senegal		-	-
Seychelles		-	-
Sierra Leone		-	-

Member States	Convention No.147		Recommendation No.155
	Ratified	Art. 19	Art. 19
Singapore		X	X
Solomon Islands		-	-
Somalia		-	-
Spain	R		X
Sri Lanka		X	X
Sudan		X	X
Suriname		X	X
Swaziland		-	-
Sweden	R		X
Switzerland		X	X
Syrian Arab Republic		-	-
Tanzania, United Republic of		X	X
Thailand		X	-
Togo		X	X
Trinidad and Tobago		X	X
Tunisia		X	X
Turkey		X	X
Uganda		X	X
Ukrainian SSR		X	X
USSR		X	X
United Arab Emirates		X	X
United Kingdom	R		X
United States	R		X
Uruguay		-	-
Venezuela		-	-
Yemen		-	-
Yugoslavia		-	-
Zaire		-	-
Zambia		X	X
Zimbabwe		X	X

In addition, a total of 20 reports have been received in respect of the following non-metropolitan territories: United Kingdom (Anguilla, Bermuda, British Virgin Islands, Falkland Islands (Malvinas), Gibraltar, Guernsey, Hong-Kong, Jersey, Isle of Man, Montserrat, St. Helena).

R = Ratified Convention

X = Reports requested and received

- = Reports requested and 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 75th Session held in Geneva from 1 to 22 June 1988.

The period of one year provided for the submission to the competent authorities of the instruments in question expired on 22 June 1989 and the period of 18 months on 22 December 1989.

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 74th Sessions (1948 to 1987). 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 76th 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 64th TO 75th SESSIONS

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).

73rd Session (1987)

The Conference did not adopt any Conventions or Recommendations  
at this Session.



74th (Maritime) Session (1987)

Seafarers' Welfare Convention (No. 163);  
Health Protection and Medical Care (Seafarers) Convention  
(No. 164);  
Social Security (Seafarers) (Revised) Convention (No. 165)  
Repatriation of Seafarers (Revised) Convention (No. 166)  
Seafarers' Welfare Recommendation (No. 173);  
Repatriation of Seafarers Recommendation (No. 174).

75th Session (1988)

Safety and Health in Construction Convention (No. 167);  
Employment Promotion and Protection against Unemployment  
Convention (No. 168);  
Safety and Health in Construction Recommendation (No. 175);  
Employment Promotion and Protection against Unemployment  
Recommendation (No. 176).



SUMMARY OF INFORMATION RELATING TO THE SUBMISSION TO  
THE COMPETENT AUTHORITIES OF THE CONVENTIONS AND  
RECOMMENDATIONS ADOPTED BY THE INTERNATIONAL LABOUR  
CONFERENCE AT ITS 75th SESSION (GENEVA, 1988) AND  
SUPPLEMENTARY INFORMATION ON THE TEXTS ADOPTED AT  
ITS 31st TO 74th SESSIONS (1948-1987)

Angola. Convention No. 155 and Recommendation No. 164, adopted at the 67th Session of the Conference, together with Convention No. 161 and Recommendation No. 171 (71st Session) and the instruments adopted at the 72nd Session, were submitted to the People's Assembly on 18 November 1988.

Argentina. The instruments adopted at the 74th Session of the Conference have been submitted to Congress.

Australia. The instruments adopted at the 74th Session of the Conference were submitted to Parliament on 4 April 1989. Ratification of Convention No. 164 was proposed. The instruments adopted at the 75th Session were submitted to the House of Representatives on 31 May 1989 and to the Senate on 1 June 1989.

Bahamas. The instruments adopted at the 75th Session of the Conference have been submitted to the competent authorities.

Bahrain. The instruments adopted at the 75th Session of the Conference were submitted to the Council of Ministers on 28 September 1988.

Barbados. The instruments adopted at the 75th Session of the Conference were submitted to Parliament on 16 May 1989.

Benin. The instruments adopted at the 74th Session of the Conference were submitted to the National Revolutionary Assembly on 24 March 1989.

Bolivia. Recommendation No. 151, adopted at the 60th Session of the Conference, together with the instruments adopted at the 70th, 71st, 72nd, 74th and 75th Sessions, were submitted to Congress in April and May 1988.

Brazil. Convention No. 155, adopted at the 67th Session of the Conference, and Convention No. 158 (68th Session) were submitted to Congress on 28 June 1988.

Bulgaria. The instruments adopted at the 75th Session of the Conference have been submitted to the National Assembly.

Burkina Faso. The instruments adopted at the 74th Session of the Conference have been submitted to the head of Government.

Burundi. The instruments adopted at the 75th Session of the Conference were submitted to the President of the Republic on 3 June 1989.

Cameroon. The instruments adopted at the 74th Session of the Conference have been submitted to the competent authorities.

Canada. The instruments adopted at the 74th and 75th Sessions of the Conference were submitted to Parliament in June 1989.

Cape Verde. The instruments adopted at the 69th, 71st, 72nd and 74th Sessions of the Conference were submitted to the People's National Assembly on 17 November 1989.

Central African Republic. The instruments adopted at the 74th Session of the Conference have been submitted to the competent authorities.

Chad. The instruments adopted at the 74th Session of the Conference were submitted to the competent authorities on 31 August 1989.

Chile. The instruments adopted at the 74th Session of the Conference were submitted to the legislative authorities on 23 February 1989.

China. The instruments adopted at the 74th Session of the Conference were submitted to the National People's Congress on 9 October 1989.

Comoros. The instruments adopted at the 72nd and 74th Sessions of the Conference were submitted to the Federal Assembly on 7 November 1988.

Côte d'Ivoire. The instruments adopted at the 75th Session of the Conference were submitted to the National Assembly on 4 January 1989.

Cuba. The instruments adopted at the 75th Session of the Conference were submitted to the Council of Ministers between June and October 1989.

Cyprus. The instruments adopted at the 72nd Session of the Conference were submitted to the House of Representatives on 9 October 1989. Ratification of Convention No. 162 was proposed.

Denmark. The instruments adopted at the 74th and 75th Sessions of the Conference were submitted to Parliament on 11 October 1988 and in December 1989, respectively.

Dominica. The instruments adopted at the 74th Session of the Conference were submitted to the House of Assembly on 28 March 1989. The instruments adopted at the 75th Session were submitted on 10 April 1989.

Ecuador. The instruments adopted at the 71st and 72nd Sessions of the Conference have been submitted to Congress.

Egypt. The instruments adopted at the 75th Session of the Conference have been submitted to the People's Assembly.

Equatorial Guinea. The instruments adopted at the 72nd and 75th Sessions of the Conference were submitted to the Chamber of the People's Representatives in December 1989.

Ethiopia. The instruments adopted at the 74th and 75th Sessions of the Conference have been submitted to the National Assembly.

Finland. The instruments adopted at the 75th Session of the Conference were submitted to Parliament on 8 December 1989.

France. The instruments adopted at the 74th and 75th Sessions of the Conference were submitted to Parliament on 18 May and 21 December 1989, respectively.

German Democratic Republic. The instruments adopted at the 74th and 75th Sessions of the Conference have been submitted to the People's Chamber.

Federal Republic of Germany. Convention No. 160 and Recommendation No. 170, adopted at the 71st Session of the Conference, were submitted to the Federal Council on 11 August 1989, and to the Federal Diet on 4 October 1989.

Ghana. The instruments adopted at the 70th and 75th Sessions of the Conference were submitted to the Provisional National Defence Council on 24 May and 6 June 1989 respectively.

Hungary. The instruments adopted at the 74th and 75th Sessions of the Conference were submitted to the Presidential Council on 14 February 1989. Conventions Nos. 63, 64, 65, 66 and 67 have been ratified.

Iceland. The instruments adopted at the 75th Session of the Conference were submitted to Parliament on 18 April 1989.

Islamic Republic of Iran. The instruments adopted between the 62nd and 75th Sessions of the Conference have been submitted to the Islamic Consultative Assembly.

Iraq. The instruments adopted at the 72nd and 74th Sessions of the Conference have been submitted to the competent authorities.

Italy. The instruments adopted at the 74th Session of the Conference were submitted to Parliament on 22 November 1988.

Japan. The instruments adopted at the 75th Session of the Conference were submitted to Parliament on 26 May 1989.

Kuwait. The instruments adopted at the 74th Session of the Conference, as well as Convention No. 167 and Recommendation No. 175, adopted at the 75th Session, have been submitted to the Council of Ministers.

Lao People's Democratic Republic. The instruments adopted between the 66th and 75th Sessions of the Conference were submitted to the People's Assembly on 8 September and 13 October 1989.

Lesotho. Convention No. 158 and Recommendation No. 166, adopted at the 68th Session of the Conference, together with Conventions Nos. 160 and 161 (71st Session) and the instruments adopted at the 66th, 67th and 72nd Sessions, were submitted to the Council of Ministers on 24 August and 27 September 1989.

Liberia. The instruments adopted at the 74th and 75th Sessions of the Conference were submitted to the House of Representatives on 3 August 1989.

Luxembourg. The instruments adopted at the 72nd and 75th Sessions of the Conference were submitted to the Chamber of Deputies on 10 November 1987 and 14 December 1988 respectively.

Malaysia. The instruments adopted at the 74th and 75th Sessions of the Conference were submitted to Parliament in June 1989.

Malawi. Conventions Nos. 148, 150, 151, 153-157 and Recommendations Nos. 163-165, adopted at the 63rd, 64th, 65th, 67th and 68th Sessions of the Conference, have been submitted to the competent authorities.

Malta. The instruments adopted at the 74th and 75th Sessions of the Conference were submitted to the House of Representatives on 17 January 1989 and 26 September 1988 respectively.

Mauritius. Convention No. 143 and Recommendation No. 151, adopted at the 60th Session of the Conference, Convention No. 153 and Recommendation No. 161 (65th Session), Convention No. 159 and Recommendation No. 168 (69th Session) were submitted to the Legislative Assembly on 30 May 1989.

Mongolia. The instruments adopted at the 72nd and 74th Sessions of the Conference were submitted to the People's Great Khural on 15 November 1989.

Mozambique. The instruments adopted at the 75th Session of the Conference were submitted to the People's Assembly on 10 May 1989.

Myanmar. The instruments adopted at the 75th Session of the Conference were submitted to the competent authorities on 24 January 1990.

Nepal. The instruments adopted at the 51st, 52nd and 74th Sessions of the Conference and Recommendation No. 172 (72nd Session) were submitted to Parliament on 11 June 1989.

New Zealand. The instruments adopted at the 74th and 75th Sessions of the Conference were submitted to the House of Representatives on 11 October 1988 and 23 May 1989, respectively.

Nigeria. The instruments adopted at the 74th Session of the Conference have been submitted to the competent authorities.

Norway. The instruments adopted at the 75th Session of the Conference were submitted to Parliament on 14 July 1989. The ratification of Convention No. 168 has been proposed.

Philippines. The instruments adopted from the 67th to the 75th Sessions of the Conference were submitted to Congress on 27 July 1989.

Poland. The instruments adopted at the 75th Session of the Conference were submitted to Parliament on 12 May 1989.

Portugal. The instruments adopted at the 74th Session of the Conference were submitted to the National Assembly on 11 September 1989.

Qatar. The instruments adopted at the 75th Session of the Conference were submitted to the Council of Ministers on 8 August 1989.

Romania. The instruments adopted at the 75th Session of the Conference were submitted to the Grand National Assembly on 29 June 1989.

Rwanda. The instruments adopted at the 75th Session of the Conference were submitted to the President of the Republic on 12 May 1989. The ratification of Convention No. 167 has been proposed.

Saudi Arabia. The instruments adopted at the 74th Session of the Conference were submitted to the Council of Ministers on 30 October 1988.

Senegal. The instruments adopted at the 70th, 74th and 75th Sessions of the Conference were submitted to the National Assembly on 27 October 1989. The ratification of Convention No. 166 has been proposed.

Singapore. The instruments adopted at the 75th Session of the Conference have been submitted to Parliament.

Solomon Islands. The instruments adopted at the 74th Session of the Conference were submitted to Parliament on 12 October 1988.

Somalia. The instruments adopted at the 74th and 75th Sessions of the Conference were submitted to the National People's Assembly.

Spain. Convention No. 160 and Recommendation No. 170, adopted at the 71st Session of the Conference, as well as Conventions Nos. 163 and 164 and Recommendation No. 173 (74th Session) were submitted to the Cortes. Conventions Nos. 160 and 163 were ratified. The ratification of Conventions Nos. 159, 162 and 166 was also proposed.

Swaziland. The instruments adopted at the 68th, 69th, 71st and 72nd Sessions of the Conference have been submitted to the competent authorities. The ratification of Conventions Nos. 159, 160, 161 and 162 has been proposed.

Sweden. The instruments adopted at the 74th Session of the Conference were submitted to Parliament on 6 April 1989. Conventions Nos. 163 and 164 were ratified.

Switzerland. The instruments adopted at the 75th Session of the Conference were submitted to Parliament on 1 November 1989. The ratification of Convention No. 168 was proposed.

Syrian Arab Republic. The instruments adopted at the 74th Session of the Conference were submitted to the Council of Ministers on 27 May 1989.

Togo. The instruments adopted at the 75th Session of the Conference were submitted to the National Assembly in April 1989.

Trinidad and Tobago. The instruments adopted at the 66th and 67th Sessions of the Conference were submitted to the Senate on 26 July 1988 and to the House of Representatives on 29 July 1988.

Tunisia. The instruments adopted at the 72nd and 75th Sessions of the Conference, as well as Recommendation No. 153 (62nd Session) and Recommendation No. 168 (69th Session), were submitted to the Chamber of Deputies on 30 August 1989.

Turkey. The instruments adopted at the 75th Session of the Conference were submitted to the Grand National Assembly on 20 December 1988.

Ukrainian SSR. The instruments adopted at the 75th Session of the Conference have been submitted to the Supreme Soviet.



USSR. The instruments adopted at the 75th Session of the Conference have been submitted to the Supreme Soviet.

United Arab Emirates. The instruments adopted at the 75th Session of the Conference were submitted to the Council of Ministers on 8 September 1988.

United Kingdom. The instruments adopted at the 74th and 75th Sessions of the Conference were submitted to Parliament in April and June 1989, respectively.

United States. The instruments adopted at the 74th and 75th Sessions of the Conference were submitted to Congress.

Zimbabwe. The instruments adopted between the 70th and the 75th Sessions of the Conference were submitted to Parliament on 31 August 1989.





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International Labour Conference  
77th Session 1990

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Report III  
(Part 4 A)

**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  
77th Session 1990

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Report III  
(Part 4 A)

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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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	I A and B, No. 111.	General Report, para. 63. Art. 22, general. Art. 22, Nos. 100, 111, 140. Subm.
Albania	I A.	
Algeria	I 8, Nos. 13, 32, 42, 62, 68, 87, 88, 92, 105, 111, 122, 127. III.	Art. 22, Nos. 6, 29, 68, 77, 78, 81, 87, 89, 91, 94, 98, 100, 105, 111, 122, 138, 142.
Angola	General Report, para. 87. I B, Nos. 100, 105, 111.	Art. 22, general. Art. 22, Nos. 12, 17, 18, 27, 29, 81, 88, 89, 91, 100, 105, 108, 111. Subm.
Antigua and Barbuda	General Report, paras. 78, 87. III.	Art. 22, general. Art. 22, Nos. 29, 81, 111, 138.
Argentina	I 8, Nos. 34, 88, 100.	Art. 22, Nos. 9, 68, 81, 100, 105, 129, 159. Subm.
Australia	I B, Nos. 42, 100, 122.	Art. 22, Nos. 29, 81, 100, 111, 142, 150.
Austria	I B, Nos. 29, 100.	Art. 22, Nos. 6, 81, 89, 100, 102, 160. Subm.
Bahamas	I B, Nos. 42, 81, 144.	Art. 22, general. Art. 22, Nos. 17, 29, 88, 105, 117. 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.

# REPORT OF THE COMMITTEE OF EXPERTS

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>
Bahrain	General Report, paras. 78, 87.	Art. 22, general. Art. 22, Nos. 29, 81, 89.
Bangladesh	I B, Nos. 29, 81, 105, 107.	Art. 22, Nos. 27, 29, 81, 105, 149. Subm.
Barbados	I B, Nos. 81, 100.	Art. 22, No. 29, 102, 105.
Belgium	I B, Nos. 105, 111.	Art. 22, Nos. 1, 6, 81, 89, 92, 100, 111, 126, 147. Subm.
Belize	III.	Art. 22, general. Art. 22, Nos. 29, 81, 88, 105.
Benin	General Report, paras. 78, 87. I B, No. 18.	Art. 22, general. Art. 22, Nos. 29, 100, 105, 111. Subm.
Bolivia	I B, Nos. 5, 81, 129. III.	Art. 22, Nos. 77, 78, 88, 89, 100, 120, 121, 128.
Botswana		Subm.
Brazil	General Report, paras. 78, 87. I B, Nos. 5, 29, 94, 103, 107, 125. III.	Art. 22, general. Art. 22, Nos. 12, 26, 42, 45, 53, 88, 89, 99, 100, 105, 107, 111, 115, 125, 131, 142, 148.
Bulgaria	I B, Nos. 29, 111.	Art. 22, general. Art. 22, Nos. 29, 100, 111.
Burkina Faso	I B, Nos. 6, 18, 87.	Art. 22, general. Art. 22, Nos. 17, 81, 100, 129. Subm.
Burundi	I B, Nos. 29, 105.	Art. 22, Nos. 29, 81, 105.
Byelorussian SSR	I B, No. 29.	Art. 22, general. Art. 22, Nos. 29, 100, 111.
Cambodia	General Report, paras. 78, 118. I A. III.	
Cameroon	I B, Nos. 29, 105.	Art. 22, general. Art. 22, Nos. 29, 81, 100, 105, 108. Subm.
Canada	I B, Nos. 1, 100, 105.	Art. 22, general. Art. 22, Nos. 1, 100.

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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>
Cape Verde		Art. 22, Nos. 17, 19, 29, 81, 98, 100, 105, 111, 118. Subm.
Central African Republic	I B, Nos. 18, 19, 29, 41, 52, 62, 81, 87, 105, 118. III.	Art. 22, general. Art. 22, Nos. 17, 29, 87, 88, 100, 105, 111.
Chad	I B, Nos. 13, 29, 81, 105.	Art. 22, Nos. 6, 100, 111. Subm.
Chile	I B, Nos. 1, 3, 20, 24, 25, 30, 35, 37, 38, 111, 122.	Art. 22, Nos. 2, 6, 29, 30, 37, 100. Subm.
China	I B, No. 45.	Art. 22, Nos. 27, 32, 59. Subm.
Colombia	I B, Nos. 3, 9, 12, 17, 22, 29, 81, 87, 106.	Art. 22, Nos. 1, 18, 29, 81, 87, 88, 100, 105, 129. Subm.
Comoros	General Report, paras. 78, 87.	Art. 22, general. Art. 22, Nos. 1, 17, 29, 42, 81, 87, 98, 100, 105, 122. Subm.
Congo	General Report, para. 112. I B, Nos. 87, 119. III.	Art. 22, general. Art. 22, Nos. 29, 150, 152.
Costa Rica	I B, No. 88. III.	Art. 22, general. Art. 22, Nos. 1, 29, 81, 100, 105, 129, 135, 147, 148, 150.
Côte d'Ivoire	I B, Nos. 29, 52, 95, 136.	Art. 22, Nos. 29, 81, 100, 111, 144. Subm.
Cuba	I B, No. 105.	Art. 22, Nos. 29, 79, 81, 88, 89, 90, 105, 108, 148.
Cyprus	I B, Nos. 105, 114.	Art. 22, Nos. 111, 122, 152, 158. Subm.
Czechoslovakia	I B, Nos. 29, 111.	Art. 22, Nos. 89, 111. Subm.
Democratic Yemen	General Report, para. 78. I A and B, No. 98. III.	Art. 22, general. Art. 22, Nos. 29, 59, 95, 98.
Denmark	I B, Nos. 102, 122, 151. II B, Nos. 16, 105.	Art. 22, Nos. 29, 53, 100, 102, 126, 147, 159. Art. 35, Nos. 6, 9, 105, 122, 126.

# REPORT OF THE COMMITTEE OF EXPERTS

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>
Djibouti	General Report, para. 78. I A. III.	Art. 22, general. Art. 22, Nos. 1, 9, 18, 19, 29, 37, 38, 81, 87, 88, 96, 100, 105, 108, 120, 122.
Dominica		Art. 22, general. Art. 22, Nos. 29, 81, 87, 100, 105, 111, 138. Subm.
Dominican Republic	General Report, paras. 78, 87. I A and 8, Nos. 29, 77, 81, 87, 89, 95, 98, 105, 111. III.	Art. 22, Nos. 29, 87, 88, 100, 111.
Ecuador	I 8, Nos. 87, 98, 103, 105, 119.	Art. 22, Nos. 29, 81, 97, 100, 119, 121, 122. Subm.
Egypt	I 8, Nos. 88, 105, 111.	Art. 22, Nos. 17, 29, 73, 81, 89, 100, 105, 111, 147, 149.
El Salvador	I 8, No. 105. III.	Art. 22, No. 105.
Equatorial Guinea		Art. 22, general. Art. 22, Nos. 1, 30, 100, 138. Subm.
Ethiopia		Art. 22, No. 88.
Fiji	I 8, No. 84. III.	Art. 22, No. 84.
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Yugoslavia	General Report, paras. 7B, 87. I A and B, No. 126.	Art. 22, Nos. 27, 74, 100, 102, 121, 122, 138, 142, 148, 158. Subm.
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PART ONE  
**GENERAL REPORT**



# GENERAL REPORT

## I. INTRODUCTION

1. The Committee of Experts on the Application of Conventions and Recommendations, appointed by the Governing Body of the International Labour Office to examine the information and reports submitted under articles 19, 22 and 35 of the Constitution by States Members of the International Labour Organisation on the action taken with regard to Conventions and Recommendations, held its 60th Session in Geneva from 8 to 21 March 1990. The Committee has the honour to present its report to the Governing Body.

2. 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; former 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),

Barrister-at-Law; former Dean of the Faculty of Law, Kuwait; former Professor of Public International Law, Kuwait University; member of the International Commission of Jurists; Deputy Executive Secretary of the Regional Organisation for the Protection of the Marine Environment in the Arabian Gulf; former member of UNESCO Jury Committee on Peace in the Mind of Man; Legal Consultant - United Nations Environment Programme (UNEP);

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; Vice-President of the International Federation of Women Lawyers; member of the International Council of Environmental Law;

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; Chairman of the Editorial Committee for preparation of Encyclopaedia of Social Legislation in India; Chairman of the National Council for Social Audit of Technological Missions of the Government of India; Ombudsman for the national newspaper Times of India; Chairman of the Advisory Board of the Centre for Independence of Judges and Lawyers, Geneva;

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

Mr. Arnold GUBINSKI (Poland),  
Doctor of Law; Professor Emeritus of Law at the University of Warsaw; President of the Penal Law Reform Commission; member of the Penal Law Group of the Legislative Council in the Prime Minister's Office; former Director of the Institute of Penal Law of the University of Wroclaw; former Secretary of the Institute of State and Law of the Polish Academy of Sciences; former member of the Commission to Codify the Labour Legislation;

Mr. Katswichi IKAWA (Japan),  
Former Director-General of the Treaties Bureau, Ministry of Foreign Affairs; former Ambassador of Japan 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; President of the Soviet Section of Labour Law and Social Security; former Professor of the International Faculty for the

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Teaching of Comparative Law (Strasbourg); member of the USSR Government delegation to the International Labour Conference from 1956 to 1976;

- Mr. Bernd Baron von MAYDELL (Federal Republic of Germany),  
Professor of Civil Law, Labour Law and Social Security Law; former Professor of Social Security Law at the Free University of Berlin (1975-81); Director of the Institute of Labour Law and Social Security at the University of Bonn;
- Mr. Kéba MBAYE (Senegal),  
Vice-President 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 Professor of Law at the University at Antananarivo; former Arbitrator of the ICSID and of the International Civil Aviation Organisation; substitute member of the Administrative Tribunal of the ILO; former member of the International Council for Commercial Arbitration; member of the Court of Arbitration of the International Chamber of Commerce; 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; Honorary President of the National Academy of Labour Law (Brazil); member of the

Latin American Academy of Labour Law and Social Security Law and of the Brazilian Academy of 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; member of the Council of Administration and former President of the International Association of Supreme Administrative Jurisdictions; member of the Commission (under the auspices of the Council of Europe) for Democracy through Law; 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; former President of the Industrial Arbitration Court of Singapore; former member of the Court and Council of the University of Singapore; former President, Copyright Tribunal; former member, Income Tax Board of Review; Valuation Review Board; Hotels Licensing Board; Tenants' Compensation Board; former Vice-President (Asia) of the International Society of Labour Law and Social Security;

Mr. Fernando URIBE RESTREPO (Colombia),

President 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; former Professor of Labour Law, Universities Externado de Colombia and Pontificia Javeriana; former Professor 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; former President and Honorary 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 and Comparative Law of the University

## GENERAL REPORT

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of Zagreb, Faculty of Law; member of the Permanent Court of Arbitration;

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.

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

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

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

5. 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 72 to 102 below), on the application of Conventions in non-metropolitan territories (see section II and paragraphs 74 to 102 below), and on the obligation to submit instruments to the competent authorities (see section III and paragraphs 103 to 115 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 Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147), and the Merchant Shipping (Improvement of Standards) Recommendation, 1976 (No. 155) (see paragraphs 116 to 120 below).

6. In carrying out its task, which consists in 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. One such method is the spirit of mutual respect, co-operation and responsibility which has consistently prevailed in the Committee's relations with the International Labour Conference and its Committee on the Application of Standards, whose proceedings the Committee takes fully into consideration, not only in respect of general matters concerning standard-setting activities and supervisory procedures, but

also in respect of specific matters concerning the way in which States fulfil their standard-setting obligations.

7. The Committee has examined the views expressed in the Conference Committee on the Application of Standards, at its 76th Session (1989), by the Employer members and certain Government members as regards the interpretation of Conventions and the role of the International Court of Justice in this connection. The Committee has already had occasion<sup>1</sup> to point out that its terms of reference do not require it to give definitive interpretations of Conventions, competence to do so being vested in the International Court of Justice by article 37 of the Constitution of the ILO. Nevertheless, in order to carry out its function of determining whether the requirements of Conventions are being respected, the Committee has to consider and express its views on the content and meaning of the provisions of Conventions and to determine their legal scope, where appropriate. It therefore appears to the Committee that, in so far as its views are not contradicted by the International Court of Justice, they are to be considered as valid and generally recognised. The situation is identical as regards the conclusions or recommendations of commissions of inquiry which, by virtue of article 32 of the Constitution, may be affirmed, varied or reversed by the International Court of Justice, and the parties can only duly contest the validity of such conclusions and recommendations by availing themselves of the provisions of article 29, paragraph 2, of the Constitution. The Committee considers that the acceptance of the above considerations is indispensable to maintenance of the principle of legality and, consequently for the certainty of law required for the proper functioning of the International Labour Organisation.

8. The Committee has followed with profound interest the changes in 1989 and the beginning of 1990 in several Central and Eastern European and Latin American countries which, among other changes, have resulted in important developments in law and practice in those States. In this way, certain matters principally related to the observance of Conventions concerning the fundamental human rights, which had been the subject of comments by ILO supervisory bodies for many years, have or are in the process of being resolved, as illustrated by the observations that have been made this year. The Committee hopes that these developments will continue and that it will extend to the application of all the international labour Conventions that have been ratified, since, as it has emphasised on many occasions, these Conventions as a whole constitute a framework for economic and social development based on justice and freedom that is a guarantee of lasting peace.

9. The Committee notes the decision by the Governing Body to set up a group of independent experts to follow up and monitor the implementation of sanctions and other action against apartheid. The mandate of this group of experts is to follow up and monitor the

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<sup>1</sup> See Report III (Part 4A), International Labour Conference, 63rd Session, 1977, General Report, para. 32; *idem*: 73rd Session, 1987, General Report, para. 21.



implementation throughout the world of sanctions and other action against apartheid, with special attention to the actions taken to circumvent such measures and to report to the Governing Body Committee on Discrimination. The monitoring, in accordance with the conclusions of the Committee on Apartheid of the 75th Session (1988) of the International Labour Conference, should particularly concentrate on carrying out the following tasks: (i) the investigation and evaluation of the effects of present sanctions measures; (ii) the conducting of feasibility and case studies on sanctions; (iii) regularly surveying and updating the state of world trade with South Africa; (iv) maintaining a register of investment and disinvestment in South Africa; (v) publishing, three times a year, the results of the research. This mandate should be carried out in close co-operation with other United Nations bodies and international organisations collecting information on sanctions and other action against apartheid. The group of experts is composed of Mr. Ahmad Abdallah (Kenya), former Deputy Governor of the Central Bank of Kenya, former Executive Director of the International Monetary Fund, consultant to UNDP on future UNDP assistance to Namibia; Mr. Theodor van Boven (Netherlands), Professor of Law, University of Limburg, former Director of the UN Division of Human Rights, member of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities; the Honourable Rex Nettleford (Jamaica), Professor in the Department of Extramural Studies and Director of the Trade Union Education Institute of the University of the West Indies in Kingston, Jamaica, appointed for a three-year period. The group of experts has met twice since being set up, in New York (October 1989) and in Geneva (February 1990).

## II. GENERAL

### Membership of the Organisation

10. Since the Committee's last session the number of member States of the ILO has remained at 150.

### New standards adopted by the Conference in 1989

11. The Committee has noted that at its 76th Session (June 1989), the International Labour Conference, after deciding to adopt various proposals for the partial revision of the Indigenous and Tribal Populations Convention, 1957 (No. 107), adopted the Indigenous and Tribal Peoples Convention, 1989 (No. 169).

### Obligations binding member States

12. The Asbestos Convention, 1986 (No. 162) came into force on 16 June 1989. The Seafarers' Welfare Convention, 1987 (No. 163) will come into force on 3 October 1990. The Health Protection and Medical

Care (Seafarers) Convention, 1987 (No. 164) will come into force on 11 January 1991.

13. In 1989, 63 ratifications<sup>1</sup> by 19 member States were registered. The total number of ratifications at 31 December 1989 was 5,463. Between the beginning of 1990 and 21 March 1990, 15 ratifications by five member States were registered.

14. The Director-General registered three denunciations not accompanied by the ratification of Conventions by New Zealand. These were the Hours of Work (Industry) Convention, 1990 (No. 1), the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30), and the Reduction of Hours of Work (Glass-Bottle Works) Convention, 1935 (No. 49). The Government stated that these Conventions no longer reflected labour practice in New Zealand and were considered as restricting the adoption of more flexible working hours. These denunciations will take effect on 9 June 1990. The Director-General also registered the denunciation by Malaysia of the Abolition of Forced Labour Convention, 1957 (No. 105), which will take effect on 10 January 1991. The Government of Malaysia stated that, notwithstanding this denunciation, it continues to adhere to the Forced Labour Convention, 1930 (No. 29), which, in its opinion, adequately and satisfactorily meets the needs for protection of workers against forced labour in Malaysia. This brings the total number of denunciations not accompanied by the ratification of a revised Convention to 57 as of 21 March 1990. The Director-General also registered the denunciations of the Hours of Work and Rest Periods (Road Transport) Convention, 1939 (No. 67), by Uruguay, the Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63), by Spain, and the Protection against Accidents (Dockers) Convention (Revised), 1932 (No. 32), by Denmark, which followed automatically upon the ratification by these countries, respectively, of the Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 153), the Labour Statistics Convention, 1985 (No. 160), and the Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152), respectively.

15. The Committee notes with satisfaction that, in a communication dated June 1989, the Government of the Netherlands informed the Director-General that it was withdrawing the denunciation of the Employment Injury Benefits Convention, 1964 (No. 121), which had been registered on 22 July 1988. As a consequence, the registration of the denunciation of Convention No. 121 was cancelled before it took effect; the Convention therefore continues to be in force for the Netherlands and Aruba.

16. In 1989, 17 new declarations, including 13 without modifications, were registered concerning the application of Conventions to non-metropolitan territories by Denmark, the United Kingdom and the United States. The number of declarations on 31 December 1989 stood at 2,016 without modifications and 74 with

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<sup>1</sup> This number takes into account the renewed ratification by Brazil of the Labour Inspection Convention, 1947 (No. 81), which had been denounced by that country in 1971. This ratification, which was registered in 1989, does not affect the total number of ratifications.

modifications. Since the beginning of 1990, 19 declarations without modifications have been registered concerning the application of Conventions to a non-metropolitan territory by France.

#### Constitutional and other procedures

17. 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.

18. At its 242nd (February-March) and 243rd Sessions (May-June 1989), the Governing Body examined the report of the Committee on Freedom of Association concerning various complaints of violation of freedom of association in Nicaragua, presented by the International Confederation of Free Trade Unions (ICFTU), the World Confederation of Labour (WCL) and the International Organisation of Employers (IOE) (Cases Nos. 1344, 1442 and 1454), and a complaint alleging the non-observance by that country of 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) made by a number of Employers' delegates to the 73rd Session of the International Labour Conference under article 26 of the Constitution. At its 244th Session (November 1989), the Governing Body decided, acting on the proposal of the Committee on Freedom of Association, to set up a commission of inquiry to examine the complaint presented by the Employers' delegates. Acting on the proposal of the Director-General, the Governing Body decided, at the same Session, that the commission of inquiry would be composed of Mr. Sette Camara (Brazil), former Vice-President of the International Court of Justice, Chairman; Mr. René Ricardo Mirolo (Argentina), Professor of Law at the University of Córdoba, and Mr. José Vida Soria (Spain), Rector of the University of Grenada (members).

19. In a letter dated 26 June 1989 addressed to the Director-General, 13 Workers' delegates to the 76th International Labour Conference presented a complaint alleging the non-implementation by the Government of Romania of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). At its 244th Session, the Governing Body decided to entrust the examination of this complaint to a commission of inquiry, which, at the proposal of the Director-General, is composed of the Honourable Mr. Jules Dêschenes (Canada), Chairman, Lawyer, Chief Justice, Superior Court of Quebec; Mr. Francesco Capotorti (Italy), Professor of International Law at the Law Faculty of the University of Rome, former Judge and Advocate General at the Court of Justice of the European Communities (CJEC); and Mr. Budislav Vukas (Yugoslavia), Professor of Public International Law (members).

20. At its 238th Session (November 1987), the Governing Body decided to postpone consideration of the representation submitted by the Ontario Secondary School Teachers' Federation under article 24 of the Constitution of the ILO alleging non-observance by 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 244th Session (November 1989), the Governing Body decided to close the procedure after being informed by the Director-General that the representation had been withdrawn in view of the fact that the situation that had given rise to it had been resolved and the persons named in the representation had received permission to leave the country.

21. At its 240th Session (May-June 1988), the Governing Body decided to suspend the procedure concerning the representation made by the General Federation of Egyptian Trade Unions under article 24 of the Constitution of the ILO, alleging the non-observance by the Libyan Arab Jamahiriya of the Protection of Wages Convention, 1949 (No. 95), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), pending the results of consultations between the interested parties. This procedure remains suspended.

22. At its 243rd Session (May-June 1989), the Governing Body had before it the report of the committee set up to examine the representation made by the Trade Union Confederation of Workers' Commissions under article 24 of the Constitution of the ILO alleging non-observance by Spain of the Minimum Wage Fixing Convention, 1970 (No. 131). The Governing Body approved the committee's report which concluded that, taking account of the information available, the Government had not failed to comply with the provisions of Article 4, paragraph 1, of the Convention in maintaining machinery whereby minimum wages can be adjusted from time to time. The Committee also concluded that, in the circumstances of the case, the Government is not fully in accordance with the provisions of Article 4, paragraph 2, of the Convention and drew the Government's attention to the need to carry out consultations, not only as a purely formal or procedural act, but with the object of taking effective account of the opinion of the social partners regarding the matter forming the subject of the consultations. The Governing Body declared closed the procedure initiated as a result of the representation.

23. At its 245th Session (February-March 1990), the Governing Body set up a tripartite committee of three members to examine a representation made by the National Confederation of Workers of Senegal, under article 24 of the Constitution, alleging non-observance by Mauritania of the Protection of Wages Convention, 1949 (No. 95), the Social Security (Minimum Standards) Convention, 1952 (No. 102), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Equality of Treatment (Social Security) Convention, 1962 (No. 118), and the Employment Policy Convention, 1964 (No. 122).

24. The Governing Body decided at its 240th Session (May-June 1988) to refer the complaint submitted to the ILO by the Congress of South African Trade Unions (COSATU) against the Republic of South Africa concerning violation of freedom of association, to the Economic and Social Council of the United Nations (ECOSOC), in accordance with the procedure for the examination of complaints concerning violations of trade union rights, established in 1950 by agreement between the United Nations and the ILO. The ECOSOC, by resolution 1988/41 of 7 May 1988, requested the Secretary-General of the United Nations to request the Government of South Africa to consent to the referral of the complaint to the Fact-Finding and Conciliation Commission of the

Governing Body of the ILO. The Government of South Africa replied, in a communication dated 27 February 1989, that it would be premature to refer the complaint to the Fact-Finding and Conciliation Commission. By resolution 1989/82 of 24 May 1989, the ECOSOC invited the Secretary-General to pursue his efforts to submit the complaint by the COSATU to the Fact-Finding and Conciliation Commission. The Government was requested to reply by 30 March 1990.

25. The Committee notes that the Committee on Freedom of Association of the Governing Body, in several of the cases it examined, recommended that the Committee's attention should be drawn to certain aspects of the conclusions adopted. This relates in particular to the cases concerning Denmark (Case No. 1470), Norway (Case No. 1448), Iceland (Case No. 1458), Haiti (Case No. 1396), Philippines (Case No. 1444), Indonesia (Case No. 1431), India (Case No. 1468), Peru (Cases Nos. 1478 and 1484), Portugal (Case No. 1486) and Fiji (Case No. 1425).

26. In its 263rd, 266th and 271st Reports, the Committee on Freedom of Association submitted interim conclusions to the Governing Body concerning Turkey, in relation to complaints made by the World Confederation of Labour (WCL), the World Federation of Trade Unions (WFTU) and the International Confederation of Free Trade Unions (ICFTU) and a representation submitted under article 24 of the Constitution of the ILO by the Confederation of Norwegian Trade Unions, alleging the non-observance of the Right of Association (Agriculture) Convention, 1921 (No. 11), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

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

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

27. In accordance with the procedure approved by the Governing Body at its 236th Session (May 1987), the International Labour Office, by a communication dated 11 November 1989, conveyed to the Secretary-General of the United Nations, for transmission to the Committee on Economic, Social and Cultural Rights, information concerning the situation in ten States whose reports were communicated to the Office by the United Nations. Seven of these reports (Afghanistan, Costa Rica, Democratic Yemen, Dominican Republic, Luxembourg, Panama, Syrian Arab Republic) concerned the implementation of Articles 6 to 9 of the Covenant, which deal with the right to work, the right to just and favourable conditions of work, freedom of association, and the right to social security. Eight other reports (Colombia, Costa Rica, Democratic Yemen, Dominican Republic, Ecuador, Luxembourg, Mexico, Syrian Arab Republic) concerned the implementation of Article 10 of the Covenant, as regards protection of maternity, and the protection of children and young persons in employment and work.

28. The Committee once again notes with interest the contribution that the ILO continues to make to the implementation of

the Covenant and the active participation of ILO representatives in the work of the Committee on Economic, Social and Cultural Rights.

United Nations Convention on the Elimination of  
All Forms of Discrimination against Women

29. Under Article 22 of this Convention, the ILO was represented at the Ninth Session (January-February 1990) of the Committee on the Elimination of Discrimination against Women (CEDAW), which is responsible for examining reports of States parties to the Convention on its implementation. At the invitation of the CEDAW, the Office submitted a report to that session on the application of the Convention in the areas falling within the scope of its activities.

European Code of Social Security and  
Protocol thereto

30. In accordance with the established supervisory procedure, 18 reports on the European Code of Social Security and the Protocol thereto, which had been submitted by 15 States having ratified these instruments, were sent to the Office by the Secretary-General of the Council of Europe, including the first report from France. The Committee has examined all these reports, as well as certain 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 a representative of the ILO participated as technical adviser in the meeting of the Steering Committee for Social Security of the Council of Europe, held in Strasbourg in November 1989. As in previous years, the Steering Committee approved the conclusions of the Committee of Experts.

European Social Charter and Additional Protocol

31. In the context of 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 91st (22-26 May 1989), 93rd (17-21 July 1989), 94th (23-25 October 1989), 95th (11-15 December 1989) and 96th (5-9 February 1990) Sessions of the Committee of Independent Experts set up to supervise the application of the Charter, held in Strasbourg, France. The Committee was also informed that the Additional Protocol to the European Social Charter was signed by France on 22 June 1988 and ratified by Sweden on 5 May 1989 (in accordance with article 10, paragraph 2, of the Protocol, three ratifications are necessary for its coming into force).



Collaboration with other international organisations

Co-operation with the United Nations and its specialised agencies as regards standards

32. 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.

33. Thus, in accordance with established practice, copies of the reports received on the Indigenous and Tribal Populations Convention, 1957 (No. 107) were forwarded for comments to the United Nations, the United Nations Food and Agriculture Organisation (FAO), the United Nations Educational, Scientific and Cultural Organisation (UNESCO) and the World Health Organisation (WHO). Copies of the reports on the Rural Workers' Organisations Convention, 1975 (No. 141), were forwarded to the FAO, UNESCO and the United Nations. Also, copies of the reports on the Nursing Personnel Convention, 1977 (No. 149) were forwarded to the WHO, and a copy of the report on the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) was 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. Also, copies of reports on the Prevention of Accidents (Seafarers) Convention, 1970 (No. 134) and on the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) were forwarded to the International Maritime Organisation (IMO).

34. Representatives of these organisations were invited to attend the sittings of the Committee of Experts at which the Conventions in question were discussed.

35. The Committee notes with interest that an appeal is made for the ratification and implementation of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), in the recommendations in the Study on the achievements made and obstacles encountered during the Decades to Combat Racism and Racial Discrimination by the Special Reporter of the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the United Nations (E/CN.4/Sub.2/1989/8 and Add.1) and in the recommendations contained in the Global Consultation on the Realization of the Right to Development as a Human Right organised by the United Nations Centre for Human Rights (E/CN.4/1990/9 (Part III)).

Matters relating to human rights

36. It is the Committee's practice to note in its General Report the major developments in the area of human rights. In its report in 1988, on the occasion of the 40th anniversary of the Universal Declaration of Human Rights, the Committee stated that it was fully 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 1989, the Committee noted with great interest the broad debate produced by the discussion, at the June 1988 Session of the Conference, of the report submitted by the Director-General on "Human Rights - A Common Responsibility" on the occasion of the above-mentioned 40th anniversary, and the emphasis that was placed on the essential contribution of the ILO to the achievement of human rights by its activity in determining and applying these rights.

37. This year once again, the Committee notes with great interest several recent events relating to the special contribution and responsibility of the ILO. It notes, firstly, resolution 1990/16 on the question of trade union rights, adopted by the Commission on Human Rights of the United Nations at its 46th Session (29 January-9 March 1990). The resolution recalls, inter alia, the most important role played by the ILO in the protection and promotion of trade union rights and invites States that have not yet done so to ratify and apply in full the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

38. The Committee also notes the adoption by the Commission on Human Rights of resolution 1990/15 on human rights and extreme poverty and resolution 1990/24 on the effects on the full enjoyment of human rights of the economic adjustment policies arising from foreign debt and in particular, on the implementation of the Declaration on the Right to Development. In this connection, the Committee refers to the comments that it has made in the section of its General Report that is, as usual, devoted to the application of the Employment Policy Convention, 1964 (No. 122).

39. Finally, the Committee notes the adoption by the General Assembly of the United Nations, on 20 November 1989, of the Convention on the Rights of the Child, in the drawing up of which the ILO participated actively. It notes in particular the provisions of the Convention that are directly relevant to the ILO, which are contained in Article 15 (freedom of association and freedom of peaceful assembly), Article 26 (social security) and Article 32 (protection from economic exploitation). The Committee notes that provision has been made for the participation of the specialised agencies through the provision of advice and expert reports and through being entitled to be represented at the meetings of the Committee on the Rights of the Child, which will be set up for the implementation of the Convention. The Committee is convinced that the ILO, as it has for other United Nations instruments, will not fail to make an effective contribution to the application of the Convention on the Rights of the Child.



Questions concerning the application  
of Conventions

Application of Conventions to offshore  
industrial installations

40. The Committee refers to the comments that it has been making since 1981 on the question of the applicability of international labour Conventions to offshore industrial installations used in the exploration and extraction of mineral and petroleum resources at sea. The Committee recalls that after noting a preliminary report on this question, which had been prepared by the Office in 1988, it expressed the hope that in due course a comparative study of the law and practice of a selected number of countries would be carried out, and would take into account the information previously collected by the Committee and the preliminary report.

Application of Conventions in export processing  
zones or enterprises

41. As the Committee has indicated previously, it is continuing its consideration 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)

42. This year the Committee has examined the application of the Convention in 42 countries, including five non-metropolitan territories. Those reports relate to the same period as was covered by the reports examined last year, i.e. 1986-88, so that the present comments should be read in the context of and as supplementary to the comments in paragraphs 51 to 57 of the Committee's 1989 report. The question of employment dealt with by the Convention is constantly evolving, so the Committee has endeavoured to place its comments in a wide context, taking account of current developments. In doing this, it has referred to official documents of national and international organisations (particularly the regular reports of the Organisation for Economic Co-operation and Development (OECD), as far as industrialised market economy countries (IMEC) are concerned), as well as to the Employment and Development Department of the ILO, which has provided the same very valuable technical assistance that the Committee has enjoyed in previous years. The Committee's approach has once more taken account of the necessary links between the standard-setting instruments, their supervision and application, on the one hand, and technical co-operation programmes on the other. Many governments have made reference to such programmes in their reports.

43. In the industrialised market economy countries, the Committee has observed the same trends as in those examined last year. Continued and sustained growth of production has been

accompanied by corresponding growth in employment. Employment creation has generally been faster than predicted in 1987 and 1988, being particularly strong in some cases (Portugal in Europe, Australia in the Pacific, and Japan). Unemployment has stabilised or fallen. However, two countries have had an opposite experience as regards employment and unemployment (Denmark and Norway). The inescapable general observation is nevertheless that, despite positive results in terms of economic performance, unemployment levels are still, with a few exceptions, incompatible with the Convention's aim of full employment. Incidence of unemployment in the population remains closely related to factors such as age, sex, qualifications and region, and the opportunities for young workers, females, those with poor qualifications or living in unfavoured regions appear to have worsened. Long-term unemployment seems to be unaffected by economic growth or growth of employment and is perhaps the most serious problem in the labour market, as indicated for example in the report of one country (France). The numbers of long-term unemployed, which are increasing in most countries, account in some cases for as much as 40 or 50 per cent of the total unemployed (for example, Greece, Ireland, Netherlands). The declaration and pursuit of an active policy for the promotion of full, productive employment seems essential for progress. Some countries demonstrate the fact that full employment is not an out-dated concept and is indeed attainable (for example, Japan, Sweden), but a "vital objective", as the Director-General's Report on human rights to the 75th Session of the Conference (June 1988) emphasised. In dealing with the methods of application of the Convention, governments' reports generally concentrate on labour market policies and tend to overlook overall economic development policies and their effects on employment. Some reports do however show that there are employment policies more consistent with the aims of the Convention, which requires the regular determination and revision of measures to be adopted to attain the objective of full, productive and freely-chosen employment, "within the framework of a co-ordinated economic and social policy". Many countries with a high rate of unemployment seem to have accepted it as inevitable, or to have made employment only a secondary aim. Many of the developed countries have devoted their efforts to specific action concerning the groups most vulnerable to unemployment, and to facilitate greater labour market flexibility. Such actions in respect of the young, for example, are concerned with delaying entry into the labour market by extended learning and special programmes or offering employment which is largely unregulated. The information in the report of one country in particular (France) shows clearly the tendency towards jobs which are short-time and unstable, which leads to increased periods of unemployment. Flexible forms of employment have developed in the industrialised countries at the same time as permanent waged employment has decreased. Several government reports have supplied information on the growth of part-time employment, which has been generally stronger than the growth of more regular employment (Australia, Greece, Japan). One government's report (Netherlands) analyses this form of employment in detail, pointing out its advantages (as a means of entry to permanent employment), but also its shortcomings (costs, concentration in lower employment groups, the

fact that it attracts mostly women workers, inferior protection as regards dismissal, hours of work and social security). It is essential to know whether such employment is freely chosen or not, as envisaged by the Convention. It is hard to distinguish precarious employment from flexibility, and the question how far new kinds of employment relations are in conformity with the overall aims of this Convention and other ILO standards merits further consideration. In the information provided as to efforts to improve the working of the labour market and facilitate the adjustment of manpower and its qualifications to job offers, the Committee notes the approaches which stress the role of employment services (Italy, Norway), the need to give priority to training and retraining of workers (Ireland, Netherlands, Norway), and the need to make more active use of the unemployment benefits system in order to stimulate workers' return to employment. The Committee notes that these approaches relate to areas covered by several other standards (those dealing with the employment service, human resources development, or employment promotion and unemployment protection), and this seems to justify the Committee's practice of endeavouring to ensure closer correlations between its comments on Convention No. 122 and those on the other standards in question: even if they are not ratified or in force (which is the case for Convention No. 168), they constitute useful sources for States formulating employment policies. The Committee particularly hopes that the next general survey, concerning the development of human resources, will enable the detailed examination of the relation between employment and training.

44. The Committee is pleased to note that the examination of reports from Latin American and Caribbean countries shows favourable growth and employment trends in a number of countries (Chile, Jamaica, Uruguay). But the situation has deteriorated more or less seriously in other countries, in respect of growth of both GNP and employment (Ecuador, Nicaragua, Panama, Peru), where there are declared urban unemployment rates of around 13 per cent accompanied by underemployment rates of about half the population (Ecuador, Honduras, Nicaragua). In those cases not only is employment creation inadequate to absorb unemployment and underemployment, but the jobs are mostly low productivity and in the volatile informal sector and in small enterprises. Thus, in Peru almost 41 per cent of the active population obtains its livelihood from the informal urban sector. Real wages have declined (Ecuador, Peru, Venezuela) under the combined pressure of structural adjustment programmes and inflation, or have remained low in countries where economic performance has otherwise been relatively good (Chile, Uruguay). Where the economy is unable to generate employment growth such as would allow inroads to be made into unemployment and poverty, many countries in the region either seem to rely essentially on special public works programmes for their employment policies, or else they count on the informal sector and small undertakings (for example, Ecuador, Peru). Chile has developed differently, however, and special programmes have been progressively reduced. Several governments' reports stress the difficulty of applying the Convention in the face of international pressures (Peru, Venezuela). External constraints, such as terms of trade, high interest and the heavy debt burden are especially mentioned by several

countries as obstacles to the growth of GNP and employment. One country, for example, remarks that external debt accounted for 48.3 per cent of GNP in 1987 and servicing it consumed 70 per cent of the value of its exports, so that economic growth in the years to come will be minimal (Paraguay). The negative effects on the population and the reduction of investment and social services spending (education and health) caused by austerity measures of structural adjustment have been emphasised by another country (Jamaica). The Government of Venezuela has stated, as the Committee noted in its last report, that measures imposed by international financial institutions were "diametrically opposed to the aims of the Convention". The same Government, whose representative chaired the High-Level Meeting on Employment and Structural Adjustment, has referred to the very valuable results achieved by that Meeting by placing the debt problem in the context of the new international economic order. Many speakers in the Conference Committee in June 1989 agreed with the Committee of Experts' analysis and concerns and urged it to continue its work in this respect. The Committee notes also, in relation to its earlier comments, the adoption of Resolution No. 1990/24 at the 46th Session of the United Nations Commission on Human Rights, which invites governments to provide the Special Rapporteur on the realisation of economic, social and cultural rights with their comments and the information at their disposal about their experience concerning the impact of economic adjustment policies arising from foreign debt on the enjoyment of these rights. Another Resolution (No. 1990/15), adopted at the same session of the United Nations Commission on Human Rights, entitled Human Rights and Extreme Poverty, particularly asks the specialised agencies to give the necessary attention to the problem of extreme poverty and exclusion from society, and it urges the Committee on Economic, Social and Cultural Rights to do the same.

45. The Committee has also examined the application of the Convention in a number of African and Asian developing countries. Most of these reports contain little statistical information on the levels and trends of employment, unemployment and underemployment. They usually stress the causes of the difficulties met with in implementing policies required by the aims of the Convention. Apart from debt and structural adjustment programmes, they mention internal factors such as demographic growth and its effects on the numbers of active members of the population, the consequences of labour migration, and the lack of jobs to match qualifications, especially, for example, for higher education certificate and degree holders amongst whom unemployment is very high (Algeria, Jordan, Libyan Arab Jamahiriya, Philippines, Sudan). However, the Committee notes with interest the information provided by several of these countries which shows that employment objectives - no doubt in various degrees - have been integrated into development plans (Algeria, Comoros, Philippines). It has also noted with interest the attention given in some countries to tripartite co-operation either as an aspect of productivity increase, or more generally as a policy principle ensuring the participation of employers and workers in decision-making in areas of concern to them.

46. In its last report the Committee gave particular attention to the examination of reports from socialist countries with planned

economies in Central and Eastern Europe, noting the considerable problems of quality and quantity involved in new employment policies being implemented as part of economic restructuring in those countries. This year the Committee has had to examine only one report which is largely superseded by events from the German Democratic Republic. During its session it also received information from the Government of Poland concerning the adoption of new employment legislation in December 1989. The Committee cannot ignore the recent rapid developments in these countries, where the process of transition from a centrally planned economy to one where resources are allocated once more by market mechanisms has accelerated. Such processes must by their very nature cause instability, and those countries are faced, as far as employment is concerned, with the difficulty of reconciling the overall objective of full employment and the constitutional guarantee of the right to work with the need to ensure effective use of manpower in enterprises, as the Committee noted in its last report. Given the breadth and importance of the changes, the Committee stresses the need to be watchful of the ILO's standards relating to employment opportunities. Special attention will no doubt be given to training. It is of great importance that care be given to ensure the social protection of displaced workers during these periods of transition. In particular, it again expresses the hope that governments will provide details in their next reports of employment policy measures taken for the promotion of the basic aims of Convention No. 122 (Article 1(2)(a), (b) and (c)).

47. The Committee's work this year confirms and reinforces its previously stated view of the need to ensure the application of the terms of Article 3 of the Convention on the consultation of representatives of persons affected by measures to be taken. Strengthening social dialogue is a necessary precondition for the effective application of the Convention, in both industrialised and developing countries, and in the countries of Central and Eastern Europe, as all these have, to different degrees, to deal with problems of structural adjustment, employment promotion and adaptation of the labour force. Although consultative machinery is well established in most industrialised countries, the Committee has already remarked on ways in which exclusion, segregation and marginalisation persist in the labour market, preventing the full application of Article 3. The same applies with greater force to many workers who are unemployed, or self-employed, or not in stable employment, or who so often are unrepresented in discussions that lead to employment policy decisions. In developing countries, the same problem arises for workers such as those in the urban informal sector, who nevertheless make up a large part of the national economy. These are the workers most affected by the international economic problems and suffer from austerity measures taken as part of structural adjustment programmes, without having any say in the matter. For this reason, the Committee feels bound once more to draw attention to the scope of the consultations due under Article 3 of the Convention.



Flexibility in ILO standards

48. The Committee notes the study of flexibility devices in ILO standards announced by the Governing Body Working Party on International Labour Standards,<sup>1</sup> and examined by the Governing Body at its 244th Session (November 1989), and the suggestions that were made for disseminating this document as widely as possible, particularly by making it available to the delegates and technical advisers participating in the work of Conference committees responsible for the formulation of standards. The essential purpose of flexibility is to afford a choice in the range, nature and level of protection to be provided. In drawing up standards, flexibility may be necessary to take into account the differences in the levels and conditions of development of ILO member States, without prejudicing the universal prospective in which standards must be adopted. The flexibility devices used up to the present time, and particularly over the past 20 years, in order to give effect to article 19, paragraph 3, of the Constitution of the ILO, are numerous and varied. The choice between a Convention and a Recommendation and the adoption of promotional Conventions which define objectives, while leaving considerable freedom as to the measures through which to attain these objects, already takes into account the need for flexibility in drawing up standards. Other flexibility devices have been used: the possibility of only ratifying parts of Conventions; a choice between parts of Conventions that lay down obligations that vary in their degree of stringency; clauses restricting the scope of the Convention; clauses for the gradual application of Conventions, under which the level of protection is progressively increased or extended; temporary exceptions; flexibility in application procedures (implementation through legislation on collective agreements; the adoption of measures that conform to national conditions and practice, etc.).

49. During its examination of the application of ratified Conventions, the Committee has observed that existing flexibility clauses are, in general, little used. It supports the idea that the Office should endeavour, in its promotional and advisory activities, to increase the awareness of the constituents of the Organisation to the existing flexibility devices. Within the context of the supervision of the application of Conventions, the Committee considers that it can, where appropriate, draw the attention of governments to the use of certain flexibility clauses.

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<sup>1</sup> Official Bulletin, Vol. LXX, 1987, Series A, Special Issue.

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

Direct contacts and assistance regarding standards

50. In 1989, a direct contacts mission concerning several international labour Conventions took place in Liberia. A direct contacts mission concerning freedom of association took place in the Central African Republic. Another direct contacts mission went to Zambia to provide assistance in bringing national legislation into conformity with the Abolition of Forced Labour Convention, 1957 (No. 105). An advisory mission went to Ecuador to deal with issues raised by the supervisory bodies concerning the application of the Conventions on freedom of association and the abolition of forced or compulsory labour. Advisory missions went to Bolivia, the Libyan Arab Jamahiriya, the Netherlands and Peru. An advisory mission concerning questions related to indigenous peoples went to Brazil, Colombia, Ecuador, Peru and Venezuela.

51. The regional advisers on standards, whose task consists in assisting governments to find solutions to the various problems that they encounter in relation to international labour standards, visited the following countries: Africa: Benin, Cameroon, Djibouti, Gabon, Guinea, Mauritius and Seychelles; America: Argentina, Bolivia, Brazil, Colombia, Dominican Republic, Ecuador, Paraguay, Peru, Saint Lucia, Uruguay and Venezuela; Asia and the Pacific: China, Fiji, Indonesia, Lao People's Democratic Republic, Malaysia, Nepal, Philippines and Singapore.

52. 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. The Committee notes with interest the intention of providing opportunities for a number of labour law practitioners who, by their functions, play a role in the application and the dissemination of international labour standards, to participate in future courses.

53. During 1989, 21 participants (including a representative of a workers' organisation) and two observers were received by the International Labour Standards Department, from the following 22 countries: Benin, Bolivia, Brazil, Burkina Faso, Chad, China, Comoros, Equatorial Guinea, Gabon, Guinea, Federal Republic of Germany, Kenya, Malawi, Niger, Senegal, Sierra Leone, Sri Lanka, Sudan, Switzerland, Syrian Arab Republic, United Republic of Tanzania and Thailand.

54. In 1989, several regional or subregional tripartite seminars on international labour standards were held. A tripartite seminar for the Asian and Pacific region was held in New Delhi (India) with the participation of government representatives from 15 countries, representatives of employers' organisations from ten countries and representatives of workers' organisations from nine countries. A tripartite regional seminar on freedom of association was held in Abidjan (Côte d'Ivoire) and gathered together 32 participants from 20 African countries. Two tripartite seminars on non-discriminatory practices in employment were organised. The first of these was held

in Dakar (Senegal), and was attended by 13 participants from seven French-speaking African countries, while the second, held in San José (Costa Rica), gathered together 14 participants from six Central American States. A seminar for English-speaking African countries, intended for government officials who are directly responsible for matters related to international labour standards, was held in Harare (Zimbabwe). It gathered together 21 officials from 19 States. A regional seminar on freedom of association, which was followed by 20 Arab trade unionists from the region, was held in Damascus (Syrian Arab Republic). A workshop on labour law in southern Africa was organised in Bulawayo (Zimbabwe) for 19 representatives of the Congress of South African Trade Unions (COSATU), the African National Congress (ANC) and the South African Confederation of Trade Unions (SACTU). In addition, the regional advisers participated in the work of other seminars organised by other departments of the ILO.

55. Tripartite national seminars on international labour standards were held in Bolivia and Equatorial Guinea. Furthermore, officials from the International Labour Standards Department participated in the work of international and national seminars on freedom of association and international labour standards which were held in Guinea, Indonesia, Uruguay and USSR.

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

56. The Committee was informed of the progress achieved in 1989 to further strengthen the links between international labour standards and technical co-operation. It notes in particular the publication of the brochure, entitled "International Labour Standards: For Development and Social Justice", which is intended for large-scale dissemination. Seven training and information workshops intended principally for ILO officials and experts were organised in Geneva, in the ILO International Centre for Advanced Technical and Vocational Training in Turin (Italy) and in the Regional Office for Asia and the Pacific in Bangkok (Thailand). Furthermore, workshops which were extended to include representatives of governments, of employers' and workers' organisations and representatives of donor countries and organisations, were held in Jakarta (Indonesia), Port-of-Spain (Trinidad and Tobago) and Bridgetown (Barbados). Case studies were undertaken, particularly on the relations between special public works programmes and international labour standards. The Committee welcomes these activities which contribute to a better practical knowledge of ILO standards and hopes that they will be continued and extended in the future. In particular, the Committee hopes that on-the-spot practical surveys of the impact of international labour standards on development and adjustment measures will be conducted when appropriate. It also believes it is useful to draw attention to the opportunities offered by the fifth programming cycle of the United Nations Development Programme (UNDP), which has just begun, to assist interested countries that wish to base themselves on ILO standards in the determination of their social objectives.

57. In particular, the Committee invites governments to include in their future reports on the application of ratified Conventions,



and in their reports on the instruments selected under article 19 of the Constitution, information concerning the relevant technical co-operation activities. The Committee considers that the general survey that the Committee will undertake next year concerning certain instruments related to human resources development and training will provide an opportunity to collect practical information on the relationship between technical co-operation and standards in this important field of activity.

58. The Committee continues to draw the attention of governments to the value of requesting ILO technical assistance in cases where it considers that the application of a ratified Convention is encountering difficulties which could be overcome with such assistance.

### Technical co-operation for the application of certain Conventions

59. In its examination of the reports on the application of the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129), the Committee has noted that several countries, and particularly developing countries, continue to experience serious difficulties in drawing up and publishing annual reports on the activities of the labour inspection services, as illustrated by the comments appearing in Part II of this Report. It expresses the wish that the countries concerned, together with countries which, as donors, participate in the financing of international technical co-operation, should, together with the ILO, reflect upon the possibilities of providing appropriate assistance to overcome the above difficulties and thereby give full effect to the relevant provisions of these Conventions.

60. The Committee refers to the general observation it is addressing this year to the States that have ratified the Equal Remuneration Convention, 1951 (No. 100). In that observation, the Committee, after noting the difficulties encountered by many countries in understanding and applying the principle of equal remuneration for men and women for work of equal value, invites governments and employers' and workers' organisations in particular to collect and analyse relevant statistical data and to have recourse to objective job-evaluation systems in order to be able to compare the relative value of jobs.

61. The Committee suggests that the International Labour Office initiate a programme of education among member States to improve the understanding and application of Convention No. 100, and that it offer advisory services and technical assistance, in particular in the fields of statistics and the objective evaluation of jobs.

62. The Committee notes the decisions of the Governing Body at its 244th Session (November 1989) on the action to be taken on the resolution on ILO action concerning indigenous and tribal peoples, adopted by the Conference at the same time as Convention No. 169. It notes with interest the request to the Director-General to develop technical co-operation programmes and projects that will directly benefit the peoples concerned, addressing the severe poverty and unemployment affecting them, including income and employment generation schemes, rural development, vocational training, promotion

of handicrafts and rural industries, public works programmes and appropriate technologies.

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

63. 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 in a variety of measures. The Committee has once again noted with satisfaction 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 the instruments adopted by the Conference<sup>2</sup> and the reports due under article 19 of the Constitution.<sup>3</sup>

64. In accordance with 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

65. Since its last session, the Committee has received 153 observations, 35 of which were communicated by employers' organisations and 118 by workers' organisations. This important figure shows the interest of employers' and workers' organisations in the implementation of ILO standards and reflects the constant efforts made by the supervisory bodies of the Office to give interested organisations complete information on their role in this area.

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<sup>1</sup> Direct requests have been addressed to the following countries which have not provided such indications: Afghanistan, Guinea-Bissau, Haiti, Jordan, Kuwait, Nepal, Sao Tome and Principe (communication only to workers' organisations) and Sudan.

<sup>2</sup> A direct request has been addressed to Ghana.

<sup>3</sup> A direct request has been addressed to Nepal.

66. The majority of observations received (148) relate to the application of ratified Conventions.<sup>1</sup>

67. In addition, observations have been received from the International Confederation of Free Trade Unions and from the International Organisation of Employers on the application of Convention No. 111 in Bulgaria; from the International Federation of Plantation, Agricultural and Allied Workers on the application of Convention No. 107 in India; and from the World Federation of Teachers' Union on the application of Conventions Nos. 98 and 151 in Uruguay. Four observations relate to the reports provided by

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<sup>1</sup> Argentina: United Union of State Oil Workers on Convention No. 81; Austria: Austrian Congress of Chambers of Labour on Conventions Nos. 6, 29, 81, 89, 100 and 102; Federal Chamber of Industry on Convention No. 102; Bulgaria: Confederation of Turkish Real Trade Unions "HAK-IS" (Turkey), on Convention No. 111; Chad: National Labour Union of Chad on Conventions Nos. 87 and 98; Chile: Trade Union of Workers, Engineers, Specialists and other Workers of the Mining Company "El Indio" on Convention No. 37; Colombia: Colombian Association of Flying Auxiliaries on Convention No. 1; Ecuador: Ecuador Central of Working Class Organisations (CEDOC) on Conventions Nos. 87, 97, 98 and 103; Finland: Central Organisation of Finnish Trade Unions (SAK) on Conventions Nos. 2, 81, 121, 135, 148, 151, 154 and 159; Confederation of Service Industries (LTK) on Conventions Nos. 121 and 148; Commission for Local Authority Employers (KT) on Convention No. 121; Confederation of Salaried Employees (TVK) on Conventions Nos. 2, 121, 135, 148, 149, 151 and 159; Finnish Employers' Confederation on Conventions Nos. 81, 121 and 148; Municipal Workers' and Employees' Union (KTV) on Convention No. 154; France: French Democratic Confederation of Labour (CFDT) on Conventions Nos. 12 and 41; National Federation of Maritime Trade Unions on Conventions Nos. 22, 56, 111, 145, 146 and 147; National Union of Labour Directors in the Ministry of Agriculture on Convention No. 129; Social Affairs Union/Public Service Federation on Convention No. 81; Gabon: Employers' Confederation of Gabon on Conventions Nos. 87, 98 and 100; Trade Union Confederation of Gabon on Convention No. 87; Federal Republic of Germany: German Postal Workers' Union on Convention No. 111; India: "Bharatiya Mazdoor Sangh" on Convention No. 144; Centre of Indian Trade Unions on Convention No. 100; "Hind Mazdoor Sabha" on Convention No. 141; Ireland: Federated Union of Employers on Convention No. 26; Iceland: Confederation of Icelandic Employers on Convention No. 2; Icelandic Federation of Labour on Conventions Nos. 2 and 87; Italy: General Confederation of Agriculture on Conventions Nos. 79, 81, 87, 89, 90 and 98; General Confederation of Commerce and Tourism on Conventions Nos. 42, 79, 89 and 90; Italian Federation of Transport on Convention No. 92; Italian Union of Labour (UIL) on Convention No. 42; Japan: Japanese Trade Union Confederation (RENGO) on Convention No. 87; Malaysia: Malaysian Trades Union Congress on Conventions Nos. 11, 12, 17, 29, 81, 88 and 105; Mexico: Workers' Confederation of Mexico on

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governments under article 19 of the Constitution, relating to the Merchant Shipping (Minimum Standards) Convention (No. 147) and the Merchant Shipping (Improvement of Standards) Recommendation (No. 155), 1976.<sup>1</sup>

68. The Committee notes that, of the observations received this year, 82 were transmitted directly to the ILO, which, in accordance with established practice, referred them to the governments concerned for comment. In 71 cases the governments transmitted the observations with their reports, sometimes adding their own comments. Part Two of this Report contains the Committee's comments on cases where the observation raised an issue concerning the application of ratified Conventions.

69. 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

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Convention No. 27; Netherlands: Confederation of the Netherlands Trade Union Movement (FNV) on Conventions Nos. 29, 81, 87, 88, 105 and 135; Norway: Norwegian Federation of Labour on Convention No. 111; New Zealand: New Zealand Employers' Federation on Convention No. 100; Pakistan: Marine Engineers' Association of Pakistan on Convention No. 22; Pakistan National Federation of Trade Unions on Convention No. 87; Panama: Association of Physicians, Dentists and Allied Professions of the Social Security Fund (AMOACSS) on Convention No. 111; Portugal: General Confederation of Portuguese Workers on Convention No. 149; National Federation of Teachers (FENPROF) on Convention No. 151; Portuguese Confederation of Industry on Convention No. 148; Senegal: Autonomous Union of Higher Education (SAES) on Convention No. 111; Spain: Merchant Marine Free Union of the Workers' Commissions on Convention No. 147; National Autonomous Confederation of the Canaries on Convention No. 137; Trade Union Confederation of Workers' Commissions on Conventions Nos. 29, 81, 136, 148, 151, 154, 155 and 158; Workers' Labour Union on Convention No. 122; Sri Lanka: Ceylon Federation of Trade Unions on Conventions Nos. 81, 131 and 135; Ceylon Workers Congress on Conventions Nos. 29, 45, 81, 90 and 135; Turkey: Turkish Confederation of Employers' Associations on Conventions Nos. 81, 88, 99, 100, 105, 111 and 127; United Kingdom: Trades Union Congress (TUC) on Conventions Nos. 87, 98 and 100; (Hong Kong): Federation of Civil Service Unions on Conventions Nos. 87, 98 and 151; Uruguay: Inter-Union Assembly of Workers - National Convention of Workers (PIT-CNT) on Conventions Nos. 9 and 131; Naval Mechanics Centre on Convention No. 9; Venezuela: Workers' Single Central of Venezuela (CUTV) on Conventions Nos. 87 and 98.

<sup>1</sup> Australia: Seamen's Union of Australia; Philippines: Employers' Confederation of the Philippines, Filipino Association for Marine Employment; Switzerland: Association of Swiss Shipowners. In addition, information has been received from the International Federation of Transport (ITF).

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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.

70. 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, discrimination, forced labour, employment policy, labour inspection, maritime work, night work, and so forth.

71. The Committee finally notes that the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) has now received 47 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.

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

#### Supply of reports

72. 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.

73. 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 1989, were due to be examined this year in respect of 40 Conventions.<sup>2</sup> In addition, detailed reports were also requested from certain governments on other Conventions, in accordance with the criteria for more frequent reporting approved by the Governing Body and set out in paragraph 38 of the Committee's 1977 Report.

#### Reports requested and received

74. A total of 1,719 detailed reports were requested from governments on the application of Conventions ratified by member States (article 22 of the Constitution). At the end of the present session of the Committee, 1,260 of these reports had been received by

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

<sup>2</sup> Conventions Nos. 2, 4, 6, 12, 17, 18, 29, 41, 42, 45, 50, 64, 65, 79, 81, 85, 86, 88, 89, 90, 100, 104, 105, 108, 121, 127, 129, 135, 141, 147, 148, 149, 151, 154, 155, 156, 158, 159, 161, 162.

the Office. This figure corresponds to 73.2 per cent of the reports requested, compared with 74.7 per cent last year. The Committee regrets that, as indicated in paragraph 87 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.

75. In addition, 316 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, 240 reports, or 75.9 per cent, had been received by the end of the Committee's session, in comparison with 80.5 per cent in 1989. A list of the reports received and those which are overdue, classified by territory and by Convention, may be found in the Appendix to section II of Part Two of this Report.

76. Apart from the above-mentioned reports, 26 governments also supplied general reports on the Conventions for which detailed reports were not due for the period under review: Belize, Barbados, Belgium, Burundi, Canada, Chile, Cuba, Cyprus, Czechoslovakia, German Democratic Republic, Kenya, Mongolia, Nepal, New Zealand, Philippines, Poland, Rwanda, Saudi Arabia, Singapore, Sri Lanka, Suriname, Switzerland, Tunisia, Turkey, United Kingdom, United States.

77. 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 in which this material was not otherwise available, 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

78. 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, 34 governments have not complied with their obligation to supply reports on ratified Conventions. Thus, all or the majority of the reports due this year have not been received from the following countries: Antigua and Barbuda, Bahrain, Benin, Brazil, Cambodia, Comoros, Democratic Yemen, Djibouti, Dominican Republic, Ghana, Guyana, Haiti, Honduras, Indonesia, Ireland, Lebanon, Libyan Arab Jamahiriya, Malawi, Nicaragua, New Zealand (Tokelau), Qatar, San Marino, Solomon Islands, Swaziland, Syrian Arab Republic, Uganda, United Arab Emirates, United Republic of Tanzania, Yemen, Yugoslavia. No reports have been received for the past two years from the following countries: Grenada, Mauritania, Netherlands (Aruba), New Zealand (Cook Islands, Niue Island), Sierra Leone.

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79. 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

80. The Committee is once again bound to emphasise the importance of communicating reports in due time. Reports are requested on ratified Conventions by 15 October each year at the latest. 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, etc. 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.

81. The Committee observes that the great majority of reports are thus received between the time-limit fixed and the date on which the Committee meets: by 15 October 1989 the proportion of reports received was only 11.4 per cent. Although this is slightly better than last year, the Committee is still very concerned at this percentage, which is very low, and notes that 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 had been held over from 1989.

82. The Committee can only express once again its great concern over this state of affairs, despite the relief that the four-year system of reporting 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 can carry out its supervisory function adequately.

83. Furthermore, the Committee notes that for several years a number of countries have been regularly supplying the reports due on ratified Conventions in the period between the end of its work and the beginning of the International Labour Conference or during the Conference. The Committee notes that this practice disturbs the regular functioning of the supervisory system and contributes to making it more burdensome.



### Supply of first reports

84. A total of 59 first reports on the application of ratified Conventions were received by the time that 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 1988: Ghana (Convention No. 148); Ireland (Convention No. 159); Netherlands: Aruba (Conventions Nos. 114, 121, 126, 129, 131, 135, 137, 140, 141, 142, 144, 145, 146 and 147). 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

85. 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 46 governments contacted in this way, only nine have sent the information requested.

86. 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.

87. This represents a total of 220 cases,<sup>1</sup> in comparison with 177 last year and 224 the previous year. The Committee is concerned by the very high number of these cases. It is bound to repeat the observations or direct requests already made on the Conventions in question.

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<sup>1</sup> Angola: Conventions Nos. 12, 17, 18, 27, 29, 81, 88, 89, 105, 108; Antigua and Barbuda: Conventions Nos. 29, 81, 138; Bahrain: Conventions Nos. 29, 81, 89; Benin: Conventions Nos. 29, 105; Brazil: Conventions Nos. 5, 43, 88, 94, 105, 107, 111, 115, 125; Comoros: Conventions Nos. 17, 42, 81, 100; Dominican Republic: Conventions Nos. 29, 77, 87, 88, 89, 95, 98, 105; Ghana: Conventions Nos. 50, 64, 81, 89, 105, 111, 151; Grenada: Conventions Nos. 26, 58, 81, 99, 105; Honduras: Conventions Nos. 27, 29, 81, 108, 138; Indonesia: Conventions Nos. 27, 29, 100; Ireland: Conventions Nos. 27, 29, 81, 105; 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; Liberia: Conventions Nos. 29, 55, 58, 87, (footnote continued on next page)



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88. 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 of Experts cannot over-emphasise the special importance of ensuring the dispatch of the reports and the replies to its comments.

### Examination of reports

89. 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 are sent to the members concerned in advance of the Committee's session. Each member submits his preliminary conclusions on the instruments for which he is responsible to all his colleagues for their examination. These conclusions are then presented to the Committee in plenary sitting by the author for discussion and approval.

### Observations and direct requests

90. 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 either of "observations", which are reproduced in the Report of the Committee, or of "direct requests", which are not published in the report, but are communicated directly to the governments concerned.

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(footnote continued from previous page)

92, 98, 105, 108, 111, 112, 147; Libyan Arab Jamahiriya: Conventions Nos. 29, 81, 88, 100, 105, 1021, 130; Malawi: Conventions Nos. 81, 100, 129, 158; Mauritania: Conventions Nos. 22, 29, 62, 81, 87, 94, 102, 111, 118, 122; Netherlands (Aruba: Conventions Nos. 11, 81, 105, 122); New Zealand (Niue Island: Convention No. 105; Tokelau: Conventions Nos. 100, 111); Nicaragua: Conventions Nos. 1, 3, 4, 9, 12, 17, 30, 87, 88, 111; Niger: Conventions Nos. 100, 102, 119; Nigeria: Conventions Nos. 29, 100, 105; Qatar: Convention No. 81; Sierra Leone: Conventions Nos. 29, 59, 81, 88, 95, 98, 100, 105, 111, 119, 125, 126, 144; Solomon Islands: Conventions Nos. 29, 8; Swaziland: Conventions Nos. 29, 81, 89, 90, 100, 111; Syrian Arab Republic: Conventions Nos. 29, 81, 96, 100, 105, 129; Uganda: Conventions Nos. 29, 81, 124; United Republic of Tanzania: Conventions Nos. 17, 29, 81, 88, 105, 140, 142, 148, 149, 152; United Kingdom (Isle of Man: Conventions Nos. 17, 68, 81); Venezuela: Conventions Nos. 117, 121, 128, 139, 142, 149, 153, 155, 156, 158; Yemen: Conventions Nos. 81, 135; Yugoslavia: Conventions Nos. 27, 100, 121, 126, 148.

91. 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 early 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 1990.

92. 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

93. 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 the 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. Details concerning the cases in question are to be found in Part Two of this report and cover 66 instances in which measures of this kind have been taken in 41 States and 6 non-metropolitan territories. The full list is as follows:

<u>States</u>	<u>Convention Nos.</u>
Afghanistan	111
Algeria	68
Angola	100, 111
Australia	42, 100
Belgium	111
Benin	18
Bulgaria	29
Byelorussian SSR	29
Canada	100
Chad	13
Chile	111
China	45
Congo	119
Czechoslovakia	111
Ecuador	119
Finland	53, 155, 156
France	42
German Democratic Republic	111
Greece	87, 90, 111
Guinea	81
Hungary	29
India	123

## GENERAL REPORT

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<u>States</u>	<u>Convention Nos.</u>
Israel	111
Malaysia (Sarawak)	12
Mauritius	29, 42, 81
Netherlands	103
New Zealand	111
Panama	32, 68
Paraguay	105
Philippines	87, 99, 100
Poland	11, 29, 87, 98, 111, 115
Portugal	100, 111
Romania	29
Saint Lucia	17
Suriname	29
Switzerland	111
Turkey	95
Ukrainian SSR	29, 52
Uruguay	105
USSR	29
Zambia	123

### Non-metropolitan territories

<u>Denmark</u>	
Faeroe Islands	105
<u>France</u>	
New Caledonia	100
<u>United Kingdom</u>	
British Virgin Islands	105
Falkland Islands (Malvinas)	105
Gibraltar	100
Montserrat	17, 59

94. 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 1,850 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.

95. 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

96. 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.

97. The Committee notes that this year some 56 per cent of the reports supplied on Conventions for which information on practical application was specifically requested contained such data. This percentage is significantly lower than that of 1989, which represented 63 per cent. 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.

98. The following countries have provided information on practical application in more than half the reports concerned: Algeria, Argentina, Australia, Austria, Belgium, Chad, Chile, Côte d'Ivoire, Cyprus, Czechoslovakia, Denmark, Ecuador, Finland, France, German Democratic Republic, Federal Republic of Germany, Greece, Guatemala, Iceland, India, Israel, Italy, Jamaica, Japan, Jordan, Kenya, Luxembourg, Malaysia, Mauritius, Mongolia, Mozambique, Netherlands, New Zealand, Nigeria, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Rwanda, Senegal, South Africa, Spain, Sudan, Sweden, Switzerland, Thailand, Turkey, United Kingdom, Uruguay, Venezuela, Zambia.

99. 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.

100. As in previous years, the Committee has addressed direct requests to certain countries which have not replied to the questions in the report forms on practical application. The Committee notes that again, this year, the majority of countries in question are developing countries and that certain of them have referred specifically to difficulties of a financial and/or administrative

nature which are preventing them from compiling the statistical and other information requested. The Committee is of the opinion that these are also cases in which technical assistance from the International Labour Office could assist these countries in overcoming the difficulties in question.

101. The Committee also notes with interest 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. Nevertheless, the Committee regrets that only 48 reports contain information of this kind and thereby throw additional light on the problems raised in these cases by the practical application of the Conventions in question.

102. The Committee wishes to recall 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.

#### VI. SUBMISSION OF CONVENTIONS AND RECOMMENDATIONS TO THE COMPETENT AUTHORITIES

(Article 19, paragraphs 5, 6 and 7, of the Constitution)

103. 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 for in the Constitution, the following instruments adopted at the 75th Session of the Conference (1988): the Safety and Health in Construction Convention No. 167 and Recommendation (No. 175) and the Employment Promotion and Protection against Unemployment Convention (No. 168) and Recommendation (No. 176);

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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, 77th Session, Geneva (1990).

- (b) additional information on the steps taken to submit to the competent authorities the instruments adopted by the Conference from its 31st (1948) to its 74th (Maritime) Session (1986) (Conventions Nos. 87 to 166 and Recommendations Nos. 83 to 174);
- (c) replies to the observations and direct requests made by the Committee in 1989.

#### 75th Session

104. The Committee notes with interest that the governments of the following 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 75th Session: Australia, Bahamas, Bahrain, Barbados, Bolivia, Bulgaria, Burundi, Byelorussian SSR, Canada, Côte d'Ivoire, Cuba, Denmark, Dominica, Egypt, Equatorial Guinea, Ethiopia, Finland, France, German Democratic Republic, Ghana, Greece, Hungary, Islamic Republic of Iran, Iceland, Israel, Italy, Japan, Jordan, Lao People's Democratic Republic, Liberia, Luxembourg, Malaysia, Malta, Mozambique, Myanmar, New Zealand, Norway, Philippines, Poland, Qatar, Romania, Rwanda, Saudi Arabia, Senegal, Singapore, Somalia, Switzerland, Togo, Tunisia, Turkey, Ukrainian SSR, United Arab Emirates, United Kingdom, United States, USSR, Zimbabwe.

#### 31st to 74th Sessions

105. 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: Bolivia (70th to 74th Sessions), Cape Verde (69th and 71st to 74th Sessions), Islamic Republic of Iran (62nd to 74th Sessions), Lao People's Democratic Republic (66th to 74th Sessions), Lesotho (66th, 67th, 71st and 72nd Sessions), Philippines (67th to 74th Sessions), Swaziland (68th, 69th, 71st and 72nd Sessions), Zimbabwe (70th to 74th Sessions).

106. 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 75th Sessions of the Conference.

#### General aspects

107. The Committee notes with concern, however, that many 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.

108. 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 the 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

109. 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. In two of these observations the Committee has expressed its satisfaction at the measures taken in the following countries for the submission of instruments to the competent authorities: Philippines, Zimbabwe. In addition, 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.

110. 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.

111. 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

112. The situation in several countries is still a matter of concern to the Committee. The Committee 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

(68th to 75th)<sup>1</sup> have in fact been submitted to the competent authorities: Congo, Grenada, Guinea, Haiti, Mauritania, Papua New Guinea, Paraguay, Saint Lucia, Sao Tome and Principe, Seychelles, Sierra Leone, Suriname.

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

113. The Committee noted previously the concern expressed by the Workers' members of the Conference Committee in 1988 that the division of competence between the European Communities and their member States has delayed the submission of the Asbestos Convention, 1988 (No. 162), and the ratification of the Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 153). In that connection, the Committee noted that the question of relations between rights and obligations under the Constitution of the ILO, on the one hand, and the rights and obligations under treaties establishing regional groups, on the other, was discussed by the Governing Body in 1981 on the basis of a document submitted by the Office.

114. As regards the impact on the obligation of submission, which is only one aspect of a more general problem, the Committee emphasises that, although the appropriate bodies of the European Communities may in some cases be considered as the authorities within whose competence the matters covered by Convention or Recommendation lie, submissions to these bodies does not fulfil all the obligations of member States under the provisions of article 19 of the Constitution of the ILO as laid down in the Memorandum on submission, by virtue of which they are bound, within the prescribed time-limits, to submit the instruments to their national legislative bodies and inform the Director-General of the ILO of the measures taken to submit those instruments and the decisions taken by those authorities. Under article 23, paragraph 2, of the Constitution, governments are also obliged to communicate to representative organisations of employers and workers a copy of the information concerning submission and, in respect of countries having ratified the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), to consult the most representative national organisations of employers and workers on the proposals to be made to the competent authority in connection with the submission of Conventions and Recommendations.

115. The Committee trusts in this connection that the concern expressed by the Council and the Commission in the Decision of 22 December 1986 that the preparation of draft ILO instruments in matters in which the Community has exclusive competence should proceed "with due regard for" Convention No. 144, will also apply to the submission of instruments to the competent authorities and that "effective"

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<sup>1</sup> The Conference adopted no Conventions or Recommendations at its 73rd Session (June 1987).



consultations will continue to be held at the national level, in accordance with Articles 2 and 5 of Convention No. 144.

VII. INSTRUMENTS CHOSEN FOR REPORTS UNDER  
ARTICLE 19 OF THE CONSTITUTION

116. 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 Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147), and the Merchant Shipping (Improvement of Standards) Recommendation, 1976 (No. 155).

117. Of a total of 279 reports requested, 166 have been received.<sup>1</sup> This represents 59.7 per cent of the reports requested.

118. More particularly, the Committee notes with regret that Cambodia, Paraguay and Sao Tome and Principe 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.

119. 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

120. Part Three of this Report (issued separately as Report III (Part 4 B)) contains the General Survey of the Committee on 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, 77th Session, 1990.

121. 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, 21 March 1990.

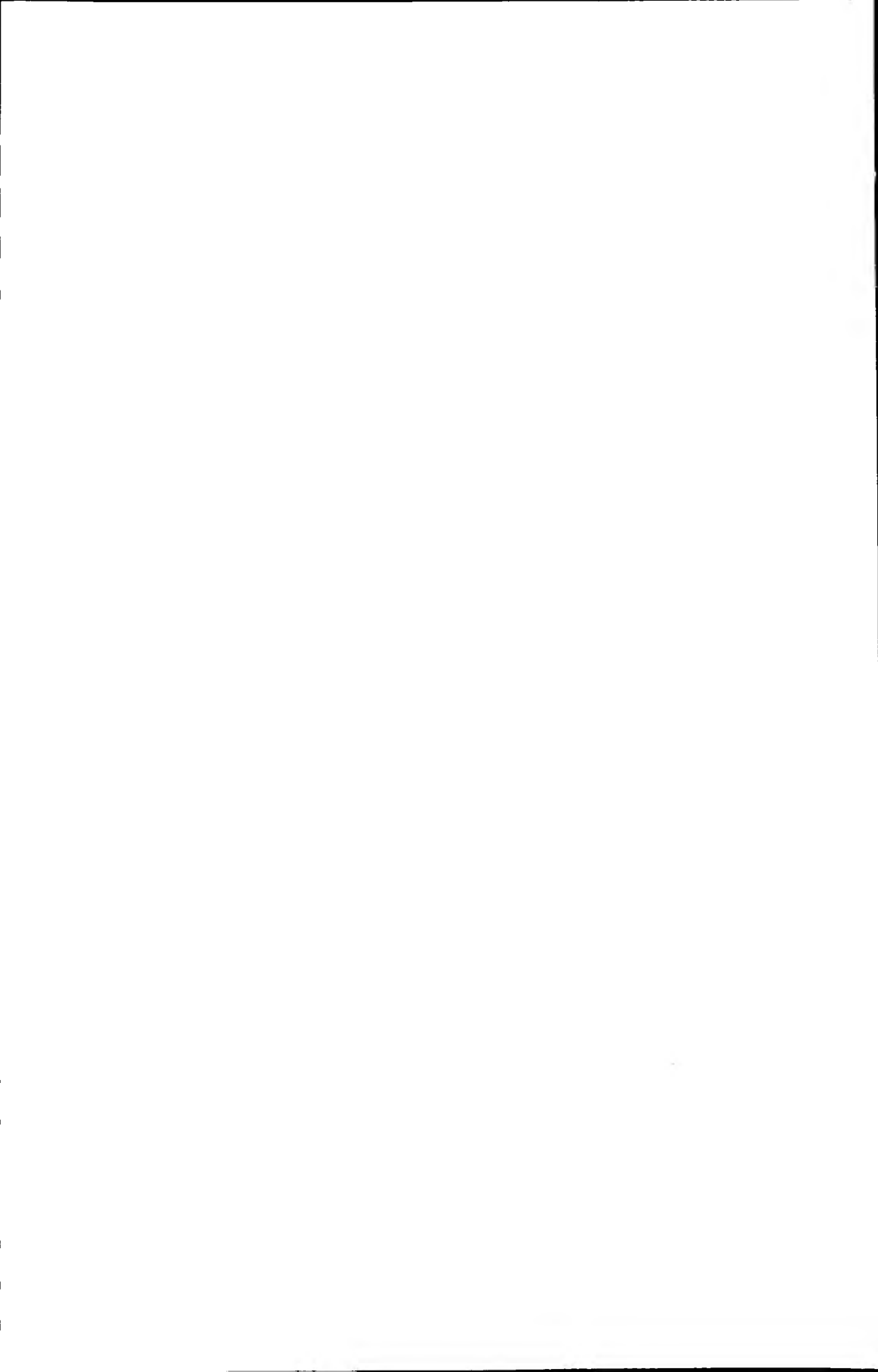
(Signed)

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

##### 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 the application of 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).

##### Cambodia

In the absence of any report for more than ten years, the Committee has not been able to examine the current position as regards the application of ratified Conventions.

##### Democratic Yemen

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

Djibouti

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

Dominican 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 all the reports due on the application of ratified Conventions.

Ghana

The Committee notes that most of the reports due, including the first report on Convention No. 148 due since 1988 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.

Grenada

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 all the reports due on the application of ratified Conventions.

Ireland

The Committee notes that most of the reports due including the first report on Convention No. 159, due in 1988, 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.

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.

## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

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### Liberia

The Committee notes the reports supplied by the Government for the period ending 30 June 1989 and observes that they are limited to referring to previous reports.

The Committee notes that the Government requested the establishment of direct contacts with the ILO with a view to discussing the problems raised for a number of years concerning the application by Liberia of the obligations deriving from the Constitution of the ILO and ratified Conventions.

The Committee notes that these direct contacts took place in May 1989. It regrets that the Government has not supplied any information on the outcome. In these conditions, it is bound to take up again, for each of the Conventions concerned, the comments that it had suspended in accordance with established practice.

[The Government is asked to supply full particulars to the Conference at its 77th Session.]

### 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 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.

### Sierra Leone

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 all 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 examined them in the light of the updated Declaration concerning Action against Apartheid in South Africa and Namibia and the Programme of Action against Apartheid annexed to it, adopted by the

International Labour Conference in 1988, which invites the Governing Body and the Director-General to use existing ILO procedures 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 are 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 segregation 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.

5. The Committee is aware that a process has begun which might result in an alteration of the policies and measures referred to above. The Committee wishes to be kept informed of any developments in this connection.

#### Yugoslavia

The Committee notes that most of the reports due have not been received. It trusts that the Government will not fail in future to



discharge its obligation to supply all the reports due on the application of ratified Conventions.

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In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Angola, Antigua and Barbuda, Bahamas, Bahrain, Belize, Benin, Brazil, Bulgaria, Burkina Faso, Byelorussian SSR, Cameroon, Canada, Central African Republic, Comoros, Congo, Costa Rica, Democratic Yemen, Djibouti, Dominica, Equatorial Guinea, Gabon, Ghana, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Indonesia, Islamic Republic of Iran, Iraq, Jordan, Kuwait, Lesotho, Madagascar, Malawi, Mexico, Myanmar, Nepal, Nicaragua, Papua New Guinea, Qatar, Romania, Saint Lucia, San Marino, Sao Tome and Principe, Saudi Arabia, Singapore, Solomon Islands, Somalia, Sri Lanka, Sudan, Swaziland, Syrian Arab Republic, United Republic of Tanzania, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukrainian SSR, United Arab Emirates, Yemen.

#### B. INDIVIDUAL OBSERVATIONS

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

###### Canada (ratification: 1935)

The Committee notes the Government's report for the period 1984-1988. The information provided shows the absence of real progress in the implementation of the Convention, particularly at the level of the Provinces, and as regards the determination of the circumstances and limits within which exceptions to the normal hours of work may be allowed, in accordance with Article 6 of the Convention. These matters have been the subject of the Committee's repeated comments for many years, and a new request is being addressed directly to the Government. Without underestimating the nature and type of difficulties encountered in harmonising the legislation of Canada with the provisions of the Convention, the Committee trusts that the Government will take the necessary action in the near future, with the agreement and collaboration of its constituent entities and occupational organisations, to ensure that the legislation on working hours throughout Canada is in conformity with the Convention.

###### Chile (ratification: 1925)

The Committee notes the information supplied by the Government in its last report, including the replies to its previous comments. Following its examination of Act No. 18620 of 6 July 1987 respecting the Labour Code, which repeals the previous provisions on which its earlier comments had been based, the Committee notes that the

divergencies that it had pointed out with certain provisions of the Convention persist in the new Labour Code.

Article 2(b) of the Convention. Section 39 of Legislative Decree No. 2200 of 1978 (as amended by Act No. 18018 of 10 August 1981 and Act No. 18372 of 12 December 1984), which limited the working week to five days (nine hours 30 minutes per day) and the working day to ten hours per day, while maintaining the working week at 48 hours, was considered to be contrary to this provision of the Convention, which sets the maximum limit of nine hours on the working day in public or private industrial undertakings. Section 27 of the new Labour Code contains identical provisions. The Committee notes that the division of the working week into five days, which results in working days of nine hours and 36 minutes, is compensated by an additional weekly rest day. It also notes the Government's concern not to establish a difference in the legal treatment of industrial workers and those in commerce, for whom the working day may reach ten hours. However, the Committee considers that there remains a discrepancy with Article 2(b) of the Convention and requests the Government to take the necessary measures to prevent the working day exceeding by 30 minutes the nine hours admitted by this provision of the Convention.

Article 6. Section 42 of Legislative Decree No. 2200, which permitted the parties to agree that up to two additional hours daily could be worked in jobs which, by their nature, do not harm the health of the workers, and section 43(2), which authorised as overtime hours those hours worked in excess of the established working hours, with the employer only being aware of them, had been considered to be contrary to the provisions of this Article of the Convention. In fact, Article 6, paragraph 1(b) lays down that temporary exceptions to normal working hours may be permitted to allow establishments to deal with exceptional cases of pressure of work, and Article 6, paragraph 2, lays down that the maximum of additional hours that may be authorised must be fixed in advance. The Committee here again notes that sections 30 and 31 of the new Labour Code allow these earlier discrepancies to persist. It requests the Government to take the necessary measures so as to only permit exceptions to normal working hours in the cases set out in the Convention and to fix in advance the maximum number of additional hours that may be authorised. It points out that a limit of two additional hours per day without a reasonable annual limit could give rise to abuses and would be definitely contrary to the spirit in which the Convention was formulated.

The Committee trusts that the Government will take measures in the near future to bring its legislation into full conformity with the Convention.

#### Nicaragua (ratification: 1934)

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:

The Committee has noted the information provided by the Government in its report, which, in particular, indicates that a

preliminary draft revision of the legislation was under consideration on the basis of the comments of the Committee.

The Committee trusts that the draft will be adopted in the near future and that it will lay down, after consultation with the employers' and workers' organisations concerned, the circumstances in which additional hours may be worked and the maximum number of additional hours authorised, in conformity with Article 6, paragraphs 1(b) and 2 of the Convention.

The Committee requests the Government to provide in its next report detailed information on any developments in relation to this question.

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

Article 6 of the Convention. The Committee takes note of the information supplied by the Government to the effect that a Tripartite Committee has been established to examine the question of follow-up to the Committee's comments on the application of the Convention.

With reference to its previous observation, the Committee recalls that, in its 1984 report, the Government provided a draft legislative decree, amending 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 has already pointed out several times, 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 particularly intermittent.

The Committee trusts that the necessary measures will be taken in the very near future to 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. It requests the Government to inform the Office of any new developments in this regard.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Belgium, Canada, Colombia, Comoros, Costa Rica, Djibouti, Equatorial Guinea, Libyan Arab Jamahiriya.

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

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

##### South Africa (ratification: 1924)

The Committee refers to its general observation and to its earlier comments on this Convention. It notes that the Government's report does not contain substantive new elements in reply to its previous comments, except for the question concerning unemployment

insurance for non-national workers, and asks the Government to furnish detailed information on the following points:

Article 1 of the Convention. The Committee has noted that the information concerning unemployment supplied by the Government does not cover the areas of Transkei, Bophuthatswana, Venda and Ciskei. It requests the Government to provide, in its next report, all available information, statistical or otherwise, concerning unemployment in the whole of the national territory including these areas, and details of any measures taken or contemplated to combat it.

Article 2(1). (a) The Committee has noted the information concerning the network of free public employment agencies under the Guidance and Placement Act, 1981 (GPA), which is now in force. It has understood that the Black Labour Act, 1964, referred to in its earlier comments, has been repealed by the Aliens and Immigration Laws Amendment Act, 1984. However, it appears that the effect of the new legislation continues to be to limit the access of "Black" workers to these free employment agencies, in so far as they have no residential rights in the particular areas covered by the agencies. At the same time, it appears that people in rural or so-called "homeland" areas must register at Black Administration (Development) Board Offices in order to qualify for "requisition" work in those urban areas. The report also refers to placement services offered by magistrates' offices on behalf of the Department of Manpower. The Committee hopes the Government will clarify the nature of the system of public employment agencies operating in all parts of the country, in terms of the requirements of the Convention; indicate whether there are free agencies throughout the country which are under the control of a central authority; and give a general account of the working of the system throughout all areas of the country.

(b) Please indicate whether a system of advisory committees including representatives of employers and workers has been formed to advise on the operation of the public employment agencies (for example under GPA sections 9 to 14) and, if so, indicate the membership of the committees.

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

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

Chile (ratification: 1925)

Article 3, paragraph (c), of the Convention. With reference to its previous comments, the Committee takes note of the information supplied by the Government to the Conference Committee in 1989, and of the information contained in its last report. It notes, in particular, the detailed explanations concerning the regulation of the protection of the health of women during pregnancy and the six months following confinement, and concerning the scheme for financing medical

care during confinement provided for in Act No. 18.469 of 23 November 1985. It also notes with interest the Government's announced intention to review the national legislation and to examine the possibility, and the financial implications for the State, of providing total coverage of the cost of medical care during confinement for all women, and not only for women who are indigent or have low incomes, as is currently the case.

The Committee therefore expresses the hope that the results of this examination will enable the Government to take the necessary measures to ensure that full effect is given to Article 3(c) of the Convention which provides for free medical care during the periods referred to in Article 3(a) and (b), by excluding all possibilities of women covered by the Convention being made to assume any part whatsoever of the medical costs related to confinement. It asks the Government to provide information on any progress achieved in this respect.

[The Government is asked to report in detail for the period ending 30 June 1991.]

Colombia (ratification: 1933)

1. Article 3(a), (b) and (c) of the Convention. In reply to the Committee's previous comments, the Government indicates that the Ministry of Labour has prepared a Bill to approve the Maternity Protection Convention (Revised), 1952 (No. 103), which will amend section 236 of the Labour Code in order to increase the length of maternity leave up to 12 weeks. It adds, however, that in order to take into account the economic and social situation of the country and to avoid these measures prejudicing the participation of women on the labour market, it is proposed in the Bill that maternity benefits will start to be paid once Convention No. 103 comes into force, and that the benefits will be paid progressively, being extended by one week each year, until they attain 12 weeks. Finally, the Government states that it is envisaged that section 19 of Legislative Decree No. 3135 of 1968 will be amended together with section 33 of Decree No. 1848 of 1969, which is applicable to women workers in the public sector.

The Committee notes this information. It is bound, however, to remind the Government that the current legislation does not give full effect to Convention No. 3, which has been ratified by Colombia for more than 50 years, since no measure has yet been taken to bring section 236 of the Labour Code, and section 33 of Decree No. 1848 of 1969 into conformity with Article 3(a), (b) and (c) of the Convention. This legislation provides for maternity leave of eight weeks in all, whereas Article 3(a) and (b) provide that 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. Furthermore, it follows from Article 3(c) that pre-natal leave should be extended when confinement takes place after the estimated date.

Given the importance of this question, which has been the subject of its observations for many years, the Committee trusts that the Government will be able to adopt the necessary measures in the near future 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 duration of maternity benefits with that of leave.

2. The Committee notes the information supplied by the Government as regards the territorial extension of the social security scheme. It also notes the information supplied by the Government in its reports on Conventions Nos. 12 and 17 concerning the same question, which illustrate, in particular, the progress achieved in extending the social security scheme and which report the Government's intention to cover the whole of the territory so as to extend social security to all the inhabitants in the country, as set out in the legislation. The Committee hopes that the Government will continue to supply information on any further territorial extension of the social security scheme.

[The Government is asked to supply full particulars to the Conference at its 77th Session and to report in detail for the period ending 30 June 1990.]

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

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

##### Nicaragua (ratification: 1934)

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

In its previous comments, the Committee pointed out that the national legislation contained no provision prohibiting the employment of women during the night. The Government indicated, in a previous report, that there was a general consensus against the adoption of provisions in this respect which would be discriminatory towards women. The Committee notes, according to the last report, that consultations were being held with women's organisations and trade-union organisations with a view to ratifying Convention No. 89, which is more flexible.

The Committee requests the Government to report all developments in this field.

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In addition, a request regarding certain points is being addressed directly to the Lao People's Democratic Republic.

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

For some years, the Committee has been drawing attention to the fact that section 58 of the General Labour Act, which authorises the employment of children under 14 years of age as apprentices, is not compatible with the Convention which, as regards industrial undertakings, only envisages exceptions in the case of an undertaking in which only members of the same family are employed or for work done by children in technical schools, provided that it is approved and supervised by public authority. The Committee therefore requested the Government to take the necessary measures to amend the above section as regards industrial employment in order to give full effect to the Convention on this point.

In the replies that it has been providing over the years to the above comments, the Government has referred to section 66 of the Minor's Code of 1973, which sets at 14 years the minimum age for contracting employment and which does not envisage exceptions for apprenticeship. However, section 67 of this Code authorises the employment of children between 10 and 14 years in certain circumstances without specifying whether these apply to non-industrial employment.

In its last report, the Government refers once again to the General Labour Bill, which was prepared with the assistance of the ILO, and indicates that this Bill contains provisions prohibiting the employment of children in certain types of work, in accordance with international standards, and that it formally repeals all earlier legislation that is contrary to the new provisions (including the Supreme Decree of 21 September 1929).

The Committee hopes that it will be possible to transmit the new General Labour Bill to the National Congress and for it to be adopted in the very near future and that the Government will not fail to supply information on the measures that are taken to this effect.

The Committee also notes with interest the action taken by the Commission for the Protection and Assistance of Minors with the aim, among other objectives, of amending the Minor's Code and it requests the Government to keep it informed of any developments in this connection.

**Brazil (ratification: 1934)**

With reference to its previous comments, the Committee notes the information supplied by the Government to the Conference Committee in 1989 and the discussion within that Committee.

1. In its previous comments, the Committee noted certain allegations to the effect that a large number of children between 6 and 14 years of age were employed in violation of the relevant legislation (namely section 403 of the Consolidation of Labour Laws under the scope established by Decree No. 66.280 of 27 February 1970) in various industries in Brazil, and in particular in the State of Sao Paulo. It therefore requested the Government to indicate the measures



that had been taken or were envisaged to ensure that full effect was given to the Convention not only in law but in practice.

In reply to these comments, the Government indicated both in its report for 1988 and to the Conference Committee in 1989 that measures had been taken to strengthen the inspection services and that detailed information on the work of the above services in this field, which had been requested by the Committee, would be provided in the next report. The Committee notes this statement and trusts that the Government will take the necessary measures so that children under 14 years of age cannot be employed or work in industrial undertakings, in accordance with Article 2 of the Convention, and that it will supply the information that has been requested.

2. In its previous comments, the Committee also drew attention to the fact that article 7, paragraph XXXIII, of the new Federal Constitution of 5 October 1988, although improving the previous legislation in certain ways, since it lays down a general prohibition on work by children aged less than 14 years, nevertheless authorises work by these children as apprentices. As the Convention does not provide for exceptions in this case and since it only authorises exceptions in undertakings in which only members of the same family are employed (Article 2) or for work done by children in technical schools and provided that such work is approved and supervised by the public authority (Article 3), the Committee requested the Government to ensure that the Convention remained fully implemented by the national legislation. In its reply to the Conference Committee in 1989, the Government referred in this connection to Decree No. 31.546 of 6 October 1952, which sets out the definition of apprenticeship. By virtue of this Decree, the employer is obliged to give the apprentice systematic vocational training in the trade in question and that, in order to attain this objective, the apprentice is enrolled in a course of the National Service for Industrial Apprenticeship (SENAI) or the National Service for Commercial Apprenticeship (SENAC), or in a course approved by these bodies, which are technical schools financed by contributions from the enterprises concerned and structurally linked to the Ministry of Labour. The Government added that it has no knowledge of apprenticeship contracts that had been concluded with children of less than 14 years and that it is endeavouring to adapt the legislation relating to the employment of minors to the principles of the Constitution and to those set out in the Convention.

The Committee notes this information and the concern expressed in the Conference Committee regarding the situation that exists in Brazil in respect of work by children of less than 14 years of age. It once again urges the Government to take the necessary measures in both law and practice to give full effect to the Convention which it ratified several decades ago. The Committee would be grateful if the Government would indicate the progress achieved in this respect.

[The Government is asked to report in detail for the period ending 30 June 1990.]



**Convention No. 6: Night Work of Young Persons (Industry), 1919****Burkina Faso (ratification: 1960)**

The Committee refers to the comments that it has been making for several years in which it has pointed out that sections 3 and 7 of Order No. 539 of 29 July 1954 are not in conformity with Article 2 of the Convention (section 3 prohibits only the night work of young workers and apprentices, whereas the Convention applies to young manual and non-manual employees in industrial undertakings; section 7 permits exceptions to the prohibitions on night work which are broader than those set out in the Convention). The Committee notes from the report that the above Order will be revised in the context of the current general review of the labour legislation. The Committee trusts that it will be possible to take the necessary measures in the near future and requests the Government to indicate any progress achieved.

[The Government is asked to supply full particulars to the Conference at its 77th Session.]

**Senegal (ratification: 1960)**

The Committee refers to the comments that it has been making for several years in which it has pointed out that sections 3 and 7 of Order No. 3724 of 22 June 1954 are not in accordance with Article 2 of the Convention (section 3 confines the prohibition on the night work to young workers and apprentices, whereas the Convention applies to all young manual and non-manual workers employed in industrial undertakings; section 7 permits exceptions to the prohibition on the night work of young persons that are broader than those authorised by the Convention). It notes from the report that no measure has yet been taken to bring the legislation into conformity with the Convention, but that the Orders implementing the Labour Code are currently being revised. The Committee trusts that it will be possible to take the necessary measures in the near future and requests the Government to indicate any progress achieved.

[The Government is asked to supply full particulars to the Conference at its 77th Session.]

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In addition, requests regarding certain points are addressed directly to the following States: Algeria, Austria, Belgium, Chad, Chile, Lao People's Democratic Republic.

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

Jamaica (ratification: 1963)

Further to its previous observations, the Committee notes, from the Government's report, that the final draft of the Jamaican Bill on Merchant Shipping has not yet been submitted to Parliament. This Bill was to eliminate the restrictions in 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 Committee therefore trusts that this Bill will become law shortly since this matter has now been the subject of comments by the Committee for many years. It requests the Government to report any progress made in this connection as well as to supply the text of the new Act once adopted.

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

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

Colombia (ratification: 1933)

The Committee takes note of the Government's report containing a brief comment on its observation of 1989. The Government states that a public employment service for finding employment without charge is being developed through the National Employment Service, in the main cities, including those with large fishing and merchant shipping sectors. The Committee takes note of the foregoing, but again observes with regret that the questions it has been raising for several years on the application of the following provisions of the Convention have received no response.

I. 1. Article 2 of the Convention. The Committee has repeatedly expressed its concern regarding the operation of the fee-charging placement services in ports. In its observation of 1984 it referred, in particular, to Decree No. 1433 of 1983 which permits the continued operation of temporary employment agencies and fee-charging placement agencies. The Committee again expresses the hope that the Government will shortly adopt the necessary measures to give full effect to the above provision which prohibits the fee-paying placement, or placement by a commercial enterprise for pecuniary gain, of seafarers and provides for legal punishment for any violation.

2. Articles 4 and 10. In previous reports, the Government has stated that the National Employment Service (SENALDE) would be responsible for finding employment for seafarers. The Committee refers to its comments on the application of the Employment Service

Convention, 1948 (No. 88), and recalls that Article 4 of Convention No. 9 requires the organisation of an efficient and adequate system of public employment offices for finding employment for seamen without charge. Accordingly, the Committee again expresses the hope that the Government will provide the information called for by the report form for Convention No. 9, on the organisation of a system of offices for finding employment without charge, in order to give full effect to these provisions.

3. Article 5. The Committee again expresses the hope that arrangements will also be made for consultations to be held with shipowners' and seafarers' representatives in the conditions set out in this Article, and that the Government will provide full particulars in this connection.

II. The Committee recalls that in previous reports, the Government referred to a draft labour law for seafarers that was prepared in 1983 with the assistance of an ILO expert. The Committee hopes that this draft will be re-examined or that, if appropriate, other suitable measures will be considered in order to bring the national legislation and practice into conformity with the Convention.

[The Government is asked to report in detail for the period ending 30 June 1991.]

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In addition, requests regarding certain points are being addressed directly to the following States: Argentina, Djibouti, Nicaragua, Panama, Uruguay.

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

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

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

#### **Convention No. 11: Right of Association (Agriculture), 1921**

Malaysia (ratification: 1960)

The Committee takes note of the comments made by the Malaysian Trades Union Congress in a communication dated 20 October 1989 concerning the non-application of Article 1 of the Convention.

It trusts that the Government's reply to these comments will be available for examination by the Committee at its next Session.

Poland (ratification: 1924)

The Committee notes with satisfaction the information provided in the Government's report and the verbal and written information supplied to the Conference Committee on the Application of Standards in June 1989 and the discussion which followed.

It thanks the Government for supplying copies of Act No. 106 of 7 April 1989 (Act on trade unions of individual farmers) which implements the principle of union pluralism in agriculture. It notes the registration on 20 April 1989 of the Independent Self-Governing Trade Union of Individual Farmers "Solidarity". It notes that Article 1 of the Convention is now fully applied.

\* \* \*

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

**Convention No. 12: Workmen's Compensation (Agriculture), 1921**Colombia (ratification: 1933)

For some years the Committee has been drawing the Government's attention to the need to amend the Labour Code in order to ensure that, while the coverage provided by the social security scheme is being extended to the whole of the national territory, all agricultural workers, without exception, benefit from compensation for industrial accidents that is equivalent to the levels established by the social security scheme. In its report the Government once again refers to the new basic provisions which lay down the principle of compulsory coverage under the social security scheme, both for the urban and rural populations, and confirms the application of the Labour Code in the meantime to workers residing in areas that are not yet covered by the social security scheme. However, it indicates that each year the Institute of Social Security is extending its protection and is arriving in the most distant regions of the country, despite the geographical obstacles and the problems related to infrastructure, in addition to the problems related to violence that Colombia is experiencing at the present time. The Government stresses that it also hopes to cover the whole of the territory and thereby provide social security for all the inhabitants of the country, as set out in the legislation.

The Committee also notes that, as regards the amendment of the Labour Code, the Government indicates that, as part of its policy to unify social security schemes, in 1987 it issued Decree No. 0776 to amend the schedule for the assessment of incapacity resulting from industrial accidents, which is contained in section 209. This Decree increases the number of categories of injuries that are described from 131 to 388 while broadening the percentage bands and thereby permitting the provision of more adequate compensation through the

inclusion in assessment of variables such as age, sex, occupation and other conditions.

The Committee notes this information and the detailed statistical data supplied in the report on Convention No. 17 with interest. It notes, however, that, as the Government itself points out, the rural sector is not in practice covered by the social security scheme. In these circumstances, the Committee is bound to urge once again that since the social security scheme does not cover the whole of the national territory, the Government should amend the Labour Code, which sets out lower levels of compensation, as regards the duration of both medical assistance and cash benefits, than those fixed by the compulsory social security scheme. The Committee also requests the Government to continue supplying information on the extension of the industrial accident branch of the social security to the rural sector and to supply copies of the social security regulations that are envisaged under section 132 of Decree No. 1650 of 1977.

[The Government is asked to report in detail for the period ending 30 June 1991.]

#### Malaysia (ratification: 1964)

##### Sarawak

The Committee notes with satisfaction the statement by the Government that the Employment Injury Insurance Scheme has been extended to the whole national territory with effect from 1 January 1987.

#### Nicaragua (ratification: 1934)

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 would be grateful if the Government would continue to provide information on the extension to all agricultural wage earners of the benefit of the social security laws and regulations which provide for the compensation of workers for personal injury by accident arising out of or in the course of their employment, in accordance with Article 1 of the Convention.

2. The Committee notes that no decision has yet been taken regarding the draft text prepared in 1981 with the assistance of the Office to repeal section 103 of the Labour Code (under which the judge may reduce the compensation due to injured workmen employed in small agricultural undertakings). The Committee hopes that it will be possible to repeal this provision of the Labour Code in the near future in order to grant agricultural wage earners the same benefits as those granted to other wage earners, in accordance with the Convention.

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

Rwanda (ratification: 1962)

The Committee notes the information supplied by the Government in its report. It regrets to note that no progress has been made in extending the scope of the Legislative Decree of 22 August 1974 (organising social security) to all agricultural workers, including day labourers and temporary workers.

In its report, the Government states that, while being aware of the time that has passed (27 years) since the ratification of the Convention, structural and technical difficulties have constantly delayed the implementation of the provisions of the above instrument and the repeal of section 186 of the national Labour Code which excludes agricultural workers from its scope, with the result that they are not subject to the Legislative Decree of 22 August 1974, organising social security. However, since in practice contracted workers who have undertaken to put their occupational activity at the service of an enterprise or an institution of an agricultural nature are in practice subject to the Labour Code, these contracted workers are also in practice covered by the social security scheme that is in force. As for day labourers, who are essentially engaged for the short period necessary to carry out work according to the season, in certain cases they are subject to the social security system and, in other cases, their employer takes out a collective insurance policy for them with an insurance company against physical injury, although, it must be recognised, many of them are not protected. The Government is therefore in the process of seeking the ways and means of resolving this question, taking into account the economic situation.

The Committee notes this information. While being aware of the difficulties referred to, it is bound once again to hope that measures will also be taken at the legislative level in order to bring the national legislation formally into conformity with the Convention by explicitly extending the scope of the above Legislative Decree to all agricultural workers, including day labourers and temporary workers.

[The Government is asked to report in detail for the period ending 30 June 1991.]

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In addition, requests regarding certain points are being addressed directly to the following States: Angola, Brazil, Malaysia.

**Convention No. 13: White Lead (Painting), 1921**Algeria (ratification: 1962)

In its previous observations, the Committee has noted that no specific provisions exist to give effect to the Convention. In its previous reports, the Government indicated that the regulations for the implementation of the Act on Occupational Health and Safety and Occupational Medicine of 28 April 1987 were being prepared. In its latest report, the Government has indicated that the laws and

regulations necessary to the application of the Convention have not yet been adopted, but that it continues to give special attention to the application of this Convention as it concerns the life and health of workers exposed to occupational risks due to the use of toxic and dangerous products. The Government has indicated two texts which are in the process of being adopted but which concern only general safety and health measures.

The Committee would recall that, in ratifying this Convention, the Government has undertaken to prohibit the use of white lead and sulphate of lead, and of all products containing these pigments, in the internal painting of buildings, in accordance with Article 1 of the Convention. The Committee, therefore, urges the Government to adopt the necessary regulations to give full effect to all Articles of the Convention and hopes that the Government will be able to supply copies of the regulations giving effect to Article 1, Article 2 (regulation of use of white lead in artistic painting or fine lining), Article 3 (prohibition of employment of all females and males under 18 years of age in any painting work which involves the use of white lead), Article 5 (regulation of the use of white lead in painting work which is not prohibited) and Article 7 (collection of statistics concerning morbidity and mortality rates with regard to lead poisoning).

[The Government is asked to report in detail for the period ending 30 June 1990.]

#### Chad (ratification: 1960)

Further to its previous comments, the Committee notes with satisfaction the adoption of Order No. 4473/PR/MTMO/89 of 11 December 1989 to amend section 2 of Order No. 718/IGT/LS of 15 February 1957 regulating the use of white lead, so as to include measures for the prevention of danger arising from the application of paint in the form of spray, thus giving effect to Article 5, I(b) of the Convention.

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In addition, a request regarding certain points is being addressed directly to the Lao People's Democratic Republic.

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

#### Colombia (ratification: 1933)

1. Article 2 of the Convention. (a) The Committee notes the information supplied by the Government in its report. In particular, it notes with interest the detailed statistical data on the geographical scope, the population, the economic sectors and occupations covered by social security institutions which, according to the Government, demonstrate the progress achieved in extending the social security scheme, despite the problems, particularly of an

economic nature, which are affecting the country. The Committee notes, however, that it is not possible from the above information to determine the number of workers protected by the industrial accident branch of the social security scheme nor their percentage in relation to the total number of workmen, employees and apprentices employed in public or private establishments. The Committee requests the Government to provide information indicating the above.

(b) In relation to the amendment of the Labour Code, the Committee notes the adoption of Decree No. 0776 to amend the schedule for the assessment of incapacity to work arising out of industrial accidents that is contained in section 209. It regrets to note, however, that no indication is given as regards the elimination from the above Code of the exceptions and limitations set out in sections 223(c), 224 and 225, which are not envisaged by the Convention. In these circumstances, the Committee is bound once again to express the hope that, as the social security scheme does not cover the whole of the national territory, the Government will amend the Labour Code as indicated.

2. In reply to the observations that the Committee has been making for some years concerning Articles 5, 7, 9 and 10 of the Convention, the Government confines itself to indicating that these will be submitted for examination by the National Labour Council, which is to meet in the second half of November this year, and more specifically to the Special Commission to Reform the Colombian Labour System, so that it can examine and analyse the feasibility of amending section 204 of the Labour Code. In these circumstances, the Committee is bound to reiterate its previous comments that were set out as follows:

Article 5. In its earlier comments, the Committee pointed out to the Government that the payment of compensation in a lump sum, corresponding to a certain number of months' wages in the event of partial or total permanent incapacity or complete disability and also in the event of death (section 204(2) of the Labour Code and sections 22, 23 and 35 of Decree No. 3135 of 1968), is not in conformity with the Convention, under which this compensation must, as a rule, be paid in the form of periodical payments. Although the Convention does not fix the amount of compensation (which may correspond only to a certain percentage of the wage), it provides that compensation shall be paid throughout the contingency and allows these periodical payments to be converted into a lump sum if the competent authority is satisfied that it will be properly used. The Committee is therefore bound once again to urge the Government of the need to amend, for the above reasons, section 204(2) of the Labour Code and sections 22, 23 and 35 of Decree No. 3135 of 1968.

Article 7. The Committee noted the Government's intention to carry out a full and realistic prior study of the financial capacity of the Institute and the employers to assume the payment of the additional compensation due to incapacitated injured workmen who must have the constant help of another person, as laid down by this provision of the Convention. The Committee once again hopes that this study will lead to the early adoption of a provision prescribing the payment of this compensation and



asks the Government to inform it of any progress made in this connection.

Article 9. The Committee has drawn the Government's attention to the fact that, under this provision of the Convention, medical, surgical, pharmaceutical and hospital aid must be granted free of charge throughout the contingency, which is contrary to the provisions of section 204(1) of the Labour Code, which restricts the provision of this aid to two years. The Committee therefore once again hopes that, pending the extension of the social security scheme to the whole national territory, the Government will amend this provision of the Labour Code as indicated.

Article 10. The Committee noted that a proposal was to be made to the Social Security Institute to study the possibility of introducing the compulsory renewal of artificial limbs and surgical appliances in conformity with this provision of the Convention. It therefore once again expresses the hope that the Government will take the necessary measures in the near future to amend both section 204(2) of the Labour Code and section 21(b) of Decree No. 1848 of 1969, issued under Decree No. 3135 of 1968.

The Committee hopes that the Government will be able to indicate the progress achieved in this respect in its next report and that it will continue to supply information on the extension of the social security scheme and, in particular, of the industrial accident branch, if possible, as indicated under point I.

[The Government is asked to report in detail for the period ending 30 June 1991.]

#### Iraq (ratification: 1960)

The Committee notes the information supplied by the Government concerning Article 7 of the Convention.

Article 2 of the Convention. In reply to the Committee's previous comments, the Government indicates that section 3 of Act No. 39 of 1971 respecting retirement and social security provides that this Law shall apply to all workers who are covered by the Labour Code, and that it shall be applied to them progressively. The Government is endeavouring to find suitable solutions so that social security covers all public and private establishments and enterprises, irrespective of the number of employees. The Committee notes this information. However, it is bound once again to express the hope that the Government will soon be able to modify the above Law in order to extend protection against industrial accidents to any enterprise or establishment of whatever nature, whether public or private, however many employees they have, in accordance with the Convention. The Committee requests the Government to continue supplying information on any progress achieved in this respect.

Article 5. In reply to the Committee's previous comments on the question of ensuring the proper utilisation of the compensation paid in the form of a lump sum in the case of permanent partial incapacity of less than 35 per cent, the Government refers to section 56 of Act No. 39 of 1971 which provides for the payment as a lump sum of the

compensation in question but which does not appear to ensure its proper utilisation, in accordance with this provision of the Convention. In these circumstances, the Committee hopes that the Government will take the necessary measures to give full effect to the Convention on this point.

[The Government is asked to report in detail for the period ending 30 June 1991.]

Kenya (ratification: 1964)

The Committee notes the information supplied by the Government in its reports. It regrets to note that there has been no progress in the adoption of the Social Security Bill which proposes to transform the current National Social Security Fund, on which the Committee has been commenting since 1967, into a pension scheme. The Government points out that there have been some delays in completing the draft Bill primarily because the Central Organisation of Trade Unions, Kenya, had asked for more time to consider in greater detail the whole question and implications of the proposed Bill. The Government hopes that it will soon be able to report some progress in the adoption of the proposed new Social Security Bill.

Article 5 of the Convention. Referring to the Committee's previous comments the Government indicates that discussions between the three social partners in Kenya on the replacement of the current Workmen's Compensation Act with what is being referred to as "Employment Injury Insurance Fund Scheme", are at a very early stage and details will be forwarded at a later date. The Committee notes this information. Given the time that has now elapsed in examining the draft Bill in question the Committee can only again express the hope that the National Social Security Fund will shortly be transformed into a pension scheme and that full effect will be given to this provision of the Convention, under which the compensation payable in the case 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 it will be properly utilised.

Articles 9 and 10. The Committee regrets to note that the Government limits itself to indicating that it is currently studying the Committee's previous comments. It therefore again expresses the hope that the Government will adopt the necessary measures to give full effect to these provisions of the Convention which fix no maximum limits in respect of medical treatment and the supply and renewal of medical appliances.

Article 11. The Government reiterates that the Committee's previous comments will be taken into account when the present Workmen's Compensation Act is replaced by the proposed "Employment Injury Insurance Fund Scheme". The Committee takes note of this statement. It can therefore only again express the hope that the legislation referred to will be adopted shortly and that a new compensation scheme for industrial accidents will soon be introduced, ensuring in all circumstances, in the event of the insolvency of the

employer or insurer, the payment of compensation to workmen who suffer personal injury due to industrial accidents or to their dependants.

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

[The Government is asked to provide full particulars to the Conference at its 77th Session and to report in detail for the period ending 30 June 1990.]

#### Malaysia (ratification: 1957)

##### Peninsular Malaysia

Article 2 of the Convention. Further to its previous comments, the Committee notes the information supplied by the Government in its report for the period ending 30 June 1989. In particular it notes with interest the observations presented by the Malaysian Trades Union Congress (MTUC) stating that the wage ceiling for coverage has been raised to \$1,250 and the percentage of compensation has also been increased to 80 per cent of wages.

It also notes the information provided by the Government to the effect that even though the Social Security Act, 1969, is applicable to every industry employing five or more employees earning \$1,000 or less per month, where after an industry has become liable to pay contributions and the number of employees is reduced to less than five, the employer must continue to pay contributions in respect of the remaining employees. In other words, the establishments employing less than five employees will continue to be so covered under the Act. Furthermore, an employee who is once covered under the Act will continue to be so covered even after his monthly wages exceeds the \$1,000 ceiling so long as he is in insurable employment with the same employer or different employer. Employees covered under the Act will not be liable under the Workmen's Compensation Act which covers enterprises employing less than five employees.

The Committee has noted this information with interest. It expresses once again the hope that the Government would adopt the necessary measures to extend the occupational risk branches of the social security scheme to cover all workers, including those whose remuneration exceeds the indicated limit.

#### Myanmar (ratification: 1956)

With reference to its previous comments, the Committee regrets to note that no progress has been achieved in the revision of the Workmen's Compensation Act of 1923, to which the Government has been referring since 1967.

In its report, the Government indicates that important changes have been made since September 1988 as regards the political, economic and social structure. It stresses in particular that Myanmar is in the process of establishing a multi-party democratic system in place of the existing single-party political structure. The socialist economy has recently been replaced by an open economic policy. Labour

laws are once again in the process of being revised to bring them into conformity with the changes. The Government reconstituted the Labour Laws Reviewing Committee in July 1989. Consequently, the comments of the Committee of Experts will be taken into consideration throughout the revision process.

The Committee notes this information. It trusts that the above modifications will be made as rapidly as possible so 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 indicate any progress achieved in this respect.

[The Government is asked to report in detail for the period ending 30 June 1991.]

#### Panama (ratification: 1958)

The Committee notes the statistical information supplied by the Government in its reports concerning the benefits awarded in respect of industrial accidents and occupational diseases, and on the application of the Convention for the period 1984-88.

Articles 5 and 7 of the Convention. With reference to its previous comments, the Committee notes that the draft Bill to amend sections 306 and 311 of the Labour Code has not yet been adopted. The Government describes the serious economic problems affecting Panama, which have seriously affected the financial situation of the Social Insurance Fund, and indicates that the Fund will undertake an actuarial examination of the consequences involved in changes and readjustments in its financial situation. The Committee notes this information with interest and, while it understands the above considerations, hopes that the planned actuarial study will result in the subsequent adoption of the Bill in order to give full effect to these provisions of the Convention. The Committee requests the Government to supply information on any progress achieved in this respect.

#### Philippines (ratification: 1960)

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

1. Article 5 of the Convention. In reply to the Committee's previous comments the Government reiterates its position that the grant of a lifetime pension is impractical considering the inflation rate in the country. If awarded on a lifetime basis, the amount of

the pension would be losing its significance as the purchasing power of the peso decreases. Thus, workers prefer to receive the significant amount for a limited period rather than have them indefinitely for a lesser value. As concerns the guarantee for the proper use of the Partial Permanent Disability (PPD) compensation paid in lump sum in accordance with this Article of the Convention, the Government indicates that while the competent authorities on workmen's compensation matters have no direct authority to assure the proper use of compensation paid, laws on the subject contain provisions (i.e. section 198 of the Labour Code and Presidential Decree No. 220) that safeguard the amount received from encumbrances that may cause its depletion.

The Committee has noted this information. It nevertheless considers that provisions referred to cannot guarantee the proper use of compensation paid in the form of a lump sum, as was formerly the case in respect of the measures taken (report for the period 1977-80) by the Government, as regards certain categories of survivors where death results from an industrial accident, such as the seminars conducted to educate beneficiaries on certain investments. The Committee therefore hopes that the Government will take measures to ensure that the sums thus paid are properly utilised, in accordance with this Article of the Convention.

2. Article 7. In reply to the Committee's previous comments, the Government points out that the question concerning the additional compensation for injured workmen requiring the constant help of another person has already been raised a few years ago and jointly addressed by the Employees' Compensation Commission (ECC), Social Security System (SSS) and Government Service Insurance System (GSIS). The Government has indicated its belief that the nature of incapacity which requires constant help from another person is permanent total disability. It has also observed that since the Filipinos are bonded by strong family ties, it is believed that constant help comes within the family of the injured workman. Because of this observation it was decided that the additional compensation in such cases be in the form of monthly payment/pensions for the dependent children of the retirees. Thus, on 1 May 1978, the dependent children of these retirees under the programme became entitled to the so-called dependant's pension. Moreover, SSS is submitting for Congress approval a Bill which intends to introduce a carer's allowance benefit for pensioners who need another person's assistance. The carer's allowance is a monthly cash benefit equal to 300 pesos and will be payable to contingencies which need not be work-related. The Committee has noted this information with interest. It hopes that the Bill will be adopted in the near future and that it will give effect to this provision of the Convention, and requests the Government to supply information on any progress achieved in this respect.

[The Government is asked to report in detail for the period ending 30 June 1991.]

Rwanda (ratification: 1962)

The Committee notes the information provided by the Government in its report. It notes with regret that the draft Ministerial Order to determine the means of applying to apprentices the Legislative Decree of 22 August 1974 on the organisation of the social security scheme has still not been adopted. It hopes that this draft Decree will soon be adopted in order to give full effect to Article 2 of the Convention and requests the Government to indicate any progress achieved in this connection in its report.

[The Government is asked to report in detail for the period ending 30 June 1990.]

Saint Lucia (ratification: 1980)

The Committee notes the information supplied by the Government in its reports and the adoption of the National Insurance Regulations No. 37, 1984. It notes with satisfaction that these Regulations contain provisions (sections 76, 77, 78 and 80) which, in conformity with Article 5 of the Convention, provide for the payment of compensation in the event of an accident which causes death or permanent incapacity.

Article 7 of the Convention. The Committee notes that Regulations No. 37 of 1984 do not, as set out in this provision of the Convention, provide for the provision of additional compensation to victims of accidents who suffer incapacity and require the constant help of another person. The Committee therefore hopes that the Government will take the necessary steps to give effect to this provision of the Convention.

Articles 9 and 10. In its previous comments, the Committee drew the Government's attention to the fact that, contrary to this provision of the Convention, section 52(1) of the National Insurance Act No. 10 of 1978 limits to a prescribed amount the right to medical assistance and the provision of artificial limbs. In view of the fact that the Regulations issued under the Act do not appear to contain provisions in this connection, the Committee hopes that the Government will take the necessary steps to secure the application of these Articles of the Convention, which do not fix any maximum amount as regards such benefits.

The Committee also requests the Government to indicate whether the medical treatment set out under section 52(1) of Act No. 10 of 1978 also covers pharmaceutical assistance and the supply, repair and renewal of artificial limbs, in accordance with these provisions of the Convention.

Sierra Leone (ratification: 1961)

Article 5 of the Convention. For a number of years, the Committee has been drawing attention to the fact that sections 6, 7 and 8 of the Workmen's Compensation Ordinance 1954, as amended in 1969, are not in conformity with this provision of the Convention, since, although they provide for periodical payments equivalent in

theory to the amount of the wage, they restrict payment to a certain number of months, whereas the Convention, although it does not fix a rate for periodical payments, which may be only a percentage of the wage, provides for their payment throughout the whole contingency.

In reply to the above comments of the Committee, the Government states that a technical co-operation mission in social security is under way. It hopes in future to be given recommendations concerning this Convention. It is also the Government's intention to re-examine the rates of the periodical payments and the Law Reform Commission has decided to discuss these matters. The Committee notes this information and once again hopes that the matters raised by the Committee for a number of years will be resolved in the near future.

Suriname (ratification: 1976)

Article 7 of the Convention. The Committee regrets to note from the reply of the Government that no amendment has been made to the Accident Regulation of 1947, to include the provision stipulating additional compensation for victims of industrial accidents resulting in incapacity of such a nature as to necessitate the constant attendance of another person. It notes however that the Cabinet approved the establishment of a national social security scheme and that there is an interdepartmental committee working out the bill for this scheme. The Committee therefore expresses the hope that the social security scheme will soon be adopted and will provide the above-mentioned benefit so as to ensure application of this provision of the Convention. The Committee requests the Government to indicate in its next report any progress achieved in this connection.

United Republic of Tanzania (ratification: 1962)

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

Article 5 of the Convention. In reply to the Committee's previous comments, the Government indicated in its report that consultations were taking place between the various social security institutions in the country with a view to giving effect to the recommendations put forward by the ILO Regional Adviser on Social Security. In this connection, the Government had considered the idea of preparing a "Consolidated Social Security Legislation" which will take into account the provisions of this Article of the Convention. The Committee had noted this information and had expressed the hope that the "Consolidated Social Security Legislation" would soon be prepared and that the Workmen's Compensation Ordinance, Chapter 263, would consequently be amended so as 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. The Committee requested the Government to provide information on any progress made in this respect.

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

#### Uganda (ratification: 1963)

Article 5 of the Convention. In reply to the Committee's previous comments the Government indicates that, upon its request for ILO technical assistance, an expert on labour legislation visited Uganda in January 1989; priority will be given to new Workmen's Compensation legislation proposals and it is expected that the enactment of the new proposals will be effected soon. The Committee notes with interest this information. It trusts that with the ILO's technical assistance the Workmen's Compensation legislation, on which the Committee has been commenting since 1966, will soon be brought into full conformity with Article 5 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 1990.]

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In addition, requests regarding certain points are being addressed directly to the following States: Angola, Bahamas, Burkina Faso, Cape Verde, Central African Republic, Comoros, Egypt, Guinea-Bissau, Mauritius, Mexico, New Zealand, Nicaragua, Portugal, Sao Tome and Principe.

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

#### Benin (ratification: 1960)

With reference to its previous comments, the Committee notes with interest the adoption of Decree No. 88-358, of 2 September 1988, revising the list of occupational diseases annexed to Order No. 10/SLM of 21 March 1959. It notes with satisfaction that the new list of occupational diseases and the schedule in Annex IV refer, in accordance with the Convention, to work liable to cause poisoning by mercury, its amalgams and compounds. The Committee, however, notes that, in the same way as the list annexed to the 1959 Ordinance, the



new list of occupational diseases and the schedule in Annex IV are not fully in conformity with the Schedule in Article 2 of the Convention, since they contain, under headings nos. 1 and 30 concerning respectively the diseases caused by lead and mercury poisoning (the left-hand column in the schedule in Annex IV), a list of certain pathological manifestations that may be caused by "lead, its alloys or compounds" and "mercury, its amalgams and compounds", which is limitative by its nature, whereas the Convention is drawn up in general terms on these points and covers all the cases of poisoning that may be caused by these substances.

The Committee therefore hopes that the Government will take the necessary measures to bring the list of occupational diseases and the schedule in Annex IV into conformity with the Convention, for example, by replacing the words "diseases caused by lead poisoning" (heading 1, left-hand column of the schedule in Annex IV) by the terms "principal diseases caused by lead poisoning" and the terms "diseases caused by mercury poisoning" (heading 30, left-hand column of the schedule in Annex IV) by the terms "principal diseases caused by mercury poisoning".

The Committee requests the Government to indicate in its next report the progress achieved in this respect.

#### Burkina Faso (ratification: 1960)

With reference to its previous comments, which it has been making since 1960, the Committee notes with regret that the draft Decree to revise the list of occupational diseases annexed to Act No. 3-59ACL of 30 June 1989, which was formulated in 1980 with the technical assistance of the ILO, has not yet been adopted. In its report, the Government indicates that the Committee's observations concerning the completion of the list of occupational diseases are still a cause of concern for the Government of Burkina Faso which is endeavouring to find a solution in the context of the general revision of the Social Security Code and the legislation on occupational medicine, health and safety. The seminar organised by Burkina Faso in April 1989 in Ouagadougou on the definition of a national policy on occupational health and safety, under the aegis of the ILO, has led to a national debate on this question with the ministries concerned. The Committee notes this statement. It can only express its regrets at the delay in the adoption of the above Decree.

The Committee trusts that measures will be taken for the list of occupational diseases in annex to the above legislation to be completed so as to include the following items in accordance with Article 2 of the Convention:

- (a) in general, all forms of poisoning by lead, its alloys or compounds and their sequelae (not only certain pathological manifestations listed restrictively as diseases due to lead poisoning, as in the list at present in force);
- (b) poisoning by mercury, its amalgams and compounds and their sequelae and the activities likely to cause such poisoning;

- (c) the loading and unloading or transport of merchandise in general, to be included among the activities likely to cause anthrax infection which already appear in the legislation.  
[The Government is asked to supply full particulars to the Conference at its 77th Session.]

Central African Republic (ratification: 1960)

With reference to its previous comments, which it has been making since 1962, the Committee notes with regret that the draft Decree drawn up during the 1978 direct contacts has not yet been adopted. In its reports, the Government indicates that draft texts have been drawn up to bring the national law and practice into conformity with certain Conventions, including Convention No. 18, and that the constitutional procedure for the adoption of these draft texts has been commenced and is following its course before the competent bodies. These draft texts will be supplied to the Committee in due time. The Committee notes this statement. It can only express its regret at the delay in the adoption of the Decree in question. The Committee trusts that measures will be taken to bring the list of occupational diseases annexed to Ordinance No. 59-60 of 1959 into conformity with Article 2 of the Convention by the deletion of the limitative element in the list of pathological manifestations which may be caused by lead and mercury poisoning and by the addition, among the kinds of work which may lead to anthrax infection, the operations of "loading and unloading or transport of merchandise" in general.

[The Government is asked to supply full particulars to the Conference at its 77th Session.]

Guinea-Bissau (ratification: 1977)

The Committee notes with regret that no progress has yet been made to complete the legislation that is in force by including a list of occupational diseases in the terms of Article 2 of the Convention. In view of the importance of this question, the Committee is bound once again to hope that the void that it notes in the legislation will be filled by the adoption, in the near future, of a list of occupational diseases including, at least, those enumerated in the Schedule appended to Article 2 of the Convention, which shall be recognised as occupational diseases when they are contracted in the circumstances specified in the above Schedule.

[The Government is asked to report in detail for the period ending 30 June 1990.]

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In addition, requests regarding certain points are being addressed directly to the following States: Angola, Colombia, Djibouti, Mozambique, Nicaragua, Sao Tome and Principe.

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

**Convention No. 19: Equality of Treatment (Accident Compensation), 1925**Central African Republic (ratification: 1964)

Article 1, paragraph 2, of the Convention. With reference to its previous comments, which it has been making for a number of years, the Committee notes with regret that the draft Decree that was submitted to the Council of Ministers in 1982, to give effect to this provision of the Convention, has not yet been adopted. In its reports, the Government indicates that draft legislation has been drawn up to bring national law and practice into conformity with certain Conventions, including Convention No. 19, and that the constitutional procedure for the adoption of this draft legislation is under way and is following its course before the competent bodies. Copies of these draft texts will be supplied in due time. The Committee notes this statement. It hopes that the draft Decree will be adopted in the near future in order to guarantee survivors' benefits to the dependants (survivors) of a worker, a national of another State bound by the Convention, who were resident outside the Central African Republic at the time of the worker's death and who continue to be so resident, if it is proved that they were actually dependent on the worker at the time of his death.

[The Government is asked to supply full particulars to the Conference at its 77th Session.]

Portugal (ratification: 1929)

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

1. In its previous comments, the Committee drew the Government's attention to the fact that Act No. 21/27 of 3 August 1965 respecting industrial accidents is not fully in conformity with the Convention. In the first place, section III of this Act 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 to 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 pursuant to the Convention. Secondly, paragraph 3 of the Act, in so far as it excludes from the scope of the Act 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.

In this connection, the Committee notes with interest that although the Government maintains its previous position with regard to the Act (namely, that the part of the Act which is incompatible with the Convention should be taken to have been abrogated by virtue of the relevant provisions of the Constitution) and although Portuguese

practice permits the conclusion that such abrogation may take place, in order that no doubts as to the persons covered by the Act or responsibility for its enforcement may be raised, the Government has indicated that it will none the less take into account that it would be desirable for the legislation to be brought explicitly into conformity with the Convention when regulations are issued on industrial accidents.

The Committee asks the Government to provide information on any progress achieved in this connection.

2. With regard to the consultations provided for in paragraph 2, section 72 of Act No. 28/84, the Committee notes that accident compensation has not yet been integrated into the unified social security system, and that there has consequently been no change in the system under which responsibility rests with the employers, as provided in Act No. 21/27 and the supplementary legislation. The Committee asks the Government to continue to provide information on any consultations held in this respect.

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In addition, requests regarding certain points are being addressed directly to the following States: Cape Verde, Djibouti, Islamic Republic of Iran, Nigeria, Sao Tome and Principe.

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

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

#### Chile (ratification: 1933)

With reference to its previous comments, the Committee notes the information supplied by the Government in its last report in reply to the allegations made by the trade unions of workers in bakeries and similar establishments in the VIth and VIIth regions concerning the absence of regulations to establish and regulate prohibitions on night work in the bakeries sector, in accordance with the provisions of the Convention.

The Committee notes in particular that the Government, following its statement to the 75th Session of the Conference (June 1988), has undertaken consultations with several employers' and workers' organisations, in accordance with Article 2 of the Convention on the question of the need to adopt new measures to give effect to the Convention.

The Committee notes the Government's stated intention to pursue these consultations to gather a broader range of opinions on this question and trusts that the Government will be able to arrive at a decision as soon as possible and clarify the situation as regards its obligations under this Convention. It requests the Government to keep the Office informed of any developments in this respect.

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

With reference to its previous observation, the Committee notes the information supplied by the Government in its report to the effect that it has not yet been possible to submit to Congress the Bill on the work of seafarers, which was prepared in 1983 with the collaboration of an ILO expert. The Committee trusts that it will be possible in the near future to adopt the above Bill, which is intended to give effect to this Convention.

Mauritania (ratification: 1963)

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

With reference to its previous observation, the Committee notes the Government's statement in its report to the effect that all the steps are being taken towards the adoption of the draft Ordinance prepared in 1979 to bring the legislation into conformity with Article 9, paragraph 1, of the Convention (the possibility for the seaman of terminating an agreement for an indefinite period in any port where the vessel loads or unloads), Article 12 (determining the circumstances in which the seaman may demand his immediate discharge) and Article 14, paragraph 2 (the right of the seaman to a certificate). The Committee trusts that the Government will be able to report the adoption of the above draft in the very near future and transmit its text.

**Convention No. 24: Sickness Insurance (Industry), 1927**Chile (ratification: 1931)

1. The Committee notes the information supplied by the Government in its report. In particular, it notes with interest the information concerning the application of Article 2 of the Convention, to the effect that in December 1988 the transitional emergency programmes known as the "Minimum Employment Programme" (PEM) and the "Employment Programme for Heads of Household" (POJH) were terminated. As a consequence, as of 1 January 1989, no one is registered under these transitional assistance programmes.

2. Article 7, paragraph 1. The Committee notes that the Government's reports contain no reply to its previous comments. It therefore once again requests the Government to indicate the provision whereby effect is given to this Article of the Convention, under which employers shall share in providing the financial resources of the sickness insurance fund.

Haiti (ratification: 1955)

Referring to its earlier comments, the Committee notes that the Government is in the process of studying the recommendations formulated during the technical assistance mission carried out by the ILO in 1988, namely: the priority to be accorded to maternity insurance; measures to be taken in respect of occupational diseases; the progressive extension of sickness insurance to the agricultural sector. Consequently, the Committee can only once again express the hope that, with the technical assistance of the ILO, the Government will be in a position to implement progressively the general sickness insurance scheme in compliance with the Convention. It requests the Government to indicate all progress made in this respect.

**Convention No. 25: Sickness Insurance (Agriculture), 1927**Chile (ratification: 1931)

See under Convention No. 24.

Haiti (ratification: 1955)

See under Convention No. 24.

**Convention No. 26: Minimum Wage-Fixing Machinery, 1928**India (ratification: 1955)

1. The Committee notes with interest, from the information supplied by the Government in its last report (which was received too late to be examined during the Committee's previous session), the extension of the machinery for the application of minimum wage rates to new categories of workers, and the recent adjustments in the rates of minimum wages and special allowances set by the central Government, the State Governments and the administrations of Union Territories. The Committee hopes that the Government will continue to supply information on the measures that are adopted relating to minimum wages.

2. The Committee also notes the new comments made by the Bharatiya Mazdoor Sangh (BMS) workers' organisation, which were transmitted with the Government's report. This organisation alleges that by a recent judgement by the Supreme Court the appeal channels open to workers against violations of the Minimum Wages Act, 1948 is now restricted to appeal to the administrative bodies, whereas before that, workers could appeal to the bodies set up under section 20(1) of the Minimum Wages Act or could approach the Labour Court, in accordance with section 33.C(2) of the Industrial Disputes Act, 1947. In the same letter, the BMS alleges that the Labour Ministers' Conference of the States of the Union made a series of recommendations

that have not been applied seriously by all the States of the Union. In particular, the BMS refers to the following recommendations: (a) that the minimum wages fixed under the Minimum Wages Act should not be lower than the poverty level determined by the Planning Commission; (b) that minimum wages should be revised every two years or when the consumer price index increases by 50 points in respect of the previous index; and (c) that, in addition to fixed minimum rates, a separate cost-of-living allowance should be fixed in relation to the consumer price index. Finally, the BMS indicates that the minimum rates that have been fixed are frequently challenged by employers appealing to the high courts, which results in the application of the minimum wage rates being suspended. The BMS ends its allegations by suggesting that tripartite advisory bodies should be set up at the district level to assist the inspection machinery in supervising the application of minimum wages.

3. The Committee notes the observations made by the Government in its report in relation to the above comments made by the BMS. With reference to the allegations concerning the judgement of the Supreme Court, the Government indicates that the provisions of the Minimum Wages Act, 1948, are more beneficial for the workers, since under section 20(3) in the case of a claim arising out of payment of less than the minimum wage rates applied, the workers not only receive compensation for the difference between the sum that has been paid and the minimum wage that should have been paid, but may also be awarded compensation of up to ten times the difference. The Government also indicates that it is considering certain amendments to the above Act, including section 20 (regarding claims). With regard to the allegations made concerning the recommendations put forward by the Labour Ministers' Conference of the States of the Union, the Government indicates that the recommendation made by the Labour Ministers' Conference at its 36th session in 1987 that minimum wages should not be fixed below the poverty level, has been applied by a number of States and that this recommendation was forwarded to all the Governments of the States and the corresponding administrative authorities for them to take the appropriate measures. The Labour Ministers' Conference held in 1988 suggested that the above recommendation be taken into account when reviewing minimum wages for agriculture. With regard to the recommendation made by the Labour Ministers' Conference in 1981 at its 31st session that minimum wages should be reviewed every two years instead of every five years as laid down in the Minimum Wages Act, or when the rise in the consumer price index reaches 50 points, the Government indicates that this recommendation has been applied by various States, including New Delhi, which is mentioned specifically by the BMS in its comments. The Government also indicates that it is considering a series of amendments to the Minimum Wages Act to provide that minimum wages should be reviewed at intervals not exceeding two years or when there are variations in the consumer price index. The Government also states that it is examining amendments to increase the penalties for violations of the Minimum Wages Act. Finally, as regards the special cost-of-living allowance, the Government states that the central Government introduced this special allowance when it reviewed minimum wages in 1988. While noting the above information, the Committee

hopes that the Government will take the necessary measures to amend the Minimum Wages Act in line with the above recommendations and that it will indicate the progress achieved in this respect in the near future. The Committee refers to the request that is being addressed directly to the Government concerning the other matters that the Government deals with in its report.

4. With reference to the comments submitted previously by the BMS concerning the minimum wages of cinema workers in West Bengal and the comments submitted by the Steelworkers' Federation of India, respecting the application of some provisions of the Convention, the Committee requests the Government to also refer to the request that is being addressed to it directly.

#### Mauritius (ratification: 1969)

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

With reference to the comments of the Mauritius Labour Congress (MLC) on the application of the Convention, the Committee noted with interest the information supplied by the Government to the Conference Committee in 1985. It noted in particular that before the reconstitution of the National Remuneration Board, the Minister invited the five principal federations including the MLC for consultations in accordance with the law but the MLC decided not to come to the joint meeting with other workers' organisations on that particular day and met the Minister on the following day. It also notes that the composition of the Board now includes one workers' representative and one employers' representative, who were those persons proposed by one trade union federation and by the employers' federation.

In this connection, the Committee noted that the Government is considering measures to give statutory effect to the Convention's requirements as regards equal representation of employers' and workers' organisations on the Board. The Committee hoped that the Government will be able to indicate what progress has been achieved with a view to bringing the legislation into conformity with the Convention on this point.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future and that it will communicate information on the progress achieved to this effect.

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In addition, requests regarding certain points are being addressed directly to the following States: Brazil, Ghana, Grenada, India, Ireland, Madagascar, Seychelles.



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

Requests regarding certain points are being addressed directly to the following States: Angola, Bangladesh, China, France, Honduras, Hungary, Indonesia, Ireland, Nicaragua, Pakistan, Yugoslavia.

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

Austria (ratification: 1960)

The Committee notes the information supplied by the Government in its report as well as the comments of the Austrian Congress of Chambers of Workers on the application of the Convention.

Article 2, paragraph 2(c), of the Convention. In comments made for a number of years, the Committee noted that some of the work done by prisoners was performed in workshops operated by private undertakings inside prisons under arrangement with the prison authorities, who place prison labour at the disposal of the private undertakings and remain responsible for their supervision with regard to security while private employees of the undertakings involved may direct the work of the prisoners with the approval of the prison authorities.

The Committee recalled that Article 2, paragraph 2(c), of the Convention not only requires prison work to be carried out under the supervision and control of a public authority but also prohibits the prisoner from being hired to or placed at the disposal of private companies, and that these provisions of the Convention apply also to workshops which may be operated by private undertakings inside prisons.

In its latest report, the Government reiterates its view that conditions of employment for prisoners in workshops operated by private undertakings must be distinguished from those of free workers in some essential respects: the prisoners concerned have no contractual relationship with the undertaking; the fact that the labour of certain prisoners is placed at the disposal of private undertakings and the consequent possibility that company employees in qualified positions may in given cases exercise advisory or directive functions in relation to the work process does not alter the fact that this is a special case of public employment and not a private employment relationship. Even in the few exceptional cases where persons belonging to the undertaking direct or advise the prisoners in their work (as a rule this is done by specially trained prison officials), the private company employees do not have in fact or in law authority to give orders to individual prisoners or to discipline them; such authority is reserved exclusively to prison officials.

The Committee takes due note of these indications. It must again point out that compulsory prison labour is exempted from the Convention under Article 2(2)(c) under a twofold condition: not only must the work be carried out under the supervision and control of a public authority, but also the persons concerned must not be hired to or placed at the disposal of private individuals, companies or associations. The latter condition is aimed at any arrangement

between the State and a private company whereby prison labour is "placed at the disposal" of the private company. The absence of a labour contract between the company and persons concerned is in the nature of such arrangement, and cannot be invoked to justify the arrangement.

As the Committee pointed out in paragraphs 97 and 98 of its 1979 General Survey on the Abolition of Forced Labour, the use of the labour of convicted persons in workshops operated by private undertakings would fall outside the scope of the Convention only where it is based on conditions of employment comparable to those of free workers, namely, where it is subject to the consent of the prisoners concerned and to safeguards in respect of remuneration and social security.

The Committee also notes the comments made by the Austrian Congress of Chambers of Workers, which fully endorses the concerns expressed in the Committee's comments on the implementation of the Convention and shares the hope that progress will be achieved. The Congress refers again to its communication of 30.8.1988, where it explained that, given the employment situation in prisons, prisoners are likely to consent to working in a workshop run by a private undertaking but a decision made in these circumstances is not really a free one, and it is accordingly essential that working conditions be commensurate with generally accepted norms. The Congress of Chambers of Workers had noted that the extremely low wages of prisoners were determined by using a so-called "netto-system". Under this system deductions, in particular for food, clothing, accommodation and social security, are made from an assumed, equitable wage, as would also apply to a gross wage outside prison. These deductions are actually made from the assumed wage, but no contributions are paid into the social and unemployment insurance. The Congress of Chambers of Workers advocated that prisoners should be included in social and unemployment insurance schemes while serving their prison sentence, as a significant contribution to their social integration and rehabilitation after release, as well as to the observance of the Convention.

In its latest report, the Government states that remuneration under the "netto-system" corresponds to the particular employment conditions in prisons. Full remuneration of those prisoners employed in workshops operated by private undertakings would conflict with current regulations and with the principle of equal treatment of working prisoners. The Government however adds that negotiations with a view to including prisoners in unemployment and social insurance have been going on for some time, and that consideration is being given to gradually raising remuneration for all prisoners, according to budgetary possibilities, and also to raising the deferred pay which is placed into the prisoner's account to provide for his upkeep during the period following his release.

The Committee notes these indications. It hopes that the Government will soon be in a position to report progress in the implementation of these measures, as well as on any steps taken with a view to seeking prisoners' explicit consent to working in workshops operated by private undertakings.

Bangladesh (ratification: 1972)

1. Bonded labour. The Committee has taken note of the discussions in the Working Group on Contemporary Forms of Slavery of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities at its fourteenth session, 1989. The Committee notes that the Report of the Working Group (doc. E/CN.4/Sub.2/1989/39 of 28 August 1989) refers to information provided by the Anti-Slavery Society for the Protection of Human Rights concerning child labour related to debt bondage in the South Asian countries; this information is set out in the report of the South Asian Seminar on Child Servitude held in June-July 1989 and attended by representatives of non-governmental organisations from five countries. In relation to the situation in Bangladesh, the report refers in particular to children of underprivileged classes who, because of their parents' debt bondage to local landlords or money lenders, have to take up work as domestic workers in private homes, in shops, restaurants, in "biri" and tobacco factories, etc.; their situation is described as one of exploitation and slavery. Under the provisions of the labour law no children under 14 years can work for any employer under any circumstances and there are laws and constitutional provisions on child servitude but these were not implemented nor brought to the attention of the public and the exploiters seem to ignore all legislation protecting children against servitude.

The Committee recalls that under Article 25 of the Convention the illegal exaction of forced or compulsory labour shall be punishable as a penal offence and the Government must ensure that penalties imposed by law are really adequate and strictly enforced. The Committee hopes that the Government will provide detailed comments on the allegations referred to above as well as full information on any measures adopted or contemplated to eradicate bonded labour in law as well as in practice.

2. The Committee has taken note with interest of the activities of the Underprivileged Children's Educational Programme (UCEP) established in 1972 with the help and co-operation of the Ministry of Manpower Development and Social Welfare, referred to in the ILO Conditions of Work Digest No. 7, 1/1988. The Committee hopes that the Government will provide information on any further measures taken for the release and rehabilitation of exploited children.

3. Legal restrictions on 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).

Referring to the explanations provided in paragraph 67 of its 1979 General Survey on the Abolition of Forced Labour, the Committee in its previous observation 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. However, restrictions under the essential services legislation referred to are not limited to such circumstances. The Committee also pointed out 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.

In view of the Government's repeated earlier indications that the Essential Services (Maintenance) Act, 1952 is not in operation and that no restriction has been imposed under section 3 of the Act, the Committee again expresses the hope that the Government will soon be in a position to indicate that the necessary action has been taken 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.

#### Brazil (ratification: 1957)

The Committee takes note of the Government's report. In previous comments, the Committee referred to the observations submitted by the International Confederation of Free Trade Unions (ICFTU) and the Latin American Central of Workers (CLAT), alleging the existence of forced labour and debt bondage in certain regions of Brazil. The Committee also took note of 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 also noted the Government's efforts to fight against all forms of forced labour, and of the "Termo de Compromisso" agreement signed 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), aiming to eradicate all forms of slave labour (trabalho escravo).

The Committee notes with interest the information provided by the Government in its latest reports, to the effect that, thanks to joint action by the bodies that signed the "Termo de Compromisso" in 1986, the Labour Inspectorate was able to deal with a large number of denunciations of slave labour in various states of the country. The result of the investigations was submitted to the competent bodies with a view to establishing the penal responsibility of the offenders.

The Committee also notes that the Government is pursuing its efforts to eliminate all forms of slave labour in rural areas and has stepped up labour inspection in such areas to that end.

The Committee requests the Government to continue to provide information on this matter, including on the action taken as a result of the investigation referred to.

Bulgaria (ratification: 1930)

With reference to its previous comments concerning the restrictions on the freedom of members of co-operative farms to leave the farm at their own initiative, the Committee notes with satisfaction that under section 342 of the new Labour Code, which came into force in 1987, members of co-operatives may terminate their legal work relationship after giving 30 days' notice or, in certain cases, without notice.

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 Nos. 100/143 and 100/144 of 30 May 1983. The Committee noted the Government's statement 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 intended to give these Ordinances a merely exhortative character and had had this effect. The Committee recalled the Government's earlier indication that all the work covered by the above texts was, in practice, voluntary and expressed the hope that the necessary measures would be adopted to make the voluntary nature of the provisions statutory.

The Committee notes from the information supplied by the Government in its report that consultations to bring these texts into full conformity with the Convention or to repeal them are being pursued. The Committee hopes that the Government will shortly be able to indicate the measures adopted to this end.

2. In its previous comments, the Committee asked 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 14 July 1952; Ordinance No. 21/86 of 10 July 1953; Decree of 10 May 1957).

The Committee notes the Government's statement that the above provisions are contrary to the provisions of the Constitution and are not contained in the published collections of laws and regulations in use; the Government is examining the texts in question and will communicate the provisions adopted in this connection. The Committee expresses the hope that the Government will shortly be able to report on the measures adopted to bring the national legislation formally into line with the Convention so that there is no doubt or uncertainty

as to the present status of positive law (as distinct from customary law).

Byelorussian SSR (ratification: 1956)

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

1. Resignation of members of collective farms. The Committee notes with satisfaction that the freedom of members of collective farms to leave the farm, announced on 28 May 1987 in a communiqué of the Presidium of the Union Council of Collective Farms, has been written into the text of the Collective Farms Model Rules adopted by the General Congress of Members of Collective Farms on 23 March 1988. According to these Model Rules, any member of a collective farm is entitled to resign by giving three months' written notice; neither the management nor the general assembly of the members of a collective farm have the right to refuse applications to resign, which take effect after the three-month period, even in the absence of a reply. In addition, the management is obliged to hand out the work-book to the former member of the collective farm on the day on which the resignation takes effect. The Committee also notes with interest that by virtue of section 10 of Act No. 49 of 26 May 1988 respecting co-operatives, voluntary membership and free withdrawal are among the principles governing the activity of co-operatives.

2. Legislation concerning persons "leading a parasitic way of life". In its previous observations, the Committee 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 the report submitted by the Government of the USSR to the Human Rights Committee in accordance with the International Covenant on Civil and Political Rights (document CCPR/52/Add.6 of 2 October 1989) which refers in particular to the legislative programme approved by the Supreme Soviet for the defence of the rights and legitimate interests of citizens. In this connection, the Committee notes that the fundamental principles of the penal legislation are currently under review.

The Committee hopes that on the occasion of the planned legislative changes, the Government will be able to envisage adopting measures to clearly exclude from the legislation any possibility of compulsion to work that is not in conformity with the Convention, either by repealing section 204 of the Penal Code or by limiting the scope of this provision to persons engaging in illegal activities. The Committee hopes that the Government will supply information on developments in this direction.

Cameroon (ratification: 1960)

1. In its previous observations, the Committee 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 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 Government indicated that it was planned to amend the above Act and that in practice enrolment in the Service is fully voluntary.

The Committee notes the information supplied by the Government in its report that no new measures have been adopted, but that studies are under way with a view to reconciling national law and practice with the Convention. In view of the fact that this question has been the subject of its comments for many years, the Committee trusts that the necessary measures will soon be taken to amend the Act and that the Government will in the very near future be in a position to transmit the new texts adopted in this respect.

2. In its previous comments, the Committee also drew the Government's attention to the need to adopt legislative measures or to issue regulations in order to restrict, in accordance with Article 2, paragraph 2(e), of the Convention, the scope of communal work that may be exacted under section 2, paragraph 5(e), of the Labour Code. Furthermore, it expressed the hope that legislation respecting prisons would be brought into conformity with Article 2, paragraph 2(c), which prohibits prison labour being placed at the disposal of private individuals, companies or associations. On this point too, the Government states that no new measure has been taken but that studies are under way to reconcile law and practice with the Convention. The Committee hopes that the Government will soon be able to report that concrete progress has been made in the light of the more detailed explanations that are given in a request that is being addressed directly to it.

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

The Committee notes the Government's report.

1. In its comments, the Committee has been referring for many years to the Government's statement that draft ordinances have 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 respecting 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 Government indicated previously that, by reason of the economic and social effect of these texts, they were to be submitted to an expanded committee bringing together all the social partners with a view to assessing more accurately the effects of repealing them at the social and economic level. It also stated that the texts of the ordinances adopted under the former regime have fallen into abeyance and are no longer applicable, although this does not mean that it is not necessary to repeal them formally.

The Committee notes the Government's repeated statements that it is aware of the need to bring its legislation and practice into conformity with the provisions of ratified international Conventions,



and that draft legislation to this end has been submitted to the Assembly. The Committee hopes that the Government will shortly be able to report that the necessary modifications have been adopted to ensure compliance with the Convention in this respect.

2. In its previous observations, the Committee also referred to section 28 of Act No. 60/109, respecting the development of the rural economy, which provides that minimum surfaces for cultivation shall be fixed for each rural community.

The Committee noted the Government's indications that these provisions were intended to supply a technical framework and basic services to farmers in order to increase their production, improve their standard of living, encourage them to expand the areas under cultivation and increase efforts in agricultural activities, since the freedom to work must not mean the freedom to do nothing. The Committee pointed out that the Convention authorises recourse to compulsory cultivation only for preventing famine or a food deficit, and always under the condition that the food or produce shall remain the property of the producers. It also pointed out 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 hopes that on this point too, the Government will be able to indicate shortly that the necessary amendments have been adopted to ensure compliance with the Convention.

#### Chad (ratification: 1960)

In its previous comments, the Committee noted the indication by the Government that a number of legal provisions contrary to the Convention and to section 5 of the Labour Code as in force were to be repealed, namely:

- section 260bis 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 restrictions as to residence, 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 notes from the Government's report that draft legislation to repeal the above texts has been submitted to the competent authority.

The Committee hopes that the Government will soon be able to report that the above drafts have been adopted and to provide a copy of them.



Colombia (ratification: 1969)

1. Article 2, paragraph 2(c), of the Convention. In comments that it has been making for some years, the Committee referred to the Prison Code (Decree No. 1817 of 1964) which imposes compulsory labour not only on persons who have been convicted (section 269), but also on all other detainees except those declared medically unfit (section 233).

The Committee noted from the information supplied by the Government that a special committee had been set up to amend the Prison Code so as to specifically prohibit the imposition of work on detainees.

The Committee notes that the Government's report contains no information on this question.

The Committee recalls once again that under the Convention labour may be imposed only on prisoners who have been convicted in a court of law. Prisoners awaiting trial or persons detained without trial may work if they so wish on a purely voluntary basis (paragraph 90 of the 1979 General Survey on the Abolition of Forced Labour).

In view of the fact that section 233 of the Prison Code, in its current form, provides for compulsory labour for detainees, in contradiction with the provisions of the Convention on this point, and that, according to the Government's indications, in practice detainees are not obliged to work, the Committee requests the Government to take the necessary measures to amend sections 233 and 266 of the Prison Code so as to give statutory effect to the practice referred to by the Government.

2. In comments that it has been making for some years, the Committee referred to section 182 of Decree No. 1817 of 1964, under which work in prison establishments may be arranged directly through the administration or through contractors who are provided with premises and the labour of detainees and convicted persons, and who in exchange supply the necessary equipment and materials for the work and pay wages in accordance with the terms and conditions laid down by the prison administration, and it requested the Government to take the necessary measures to give statutory effect to the principle that prisoners' work for private contractors must be based on a freely consented to employment relationship.

In its report, the Government indicates that sections 41 and 42 of the Prison Code do not envisage the supplementary sentence of labour and that section 45 of the same Code abolished the penalty of hard labour.

The Committee however notes that section 269 of the Prison Code that is currently in force (Decree No. 1817 of 1964) lays down that "in all penitentiaries, prison colonies and prisons, sentences are accompanied by the obligation to work during the day ...".

The Committee notes Decision No. 357 of 1986, a copy of which was supplied by the Government, which issues regulations under section 281 of Decree No. 1817 of 1964 (Prison Code) and sets out the organisational structure of prison labour.

Among the types of labour included in the organisation of prison labour is labour hired to private enterprises (section 1(d)). Moreover, section 3(4) of the same Decision lays down that the

organisation and type of remuneration for labour hired to private enterprises shall be set out in the respective agreement, but that in no case may remuneration be less than 50 per cent of the minimum monthly wage fixed by the national Government.

The Committee points out that work by prisoners for private enterprises is compatible with the Convention only so far as the labour relationship can be assimilated to a free employment relationship, that is, if the prisoners concerned have fully consented to it, provided that there are appropriate guarantees, such as the payment of normal wages, social security, consent of the trade unions, etc. The Committee notes that there is no provision in national legislation to the effect that prisoners' work for private enterprises must be based on a freely consented to relationship. Furthermore, where private enterprises are permitted to pay prisoners wages that are less than the minimum wage, their relationship cannot be considered comparable to a free employment relationship.

To be able to ascertain the observance of the Convention, the Committee requests the Government to supply copies of agreements that have been concluded between private enterprises and prison establishments. The Committee moreover hopes that the necessary measures will be taken in the near future to bring the legislation into conformity with practice, by giving statutory effect to the principle whereby prisoners' work for private enterprises must be based on a freely consented to employment relationship. The Committee requests the Government to indicate the progress achieved to this effect.

#### Côte d'Ivoire (ratification: 1960)

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

In previous comments, the Committee has referred to the provisions of sections 24, 77 and 82 of Decree No. 69-189 of 14 May 1969, issued under sections 680 and 683 of the Code of Criminal Procedure, which provide for the hiring-out of prison labour to private persons. The Committee requested the Government to indicate the measures taken or under consideration to bring the law into conformity with the Convention and with the practice whereby, according to the Government's indications, prisoners are no longer hired out or placed at the disposal of private persons, companies or associations.

The Committee takes note of the information provided by the Government, to the effect that the hiring-out of prison labour follows a specific procedure designed to protect prisoners and involving a contract between the Minister of Justice and the user. The Government adds that prisoners like working outside the prison, in semi-liberty, and that it enables them to make savings as the work is remunerated.

The Committee noted previously that sections 25, 83 and 87 of Decree No. 69-189 provide for a system of semi-liberty whereby prisoners may work for private enterprises by virtue of a contract of employment freely concluded by them with the employer and under normal conditions relating to such matters as workmen's compensation;

sections 24, 77 and 82, on the other hand, provide that prisoners may be placed at the disposal of private enterprises by virtue of a contract between the Minister of Justice and the enterprise.

In view of the provisions of the Convention which explicitly prohibit prisoners from being hired out or placed at the disposal of private individuals, companies or associations, and of the explanations contained in paragraphs 97 and 98 of its General Survey of 1979 on the Abolition of Forced Labour, the Committee expresses the hope that the Government will shortly take the necessary measures to ensure that the work of all prisoners in the service of private persons or entities, whether in or outside the penal establishment, is carried out in conditions of a free work relationship, i.e. that it is subject to the consent of the persons concerned and the necessary safeguards, particularly with regard to wages and social security. The Committee requests the Government to indicate the measures taken or contemplated in this regard.

#### Czechoslovakia (ratification: 1957)

**Legislation on idleness.** In its previous comments, the Committee noted that by virtue of 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 imprisonment 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, and it requested the Government to indicate the measures that had been taken or were envisaged in this connection to secure the observance of the Convention. The Committee noted the Government's indications concerning the preparatory work for the amendment of the Penal Code and the revision of section 203.

The Committee notes the information supplied by the Government in its report that the draft amendments to the Penal Code were approved by the Government on 21 September 1989 (Decision No. 287). The Bill will be submitted to the Federal Assembly for discussion and adoption and the amendments could come into force around 1 July 1990. The Government indicates that people who have no gainful activity and who live with the freely given assistance of their family or friends are clearly excluded from the scope of the draft for the new section 203. The Government states that the new text proposes to punish with detention for up to three years "any person who systematically avoids honest work and obtains his means of livelihood in a dishonest manner".

The Committee notes that this wording of the draft text of the new section 203 is identical to the wording of the draft text referred to by the Government in its report for the period 1977-79. In this regard, the Committee had already noted in 1980 that the planned new wording admittedly omitted the reference to allowing oneself to be maintained by somebody else, which appears in the text that is currently in force, as a way of obtaining one's means of livelihood in a dishonest manner, but that in the absence of a more precise definition of what is understood by a dishonest manner of obtaining

means of livelihood, the proposed new wording appears to be drafted in general terms that may serve as a means of compulsion to work.

The Committee requests the Government to supply information on the measures that have been taken or are envisaged to clearly exclude from the national legislation any possibility of compulsion to work that is incompatible with the Convention, either by purely and simply repealing section 203 of the Penal Code or by amending it in such a way as to cover only persons whose way of life encroaches on the rights of others.

Dominican Republic (ratification: 1956)

Haitian workers in the sugar-cane harvest. See the observation under Convention No. 105.

[The Government is asked to report in detail for the period ending 30 June 1990.]

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 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 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 had 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 a representation made under article 24 of the ILO Constitution.

The Committee set up by the Governing Body observed that the service required of the pilots and engineers who had been mobilised and some of whom had been penalised for not having responded to the individual call-up, was not covered by the exception provided for cases of emergency as defined by Article 2, paragraph 2(d) of Convention No. 29. The Committee had 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. 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 that, in its report, the Government reiterates its former statements that the responsible Ministry has initiated revision of Legislative Decree No. 17 of 1974. It requests the Government to provide information on the measures taken to ensure observance of the forced labour Conventions.

[The Government is asked to report in detail for the period ending 30 June 1990.]

#### Haiti (ratification: 1958)

The Committee has noted the Government's report on the application of the Convention. The Committee also has taken note of a report on Children's Rights in Haiti, prepared by the Minnesota Lawyers International Human Rights Committee in February 1989 and submitted to the Working Group on Contemporary Forms of Slavery of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities in August 1989 by an observer of the International Human Rights Internship Programme. The report refers to the use of children as servants, known in Creole as "restavek" from the French "rester avec" or "to stay with". Many poor families are alleged to be selling their children to urban families to work as domestics in conditions which are not unlike servitude. The children were forced to work long hours, with little chance for bettering their conditions; many children were reported to have been physically or sexually abused. Some of the girls who were "sold" as domestics at a young age did not know their family name or where their families lived and, thus, were unable to return to their homes. Many of the children presently living in the streets of Port-of-Prince had fled restavek situations, preferring a life without shelter or food to a life of servitude and abuse. The practice of restavek was openly compared to slavery in Haiti.

In presenting the report, the observer also alleged that while there were exceptions, the restavek children were very rarely treated like adoptive members of the restavek family. Usually there was a clear distinction between a restavek family's natural children and the restavek child, with the restavek children taking orders from the other children. Restavek children were not fed the same food as the restavek family, worked long hours for no pay both inside and outside the home and often were not housed in the main dwelling, but in a separate shed or shade. Few were sent to school or otherwise educated. If a runaway was found by the restavek family, the child could be forced to return.

The Committee has noted these allegations. It also has taken note of sections 341 to 355 of the Labour Code of Haiti which contain detailed provisions for the protection of children employed as domestic servants and prohibit such employment of children below the age of 12.

The Committee hopes that the Government will supply information in answer to the allegations referred to above; in particular, the Government is requested to supply full particulars on all measures taken to ensure the observance of the provisions of sections 341 to 355 of the Labour Code, including data on the action of the Social

Welfare and Research Institute (IBESR), municipal authorities and the Labour Courts.

[The Government is asked to supply full particulars to the Conference at its 77th Session.]

Honduras (ratification: 1957)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

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 noted that the Secretariat of Labour and Social Insurance 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 noted 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 observed 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.

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

Hungary (ratification: 1959)

Legislation on idleness. With reference to its previous comments, the Committee notes with satisfaction that section 2 of Act No. 27 of 7 July 1989 repeals section 266 of the Penal Code and section 91 of Act No. 1 of 1968 on contraventions, under which persons found guilty of the penal offence of idleness could be punished. The Committee also notes with interest that, by virtue of section 5 of the above Act of 1989, sentences imposed on those convicted of the penal offence of idleness representing a public danger, and the other measures that were taken before the coming into force of the Act, will not be applied.

Islamic Republic of Iran (ratification: 1957)

1. In its previous comments, the Committee referred to the provisions of section 273 bis of the Penal Code, under which any person who does not have definite means of subsistence and who, whether through laziness or through negligence, does not look for work may be obliged by the Government to take suitable employment. The Committee notes with interest the Government's indication in its latest report that this provision has been abolished and a new Penal Code approved by the Islamic Consultative Assembly for a trial period. The Government states that this Code is not incompatible with the provisions of the Convention and that a copy of it will be supplied after translation. The Committee looks forward to examining the new Code.

2. In its report supplied in 1977, the Government indicated that the Regulations of 24 March 1938 concerning unemployed persons and vagrants were repealed. The Government has not so far supplied a copy of the repealing legislation, as requested by the Committee. The Committee hopes that the Government will either make this legislation available for examination or indicate in which manner the repeal of the Regulations has taken place and has been made publicly known.

Liberia (ratification: 1931)

The Committee notes the Government's reference in its report to proposed legislation which is to apply the provisions of the Convention and which includes the Labour Law and Decree of the People's Redemption Council of the Armed Forces implementing Convention No. 29 concerning forced or compulsory labour. In the absence of further information on measures taken to ensure the observance of the Convention, the Committee hopes that action will soon be taken on the following points:

1. Penal sanctions for illegal exaction of forced labour. The Committee notes the Government's statement that the draft revised Labour Code has passed the House of Representatives of the national legislature 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.

2. Local public works. In previous observations, the Committee noted that, notwithstanding the 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. 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.

3. 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 1990.]



Libyan Arab Jamahiriya (ratification: 1961)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

1. 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.

The Committee noted from the Government's report received in 1988 that the committee charged with examination of international labour Conventions and Recommendations, after examining the observations of the Committee of Experts and the responses communicated by the competent authorities on the subject raised by the Committee, asked for additional information from the ILO.

As the Committee pointed out in paragraphs 89 to 93 of its 1979 General Survey on the Abolition of Forced Labour, it follows from Article 2, paragraph 2(c), of the Convention that compulsory labour imposed as correction or punishment falls outside the scope of the Convention only if certain conditions are met; first of all, the labour must be imposed "as a consequence of a conviction". Therefore, persons who are in detention but have not been convicted - such as prisoners awaiting trial or persons detained without trial - should not be obliged to perform labour. Furthermore, the term "conviction" indicates that the person concerned must have been found guilty of an offence. In the absence of such a finding of guilt, compulsory labour may not be imposed, even as a result of a decision by a court of law. Accordingly, the provisions of section 1 of Act No. 20 of 1962 and section 6 of the Royal Decree of 5 October 1955, referred to above, are contrary to the Convention.

The Committee hopes that in the light of these indications, the necessary measures will soon be taken to bring the legislation into conformity with the Convention so as to ensure that no work may be imposed on detainees who are merely accused or suspected of certain crimes, and that the Government will indicate the action taken.

2. The Committee has observed that for several years the report of the Government contained no information in reply to the general direct request of 1981, in which the Committee referred to paragraphs 67 to 73 of its General Survey of 1979 on the Abolition of Forced Labour, concerning restrictions on the freedom of workers to leave their employment. It observed that,

in a number of countries, the conditions of service of certain persons in the service of the State, particularly career members of the armed forces, are governed by legal provisions that make the right to leave the service dependent upon authorisation. In certain cases a link is established between the duration of training received and that of the services normally required before resignation is accepted. Since such restrictions may have a bearing on the application of the Conventions concerning forced or compulsory labour, the Committee again asks the Government to provide information on national law and practice concerning the situation of the various classes of persons in the service of the State, particularly in respect of freedom to leave the service on their own initiative within a reasonable period, either at specified intervals or with previous notice.

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

Madagascar (ratification: 1960)

1. 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 (amended by a Decree of 6 March 1963) to establish the general organisation of the prison services, 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 that the hiring of prison labour to private individuals have been abolished by repeated circulars and that persons awaiting trial are no longer forced to perform prison work, following comments by the Committee of Experts. It also noted that the revision of Decree No. 59-121 was under study.

The Committee notes the indications communicated by the Government in its report, to the effect that Decree No. 59-121 has not yet been amended. It expresses the hope that it will be amended in the near future in order to bring the law into conformity with the Convention on this essential point.

2. In earlier comments, the Committee referred to Act No. 68-018 of 6 December 1968 and to Ordinance No. 78-002 of 16 February 1978 respecting the general principles of national service, which define national service as the compulsory participation of all Malagasies in national defence and in the economic and social development of the country. It also noted the provisions of section 8 of Ordinance No. 78-003 of 6 March 1978 establishing the conditions of service of staff liable to national service obligations on the active and reserve lists, under which members of the armed forces performing their service outside the armed forces are referred to by their functions (teachers, doctors, telegraphists, etc.) followed by the term "national service". Lastly, it noted the various texts that either referred to the powers of the military committee for development with regard to work in support of the local communities, or laid down the procedure for the incorporation in national service of young school-leavers and recruits of a particular age group, or

changed the name of the units responsible for development (development forces).

The Committee recalled that under the provisions of Act No. 68-018 and Ordinance No. 78-002, national service is defined as the compulsory participation, imposed for a period of up to two years, of part of the population, namely young Malagasies from 18 to 35 years old, under the threat of various penalties and sanctions, in the activities of national defence and the economic and social development of the country. The Committee referred to Article 2, paragraph 2(a), of the Convention under which compulsory military service, if it is confined to work of a purely military character, does not come within the scope of the Convention. It pointed out that work imposed on recruits under national service, and in particular work relating to the economic and social development of the country, is not of a purely military character.

The Committee notes the Government's statement that national service was established with a view to fostering economic and social development and had helped to reduce illiteracy in certain regions, and that secondary school-leavers joined up voluntarily.

The Committee asks the Government to indicate the measures taken or under consideration to bring the national legislation into line with the provisions of the Convention and with the practice described by the Government, by establishing the voluntary nature of participation in national service programmes.

3. The Committee referred previously to the provisions of Ordinance No. 80-013 of 7 May 1980 respecting the establishment and rules of the Military Office for Agricultural Production (OMIPRA) and of Decree No. 80-102 of 7 May 1980 respecting the organisation of the above Office, under which the functions of the OMIPRA include developing, cultivating and exploiting new land with military and civilian personnel. It noted the information provided by the Government to the effect that, by virtue of Decree No. 83-402 of 23 November 1983, the functions attributed to the Military Office for Agricultural Production are entrusted to the development forces pending the establishment of the structures provided for and defined by Ordinance No. 80-013 of 7 May 1980, and asked the Government, in its future reports, to provide full information on any changes occurring in the establishment of the structures and on the nature of the military staff assigned to the OMIPRA.

The Committee notes that the Government's report contains no information on this point and hopes that it will soon provide the information requested in its next report.

#### Mauritania (ratification: 1961)

The Committee notes that no report has been received from the Government.

The Committee has, however, taken note of the declaration of the Employers' and Workers' members in the Conference Committee in 1989 concerning the application of the Convention in Mauritania. The Employers' members recalled that the question of the elimination of slavery had been a source of problems for many years and stated that

the Committee of Experts had noted with regret that the necessary measures had not yet been taken to implement the law abolishing slavery; they indicated that they failed to be convinced that slavery was no longer practised. The Workers' members associated themselves with the Employers' members' statement.

1. Abolition of slavery. In its previous comments, the Committee referred to the Declaration of 5 July 1980 proclaiming the abolition of slavery and to Ordinance No. 81-234 of 9 November 1981 to abolish slavery. It noted that under the terms of the provisions of the Ordinance, the abolition of slavery would give rise to compensation for those having held titles, for which the procedure would be established by decree, and it noted that the Ordinance did not contain provisions imposing penal sanctions for the illegal exaction of forced labour. The Committee also noted the indications contained in a paper submitted to the United Nations Human Rights Commission (document E/CN.4/Sub.2/1984/23 of the Subcommission on the Prevention of Discrimination and the Protection of Minorities - 2.7.1984) according to which the absence of penalties and the non-adoption of the Decree under the Ordinance on compensation could lead masters to tell their slaves that they are still slaves, since the envisaged compensation has not been received by those entitled to it, namely the masters, who could not demand it due to the absence of the implementing Decree. The Committee also noted, from the information contained in the above report, Circular No. 003 of 9 January 1981 (which invites judges and cadis (al-koudath) to respect the decision of 1980 and to remain in complete conformity with international and national law) and Circular No. 108 of 8 May 1983 (once again prohibiting judges from taking decisions that are incompatible with the law and requesting governors to give notification of all breaches and irregularities coming to their knowledge).

The Committee noted the information supplied by the Government in its report for the period ending June 1987 and to the Conference Committee in 1986 to the effect that, by virtue of section 3 of the Labour Code, forced or compulsory labour is forbidden and punishable, under section 56(a) of the Code, with penal sanctions, and that the practice of forced labour no longer exists in the country. It also noted that the Government is not planning to adopt the Decree mentioned in section 3 of Ordinance No. 81-234 regarding compensation, in view of the fact that it seemed wrong to provide compensation for an activity that has been declared illegal, and that the Government intends to delete this provision.

The Committee also noted the indications supplied by the Government in its reply to the United Nations Human Rights Commission (document E/CN.4/Sub.2/1987/27 of the Subcommission on the Prevention of Discrimination and the Protection of Minorities - 17.7.1987) according to which new circulars have been issued to the regional authorities of the country to reaffirm the conformity of Ordinance No. 81/234 with the sharia and to recall the penalties to which those violating the legislation on this matter are subject.

The Committee took note of the Government's indications that section 56 of the Labour Code makes the illegal exaction of forced labour punishable by penal sanctions. The Committee had, however,

pointed out that these provisions have been in force since 1963, when the Labour Code was adopted, but that the practice of slavery has nevertheless persisted, and hence the Government considered it necessary to adopt the Ordinance of 1981 to abolish slavery. The Committee recalled, in this connection, that under the terms of Article 25 of the Convention, not only the illegal exaction of forced or compulsory labour shall be punishable as a penal offence, but that it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.

The Committee requested the Government to supply detailed information on the measures that have been taken or are envisaged to implement the decisions to abolish slavery, on the results already obtained and on the penalties imposed on persons who do not respect the provisions abolishing slavery. It requested the Government to supply copies of court decisions made in this regard and of the information supplied by governors, in accordance with Circular No. 108 of 8 May 1983. It also requested the Government to supply a copy of the latter circular, of Circular No. 003 of 9 January 1981 and of the circulars to which reference is made in the Government's reply, referred to above, to the Human Rights Commission.

The Committee further requested the Government to supply copies of any texts adopted either to repeal section 3 of Ordinance No. 81-234 on the compensation that is due, or to implement it, and to supply information on the measures that have been adopted to give effect to the Convention in both law and practice.

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

2. Call-up of labour. The Committee has noted in the comments it has been making for many years that Ordinance No. 62-101 of 26 April 1962 and Act No. 70-029 of 23 January 1970 confer very wide powers on the authorities to requisition persons outside the cases of emergency covered by Article 2, paragraph 2(d), of the Convention. The Committee noted that the Government stated previously that it recognised the need to repeal the provisions that were not in conformity with the Convention, that it had drawn up a draft Labour Code in order to bring the legislation fully into conformity with the Convention and that the draft would be submitted for comments to the International Labour Office.

The Committee also noted the statement by the Government representative to the Conference Committee in 1986 that the necessary measures to give effect to the provisions of the Convention had been taken. The Committee expresses again the hope that the Government will supply, in the near future, the texts that repeal or amend the provisions in question so as to make them compatible with Article 2 of the Convention.

#### Mauritius (ratification: 1969)

Further to its earlier comments, the Committee notes with satisfaction that the Labour (Amendment) Act, 1988, which was adopted on 16 December 1988, includes a provision repealing the Rodrigues

Labour Regulations 1882, under which persons who have no means of subsistence and who, although fit to work, do not habitually work in any trade or profession, could be sentenced to imprisonment.

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 adopted text 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 the Abolition of 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 once again requests the Government to indicate the measures that have been taken or are 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 that have been taken or are 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 existence or well-being 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 to be 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 of a general nature.

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 the necessary measures to ensure that any national service which does not lie within the framework of work of a strictly military nature (or work undertaken in cases of emergency) is organised on a voluntary basis.

[The Government is asked to report in detail for the period ending 30 June 1990.]

#### 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. It requested the Government to bring the legislation into conformity with the Convention, and expressed the hope that, pending the introduction of the required draft legislation, the Government would 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 takes note of the Government's report and the discussions that took place in the Conference Committee in 1989. The Committee notes with interest the Government's information that a Bill revising the legislation on dismissal is to be presented to Parliament and that it would repeal the requirement to obtain approval of the Director of the Employment Office for termination of employment, if the employer disagrees.

The Committee also notes the comments by the Confederation of the Netherlands Trade Unions Movement (FNV) according to which the Bill revising the law on termination of employment, including an amendment for the repeal of the requirement in question, has been adopted by the Council of Ministers and submitted to the Council of State.

The Committee expresses the hope that the proposed amendment will soon be adopted and that it will bring legislation into conformity with the Convention on this point.

Pakistan (ratification: 1957)

The Committee notes the information provided by the Government in its report. The Committee also has taken note of the discussion that took place in the Conference Committee in 1989.

1. Bonded labour. 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 noted in the Report to the Government of Pakistan submitted by an ILO Sectoral Review Mission (July-August 1986) a reference to the employment of illegally bonded children in "Kharkar" camps working at night in irrigation tunnels in remote rural areas. Recalling the Government's statement to the Conference Committee in 1987 that the Prime Minister's Five-Point Programme was committed to the complete elimination of all types of exploitation of labour, such as forced labour, the Committee requested the Government to supply detailed information on the actual measures taken or envisaged in this regard.

The Committee notes that in his statement to the Conference Committee in 1989 the Government representative denied the existence of any "Kharkar" camp as well as the existence of any bonded labour in the country. Similarly, in its report on the Convention, the Government states that no "Kharkar" camps are in the knowledge of the Government and no child labour is allowed to exist; in order to dispel the apprehension in this regard the Government proposes to introduce a law in the Parliament whereby exploitation of labour in all its forms, including bonded labour, shall be an offence punishable under the law. The draft Bill on abolition of bonded labour is under preparation.

The Committee notes these indications with interest. It has also taken note of the discussion in the Working Group on Contemporary Forms of Slavery of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities at its 14th Session which took place in August 1989.

The Committee notes that the Report of the Working Group (doc. E/CN.4/Sub.2/1989/39 of 28 August 1989) refers to information provided by the Anti-Slavery Society for the Protection of Human Rights concerning child labour related to debt bondage in the South Asian countries; this information is set out in the report of the South Asian Seminar on Child Servitude held in June-July 1989 and attended by representatives of non-governmental organisations from five countries; referring to Pakistan, the report indicated that large-scale exploitation of bonded labourers was to be found in brick-making, carpet weaving, fish cleaning and packing, shoe-making, bidi making, auto-repair, agriculture, mining, quarrying and stone-crushing industries.

In a further report on the practice of bonded labour in Pakistan submitted to the Working Group, a representative of the Anti-Slavery Society referred to the brick-kiln labourers who are considered bonded



labourers in a path-breaking order of the Pakistani Supreme Court of 18 September 1988. The representative, President of the Bhatta Mazdoor Mahaz (Brick Kiln Labourers' Front) and of the Bonded Labour Liberation Front of Pakistan created after the adoption of the Supreme Court order, estimated that about 20 million people, among them 7.5 million children, fell in the category of "bonded labourers", of which 2 million families alone were working at the brick kilns as virtual slaves. The majority of these people did not exist in the government records, neither in the census - hence no right to vote, nor in the national registration - hence no identity cards. A child born in a family of "Bhatta Mazdoor" (brick kiln labourers) was forced to start working before he learned to play. His meagre work might help his family to repay the "Peshgi" (advance bonded money) which his father and forefathers had allegedly received from the Bhatta owner for their survival. Even a woman in her pregnancy and maternity period was bound to work to clear the "Peshgi". But the system was so devised that in spite of best efforts the labourer was unable to clear the "Peshgi", which kept on increasing. To recover the Peshgi the Bhatta owner got forced labour from the entire family, paying them only a nominal amount of money as subsistence allowance, which kept the labourer and his family alive on a sub-human level. If a labourer demanded his full wages or desired to quit the job, the owner would give him a severe beating and torture which might also extend to his wife and children. The abduction of womenfolk and putting the labourer in private confinement or implicating him in false criminal cases was not uncommon.

After the Supreme Court Order of 18 September 1988 identifying "Bhatta Mazdoors" as bonded labourers, thousands of families left the Bhatta for areas of their liking in search of better employment. The liberty afforded to brick-kiln workers by the decision of the Supreme Court provided a ray of hope to other bonded labourers working in carpet, fisheries, stone crushing, shoemaking, power loom, paper picking, agriculture, etc., who joined the Brick Kiln Labourers' Front in forming the "Bonded Labour Liberation Front of Pakistan" (BLLFP). The BLLFP has established branches throughout the country and is making sustained efforts to solve the problems of bonded labour and to rehabilitate the workers with its meagre resources. So far 3,000 agricultural labourers, 1,000 stone crushers, 500 from the carpet industry and 500 from power looms, fisheries and the paper-picking industry had been released.

The BLLFP had already approached the Government for legislation to abolish the bonded labour system and to take immediate measures for the rehabilitation of bonded labourers.

The Committee has taken due note of these indications. It also notes with interest that during the discussion in the United Nations Working Group on Contemporary Forms of Slavery, the observer for Pakistan, referring to the existence of bonded labour in his country, declared that the Government was fully aware of these social ills and determined to root them out. He underlined the strong commitment by the new Government to eliminate bonded labour in all its forms and stated that forced labour or "Kharkari" would not be allowed. He stressed that Pakistan was bound to conform to international labour standards and underlined that under article 11 of the Constitution

slavery and all forms of forced labour and traffic in human beings are prohibited as is child labour under the age of 14 years in any factory or mine or any other hazardous employment; the illegal hiring of child labour is punishable with strict penalties under the Children (Pledging of Labour) Act, 1933 and the Employment of Children Act - 26 of 1988. In cases of violation of the Constitution and the laws of the country the aggrieved had access to the judiciary, as shown in the Supreme Court of Pakistan judgement of 18 September 1988 on bonded labour in the brick-kiln industry.

The Committee has taken note of three decisions made by the Supreme Court of Pakistan on the Constitution Case No. 1 of 1988 (in the matter of enforcement of fundamental rights re: bonded labour in the brick kiln industry): the Order dated 18 September 1988 which was not final, the interim Order of 23 November 1988 and the Final Bench Order of 22 March 1989. These provide, inter alia, the following:

- (i) Peshgi. The peshgi system (advance bonded money) is to be discontinued forthwith, except that up to one week's estimated wages may be paid by the owner to the worker as advance against proper receipt. Past unreturned peshgis given to the labourers by brick-kiln owners, for the time being shall not be treated as void and irrecoverable. Labourers are legally bound to return all such peshgis, and the owners are authorised to recover the same by legal means but not through coercive methods or use of police. A maximum of Rs.5,000 per household granted to labourers by the owners in the past in the form of formal loans or grants for marriages, religious festivals, medical treatment and death ceremonies shall not be recoverable and shall be treated as donations; this concession shall only be available to those labourers who return and resume their work voluntarily. According to the Order dated 18 September 1988, the question whether recoveries of past peshgis would be abolished altogether and whether legislation should be made on the lines as done in India, was deferred for the time being for six months. This aspect was to be reviewed in the light of the working of the above arrangements.
- (ii) Return to work. A notice/direction is to be issued to all the labourers to come for work and report to their respective Bhatta owners, who will give them assurances in writing that they will not use any coercive methods or use of police force to bring them back or to retain them. However, in case a labourer does not want to come back or, having returned, wants to leave his work in the Bhatta of an existing owner, or to get a job elsewhere in the Bhatta of another owner, he shall not be retained forcibly provided he, on application to be made to the concerned District Judge/Civil Judge, gets a certificate for the purpose.
- (iii) Payment of wages and exclusion of intermediaries. Payment of wages shall be made to the labourers on a daily/weekly/fortnightly/monthly basis as agreed upon; no deductions are to be made for damage/losses to bricks caused on account of rain; the existing Jamadar/Jamadarni system is to cease forthwith, no payments on behalf of the

labourers shall be made to them nor recoverable/adjustable. According to the Order dated 18 September 1988, the payment of wages was to be made in cash and a receipt issued in duplicate - one to be retained by each side.

- (iv) Use of force against workers' family members. The owners shall not directly or indirectly ask or pressurise any labourer for employing women or children. However, if the workers do so at their own risk, no complaint shall be made against the Bhatta owners on their behalf. "The head of the household who employs any of their womenfolk against her wishes and/or children might in proper cases be proceeded against."
- (v) Reporting. According to the Order dated 18 September 1988, every case registered anywhere in Punjab by the police, which deals directly or indirectly with any of the constituents of the practice of bonded labour in the brick-kiln industry was to be reported to the Advocate-General with a FIR within 24 hours. The Advocate-General was to submit a photocopy of the FIR and other documents, if any, with his own comments, within a further 24 hours, to the Supreme Court.

The Committee hopes that, further to the Supreme Court Orders on bonded labour in the brick-kiln industry, the necessary measures will be taken to eradicate forced and bonded labour in practice as well as in law both in the brick-kiln industry and in other spheres of activity, and that the Government will supply detailed indications on the action taken or envisaged to this end. In particular, the Committee looks forward to information on the following:

- (a) measures taken towards the adoption of legislation to abolish the recovery of past peshgis and, more generally, to eradicate the bonded labour system and to provide for the rehabilitation of bonded labourers both in the brick-kiln industry and elsewhere;
- (b) the implementation of the Supreme Court Orders on bonded labour in the brick-kiln industry, including the following details:
  - (i) the application in practice of the requirement that workers wishing to leave their respective Bhatta owners must make an application to the District Judge/Civil Judge to get a certificate for the purpose, and the implications for the freedom of the workers concerned;
  - (ii) the situation in law and practice regarding the requirement, included in the Order of 18 September 1988 but omitted later, that wages be paid in cash and receipts issued in duplicate;
  - (iii) the situation in law and practice regarding the "proper cases" in which persons who employ women against their wishes and/or children are proceeded against;
  - (iv) enforcement measures, including copies of documents submitted to the Advocate-General and the Supreme Court in accordance with the reporting requirements laid down in the Order of 18 September 1988 but omitted later;
- (c) also details on subsequent follow-up action by the police, the Advocate-General, the courts and the labour inspection to enforce the prohibition of forced labour both in the brick-kiln industry

and elsewhere, including copies of the latest reports of the Commission of Human Rights dealing with bonded labour.

2. 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 considerable 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 has noted with interest the Government's indication to the Conference Committee in 1989 that the Government has decided to meet the requirements of the Convention by amending the Pakistan Essential Services (Maintenance) Act, 1952, so that an employee of an establishment covered under the Act may terminate his employment in accordance with the express or implied terms of the contract of employment and that the proposed amendment was to be submitted to the National Assembly. The Committee notes the Government's indication in its latest report that the Act is being so amended. The Committee firmly hopes that the necessary measures will soon be adopted to bring the Pakistan Essential Services (Maintenance) Act 1952, as well as the West Pakistan Essential Services (Maintenance) Act 1958, into conformity with the Convention, and that the Government will indicate the action taken.

[The Government is asked to supply full particulars to the Conference at its 77th Session and to report in detail for the period ending 30 June 1990.]

#### Panama (ratification: 1966)

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 the Code.

With regard to detention, section 887 of the Administrative Code 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 count as two days as 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.

In 1984 the Committee took note of Bill No. 25, furnished by the Government, which was intended to introduce the necessary provisions to give effect to the Convention. In 1987, it noted that this Bill had not been approved by the authorities and that the Ministry of Labour and Social Welfare was therefore considering the possibility of preparing another Bill, taking into consideration the observations of the Committee of Experts.

The Committee notes from the information provided by the Government in its last report, that the above Bill has not yet been drafted but that the possibility of such a draft is still under consideration.

The Committee again points out, as it does in paragraphs 94 to 96 of its General Survey of 1979 on the abolition of forced labour, that "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 more than ten years, the Committee hopes that the legislation will be brought into conformity with the Convention as rapidly as possible.

#### Paraguay (ratification: 1967)

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

The Committee noted the Bill to amend section 39 of Act No. 210, under which detainees who have not been sentenced and those convicted of political offences who were not guilty of acts of violence will be exempted from the obligation to work.

The Committee notes that, in its report, the Government states that the above Bill has not yet been adopted. The Committee hopes that the Bill to amend section 39 of Act No. 210 will be adopted as soon as possible in order to bring the national legislation into conformity with the Convention in this respect.

#### Poland (ratification: 1958)

Further to its previous comments the Committee notes with satisfaction that section 45 of the Act of 29 December 1989 on Employment has repealed the Act of 26 October 1982 on the procedure concerning persons evading work which provided administrative

authorities with extensive policing powers in respect of persons whom they considered to be inactive for socially unjustified reasons.

Romania (ratification: 1957)

In its earlier comments, the Committee referred to section 7 of Act No. 24 of 5 November 1976 under which 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. The Committee 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 accordance with Act No. 24 of 1976, to register a request for placement in employment. Act No. 25 of 5 November 1976 provided for compulsory allocation to a workplace and prescribed that persons placed in employment were to go immediately to the enterprise to which they had been assigned in order to take up employment.

1. The Committee notes with satisfaction that Act No. 25 of 1976 has been repealed by section 1, subsection 7, of Legislative Decree No. 9 of 31 December 1989 repealing certain texts. It asks the Government to provide information on the practical application of the above-mentioned provisions of Act No. 24 of 1976 and of the Labour Code, and on all measures taken or under consideration in this respect to ensure compliance with the Convention.

The Committee has also taken note of the information communicated by the Government to the Director-General of the ILO in January 1990 concerning developments in Romania since 22 December 1989 and the objectives being pursued by the authorities with regard to human rights and freedoms. In particular, the Committee notes with interest the Government's indications that a new Constitution is being prepared, and that laws which violated human rights and fundamental freedoms have already been repealed. The Committee hopes that the Government will soon be able to provide information on the measures taken or under consideration concerning the provisions of the legislation and national practice with regard to the other points below, some of which have been the subject of its comments for several years.

2. The Committee noted previously the provisions of section 71-8 of Act No. 24 of 29 December 1981, which amends and supplements Act No. 5/1978 respecting the organisation and operation of State socialist units, under which any worker who leaves a unit to take up employment in legal conditions in another unit is obliged to apply to the executive organ and the trade union body of the unit he is leaving for a report on his activities and cannot be engaged in another unit unless the assessments in the report are also taken into consideration. The Committee asked the Government to supply full information on the scope of the obligation placed on the worker wishing to leave his employment to apply to the executive organ and trade union body for a report on his activities, the period within which this report must be applied for and furnished to the person

concerned and the consequences for the worker of the absence of such a report.

The Committee notes the indications in the Government's report communicated in 1988, that the document in question is not a report but a definition of the worker's activity, and that it is not a compulsory prerequisite for recruitment but merely serves to give a clearer idea of his previous activity. According to the Government, there is no prescribed period for the issuance of the definition and the absence of such a definition holds no consequences for future activity in another unit.

The Committee takes due note of the Government's explanations regarding the application, in practice, of the provisions in question. The Committee asks the Government to provide copies of model definitions which are used in assessing workers, and to indicate all measures taken or under consideration to amend the legislation to ensure that the non-issuance of such a definition cannot prevent a worker from leaving his job freely and from being recruited in another unit.

3. The Committee also noted previously that under section 15, subsection 3, of the rules of socialist organisations in agriculture (Decree of the Council of State No. 93 of 28 March 1983), the withdrawal of a member of a co-operative must be approved by the General Assembly. The Committee asked the Government to indicate the practical consequences of a refusal by the General Assembly to approve the withdrawal of a member of a co-operative. In the absence of a reply on this point, the Committee hopes that the necessary provisions will be adopted to ensure that members of a co-operative are free to leave it and that the Government will indicate the measures taken to this end.

4. In its previous comments, the Committee referred to section 1(d) of Decree No. 153 of 24 March 1970 respecting groups of persons with a parasitic or anarchical way of life. The Committee has examined the report submitted to the United Nations Commission on Human Rights at its 46th Session (February 1990), by a special rapporteur concerning the human rights situation in Romania, which refers to the repeal of Decree No. 153/1970. (Document E/CN.4/1990/28, Add.1 of 22 February 1990.)

The Committee also notes the indications contained in the above report to the effect that the Decree governing residence in towns by persons from other localities has been repealed, as has the law on compulsory postings on completion of studies, the assignment of higher-education graduates, being henceforth effected on the basis of a competitive examination. It was, however, emphasised that settlement of the posting question ultimately depended on the long-term trends of the economic system. For a transitional period, commissions have been established in each district to examine and try to deal with applications for re-unification made by members of the same family who are currently posted to different workplaces.

The Committee asks the Government to provide a copy of the provisions repealing the decrees and the law mentioned above, including those repealing Decree No. 153 of 1970, and to provide information on any measures taken to ensure that the Convention is observed on this point.

5. The Committee notes with interest that Presidential Decree No. 208 of 17 October 1985 to proclaim the state of emergency and a military work organisation in the units of the national energy system has been repealed by section 1, subsection 16, of Legislative Decree No. 9 of 31 December 1989 repealing certain texts.

[The Government is requested to report in detail for the period ending 30 June 1990.]

#### Sierra Leone (ratification: 1961)

The Committee notes with regret that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

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 noted 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.

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

#### Singapore (ratification: 1965)

In earlier comments, the Committee noted that, under sections 3 and 13 of the Destitute Persons Act, 1965 (Chapter 78 of the 1985 revised edition of the Laws of Singapore), any destitute person may be required subject to penal sanctions to reside in a welfare home and under section 10 of the Act any person residing in a welfare home may be required to engage in any suitable work. Noting the assurances given by the Government that no destitute person who had a home to go to or could be provided with alternative accommodation was admitted to a welfare home against his will and that in actual practice no resident was ever forced or compelled to work within or outside the welfare home, the Committee expressed the hope that, on an appropriate occasion, section 10 of the Destitute Persons Act would be amended so as to bring it into conformity with actual practice and the Convention, and that the Government would indicate in its future reports any action taken on the matter.



The Committee notes from the Government's report for the period ending June 1989 that the Destitute Persons Act, 1989, repeals and re-enacts with amendments the Destitute Persons Act (Chapter 78), effective 1 May 1989. Under sections 3 and 16 of the new Act, any destitute person may be required subject to penal sanctions to reside in a welfare home and under section 13 of the Act any person residing in a welfare home may be required to engage in any suitable work.

Recalling that the question of work imposed on destitute persons has been the subject of comments since 1970, the Committee expresses its concern that on this matter there has been no substantial modification in law on the occasion of the replacement of the Destitute Persons Act, 1965 by the 1989 Act. As the Committee has indicated previously, compliance with the Convention may be achieved either by making the admission of destitute persons to a welfare home and their continued stay there subject to their consent, or by amending the Act so as to make all work voluntary in law as well as in fact.

The Committee hopes that the necessary measures will be taken to bring the law into conformity with the Convention, and, pending such action, the Government is requested to supply information on the practical application of the provisions relative to welfare homes, including the number of persons currently residing in the homes, the number currently working under section 13 of the Act, and the terms and conditions of their employment.

#### Spain (ratification: 1932)

In its previous observation, the Committee referred to the draft Royal Decree to govern the labour relations of convicts in prison and noted that this draft had not been 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 Committee also noted the comments made by the Trade Union Confederation of Workers' Committees concerning the need to adopt special regulations respecting the free and remunerated labour of prisoners in order to improve observance of the Convention.

In its last report, the Government once again states that the above draft was not adopted and that it is now no longer possible to adopt it as the legal time-limit for doing so has passed and it would be necessary to issue the legal power to do so once again. Prison labour will therefore continue to be governed by the General Organic Prison Act (Act No. 1/79) and the Regulations thereunder (RD/1201/81).

The Committee refers to section 183 of the Prison Regulations under which all convicts are obliged to work in accordance with their physical and mental capacity. The same Regulations lay down the procedures for work under an open system and through an ordinary system of contracting labour to private enterprises. In previous comments, the Committee recalled, as it indicated in paragraphs 97 to 99 of its 1979 General Survey on the Abolition of Forced Labour, that the work of prisoners in the service of private employers is not compatible with the Convention, unless it is performed under the

conditions 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, consented to in appropriate cases by the trade unions concerned.

In its report, the Government states that productive prison labour is subject to the labour legislation (sections 185(1)(c) and 185(2)) which implies that it is performed on a voluntary basis and that the specific standards contained in the Regulations are applied.

The Committee notes the comments submitted by the Trade Union Confederation of Workers' Committees on the application of the Convention, in which it alleges that prisoners are not guaranteed the conditions of employment set out in agreements as regards working hours, remuneration and benefits. It adds that the conditions to which prisoners are subject as regards social security are not the same as those for other workers.

The Committee notes that the free consent of prisoners when working for private enterprises is not clearly established in the Prison Regulations. Furthermore, by referring explicitly to the termination of the employment contract of prisoners under the open system, which is to be governed by the normal labour legislation (section 188) and by categorically establishing the voluntary nature of labour for persons detained pending trial, the Regulations appear to confirm that labour is compulsory for convicts.

The Committee requests the Government to supply information on the measures that have been taken or are envisaged to establish the voluntary nature of labour in private enterprises for convicts, i.e. that they should give their explicit consent and that it should be under the conditions of a free employment relationship. The Committee also requests the Government to supply copies of agreements that have been signed between prison institutions and private enterprises and any other relevant information concerning the conditions of employment of convicts who work for private enterprises.

#### Sudan (ratification: 1957)

Article 25 of the Convention. In previous comments the Committee took note of information received by the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities in 1988 from the Anti-Slavery Society for the Protection of Human Rights (UN document E/CN.4/Sub.2/AC.2/1988/7/Add.1) concerning allegations of capture and trade in slaves arising in the context of civil unrest in the country. The Committee requested the Government to supply detailed comments on these allegations, and to indicate all measures taken to ensure that penalties imposed by law for the exaction of forced labour are really adequate and are strictly enforced.

The Committee notes the discussion which took place in the 1989 Conference Committee, the most recent report of the Government, and further information received by the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities in 1988 and 1989 (UN documents E/CN.4/Sub.2/1988/32 and E/CN.4/Sub.2/1989/39).

According to this information, the Anti-Slavery Society reached an understanding with the Government for a visit to the country in

order to have available in 1989 more precise information. In August 1989 the Anti-Slavery Society reported to the Sub-Commission that in December 1988 agreement was reached with the Ministry of Foreign Affairs, the Attorney-General's Office and the Ministry of Justice that a mission was to be organised by the Society to visit the Sudan in order to objectively assess the validity of allegations of slavery-like practices in the country. It was also reported that subsequent political developments had not yet made it possible for such a mission to be organised, but the Anti-Slavery Society remained in contact with government officials and hoped to be in a position to report on a proposed mission to the Working Group of the Sub-Commission at its next session in August 1990.

A representative of the Government, in comments to the Conference Committee in June 1989, stated that national legislation prohibited any form of exploitation or forced labour. The Government was committed to international instruments on the prevention of slavery and the slave trade, and Sudan had been among the first African countries to ratify the UN Convention on the abolition of slavery.

The Committee notes the Government's indication in its report that sections 311-313 of the 1983 Penal Code provide sanctions for exaction of forced labour. Under section 311 whoever unlawfully compels any person to labour against the will of that person, shall be punished with whipping or fine or with imprisonment. Under section 312 whoever kidnaps or abducts any person with intent that such person may be unlawfully compelled to labour against the will of that person, shall be punished with whipping or fine and imprisonment for one year. Under section 313 whoever for money or money's worth, transfers or purports to transfer the possession or control of any person to another with intent to enable such other person to confine such person unlawfully or to compel him unlawfully to labour against his will, shall be punished with whipping and fine and imprisonment.

The Committee asks the Government to provide full information on measures taken to apply sections 311-313 of the Penal Code, including details on the number of cases in which persons have been prosecuted and/or sentenced in recent years for exacting forced labour and on the penalties imposed on those found guilty.

#### Suriname (ratification: 1976)

The Committee notes with satisfaction that the Act laying down principles concerning the supervision of detainees and the management and superintendence of penitentiaries and houses of detention (GB. 1979, No. 21) entered into force on 1 October 1988. Under section 23 of the Act, work for private individuals, companies or associations, both inside and outside the penal institution, is only to take place if the detainee offers himself voluntarily for it, and only against payment to the State of the wages usual for the kind of work outside prison. Under section 24, wages to be granted to the detainee are to be fixed by the Minister, and in fixing the wage for work outside the institution, account is to be taken of the remuneration paid by the employer to the State for the work performed by the detainee.

United Republic of Tanzania (ratification: 1962)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

Tanganyika

1. Compulsory cultivation. In comments made over a number of years, the Committee 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 most recent report, covering the period ending 15 October 1988, the Government pointed out that the Labour Laws of the country are now under revision and that it is hoped that the new Labour Code will contain provisions which are in harmony with international labour standards.

The Committee takes due note of this indication. It observes that by-laws imposing compulsory cultivation are in actual practice made under the Local Government (District Authorities) Act, 1982. Noting the Government's repeated indications 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 the Convention, and that the Government will indicate the provisions adopted to this end.

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. 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, the Committee pointed out that legislation obliging all able-bodied citizens to engage in a gainful occupation subject to penal sanctions is incompatible with the Convention.

In its recent report, the Government refers in this regard to the current revision of the labour laws of the country. The Committee hopes that the necessary measures will rapidly be taken to bring the Human Resources Deployment Act into conformity with the Convention and that the Government will indicate the provisions adopted.

3. The Committee previously noted that by the Written Laws (Miscellaneous Amendments) (No. 2) Act, 1983, section 176 of the Penal Code has been amended by inserting, inter alia, a new paragraph (8), punishing "any able-bodied person who is not engaged in any productive work and has no visible means of subsistence". Noting also that persons chargeable under section 176 of the Penal Code may be subjected to administrative measures under the Human Resources Deployment Act (see point 5 below), the Committee requested the Government to supply full information on the application in practice of section 176(8), including any court decisions defining or illustrating its scope and any guide-lines followed by administrative authorities in deciding who is chargeable under this provision. In the absence of a reply, the Committee hopes that the Government will re-examine section 176(8) of the Penal Code in the light of the Convention and the explanations provided in paragraphs 34 to 37 and 45 to 48 of the 1979 General Survey on the Abolition of Forced Labour, already referred to above, and that it will indicate the measures taken or contemplated in this regard to ensure the observance of the Convention.

4. Compulsory labour for public purposes and development schemes. In comments made over 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 the non-conformity of Part X of the Employment Ordinance, and section 6 of the Ward Development Committees Act will be corrected when the new Labour Code now under preparation is adopted.

The Committee notes this indication. 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.

5. 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 report for the period ending October 1987 merely stated that no cases were known where compulsory labour has been applied contrary to Article 2, paragraph (2)(c), of the Convention. In its report for the period ending 15 October 1988 the Government added that since work in Tanzania can only be exacted from a person as a consequence of a conviction in a court of law, it follows, therefore, that no compulsory labour can be imposed by an administrative or non-judicial body. The Committee takes note of these indications. It hopes that the provisions of the Resettlement of Offenders Act, 1969, and Resettlement of Offenders Regulations, 1969, referred to above which appear to authorise the imposition of compulsory labour by administrative order will accordingly be amended so as 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 Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Thailand (ratification: 1969)

Article 25 of the Convention. In previous comments the Committee noted allegations brought before the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities that children were bought and sold in Thailand for work in private houses, restaurants, factories and brothels, that shops had specialised in the sale of children and teenagers and child catchers and recruiters were operating in the country, and that, although laws for the protection of children existed, there was a lack of enforcement by the police.

The Government stated in its earlier reports that since 1978 tougher action and measures had been undertaken by the authorities with a view to eliminating any possible exploitation or illegal use of child labour: labour inspections and remedial action had been intensified, vocational training, especially for children from rural areas had been promoted through a child rehabilitation centre and the Foundation for the Promotion of Supplementary Occupations and Related Techniques, government agencies co-operated with private agencies and foundations in setting up a centre to monitor the problem of child labour and, in co-ordination with the Women and Child Division of the Department of Labour and the Police Department, to investigate cases; this action had resulted in several arrests and prosecutions; a factory owner had been sentenced to several years of imprisonment for illegal employment and abuse of child labour. The Government having provided only summary statistics on inspections, on the number of children in establishments covered by the inspections, on permits issued for the employment of children and on the advisory services to employers on legal aspects of child labour, the Committee requested the Government, in view of the serious and repeated allegations brought before the Sub-Commission and the Government's reference to several arrests and prosecutions, to supply more specific, detailed and complete information on the measures taken to ascertain that the Convention is observed in practice.

The Committee has noted the information provided by the Government in its report for the period ending 30 June 1987 and to the Conference Committee in 1987 on labour inspections and action taken by the Department of Labour in co-operation with the Police Department in a certain number of cases of child labour exploitation such as excessive hours of work - in some cases from 6 a.m. to midnight, with very little rest - illegal overtime and night work, no weekly rest, wages under the legal minimum, no protection or welfare benefits as provided by law, physical aggression, etc. The employers concerned have been sentenced or obliged to pay monetary penalties or outstanding wages; the Government has supplied the previously mentioned court decision sentencing an employer to three months' imprisonment. The Committee further notes the Government's indications concerning various rehabilitation measures and the role of the different aforementioned institutions. The Committee notes in particular that the centre to monitor the problem of child labour was



replaced in February 1987 (Order of the Minister of Interior No. 84) by a joint committee of the private and public sector named "Child Labour Protection Committee", whose functions are among others to protect and eliminate the abuse of child labour and recommend ways and means to resolve problems of child labour within and outside establishments, undertake study and research on the problem of the use of child labour within and outside the industrial sector. The Committee has also taken note of the research summary and recommendations of a report drafted by the National Youth Bureau, Office of the Prime Minister, referred to in the ILO Conditions of Work Digest, Vol. 7, 1/1988. Among its findings the report states that most employers do not have the required permit to employ children, who often work in illegal and unhealthy conditions, are deprived of protection or welfare benefits. The Committee also notes from the Digest the information reported by the Women and Child Labour Division according to which the majority of child workers are from poor families in rural areas; they are exploited and face many physical and mental problems.

While noting the information provided by the Government on the inspections carried out and action taken against employers for child abuse, it appears to the Committee from the documents submitted with the Government's report that these measures are somewhat limited in scope and the pecuniary sanctions applied not commensurate to the physical and moral harm incurred by the children in comparison with the benefits which an employer can expect to gain by using illegal child labour. The Committee recalls that under Article 25 of the Convention the Government must ensure that penalties imposed by law are really adequate and are strictly enforced. The Committee recalls in this connection also that penalties should have a dual purpose, namely to severely punish the guilty and to act as a deterrent; if monetary penalties are provided for they should be adapted in order to ensure that they exert an effective influence. The Committee expresses the hope that the Government will provide fuller information on measures taken to ascertain that the Convention is applied in practice, including information on complaints of child abuse, on inspections carried out, prosecutions undertaken and penalties imposed, and copies of court decisions. The Committee requests in particular the Government to supply more detailed information on measures taken to ascertain that children are not sold and purchased by unscrupulous job-securing agents and to remove the children from night-spots and brothels and from illegal employment in private houses, hotels, restaurants and factories.

The Committee has noted with interest the information provided by the Government concerning rehabilitation measures. It addresses a request directly to the Government in this connection as well as on a certain number of other points.

[The Government is asked to supply full particulars to the Conference at its 77th Session and to report in detail for the period ending 30 June 1990.]



Ukrainian SSR (ratification: 1956)

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

1. Resignation of members of collective farms. The Committee notes with satisfaction that the freedom of members of collective farms to leave the farm, announced on 28 May 1987 in a communiqué of the Presidium of the Union Council of Collective Farms, has been written into the text of the new Model Collective Farm Rules adopted by the General Congress of Members of Collective Farms on 23 March 1988. According to these Model Rules, all members of collective farms have the right to resign by giving three month's written notice. Neither the management nor the general assembly of the members of a collective farm have the right to refuse applications to resign, which take effect after the three-month period, even in the absence of a reply. In addition, the management is obliged to hand out to the former member of the collective farm his work-book on the day on which the resignation takes effect. The Committee also notes with interest that by virtue of section 10 of Act No. 49 of 26 May 1988 respecting co-operatives, voluntary membership and free withdrawal are among the principles governing the activity of co-operatives.

2. Legislation concerning persons "leading a parasitic way of life". In its previous observations, the Committee referred to the provisions of section 214 of the Penal Code 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 Order No. 11 of 28 December 1984 of the Plenum of the Supreme Court of the Ukrainian SSR, concerning court practice on this matter, which was supplied by the Government with its report. This Order defines "unearned income" by reference to means obtained through gambling, fortune-telling, begging, petty speculation and other illegal methods; the Order gives no definition of "other illegal methods".

The Committee has noted with interest the report submitted by the Government of the USSR to the Human Rights Committee in accordance with the International Covenant on Civil and Political Rights (Document CCPR/52/Add.6 of 2 October 1989) which refers in particular to the legislative programme approved by the Supreme Soviet for the defence of the rights and legitimate interests of citizens. In this connection, the Committee notes that the fundamental principles of penal legislation are currently under review.

The Committee hopes that on the occasion of the planned legislative changes, the Government will be able to envisage adopting measures to clearly exclude from the legislation any possibility of compulsion to work that is not in conformity with the Convention, either by repealing section 214 of the Penal Code, or by limiting the scope of this provision to persons engaging in illegal activities. The Committee hopes that the Government will supply information on developments in this direction.

USSR (ratification: 1956)

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

1. Resignation of members of collective farms. The Committee notes with satisfaction that the freedom of members of collective farms to leave the farm, announced on 28 May 1987 in a communiqué of the Presidium of the Union Council of Collective Farms, has been written into the text of the new Model Collective Farm Rules adopted by the General Congress of Members of Collective Farms on 23 March 1988. According to these Model Rules, any member of a collective farm is entitled to resign by giving three months' notice; neither the management nor the general assembly of the members of a collective farm have the right to refuse applications to resign, which take effect after the three-month period, even in the absence of a reply. In addition, the management is obliged to hand out the work-book to the former member of the collective farm on the day on which the resignation takes effect. The Committee also notes with interest that by virtue of section 10 of Act No. 49 of 26 May 1988 respecting co-operatives, voluntary membership and free withdrawal are among the principles governing the activity of co-operatives.

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 RSFSR and to the corresponding provisions in force in the other Republics of the Union concerning persons "leading a parasitic way of life". The Committee requested the Government to supply information on the application in practice of the provisions of section 209 and the corresponding provisions in force in other Republics, including copies of any judicial decisions that define the scope of the terms of "unearned income" and "means obtained through unlawful methods".

In its report, the Government refers to the Order of 13 December 1984 of the Presidium of the Supreme Soviet of the RSFSR on the manner of applying section 209 of the Penal Code of the RSFSR, which the Committee had already noted. Referring to the examples of court practice quoted previously, the Government indicates that there have been no other similar decisions in court practice during the period covered by the report. The Committee notes this indication.

The Committee has noted with interest the report submitted by the Government to the Human Rights Committee in accordance with the International Covenant on Civil and Political Rights (document CCPR/52/Add.6 of 2 October 1989) which refers in particular to the legislative programme approved by the Supreme Soviet for the defence of the rights and legitimate interests of citizens. In this connection, the Committee notes that the fundamental principles of penal legislation are currently under review.

The Committee hopes that on the occasion of the planned legislative changes, the Government will be able to envisage adopting measures to clearly exclude from the legislation any possibility of compulsion to work that is not in conformity with the Convention, either by repealing section 209 of the Penal Code of the RSFSR (and the corresponding provisions that are in force in the other Republics), or by limiting the scope of these provisions to persons

engaging in illegal activities. The Committee hopes that the Government will supply information on developments in this direction.

Venezuela (ratification: 1944)

The Committee notes the Government's report.

1. Article 2, paragraph 2(c), of the Convention. The Committee has been referring for some years to sections 17, 21 and 23 of the Act of 1956, respecting vagrants and rogues, which empowers the administrative authorities to order internment in an establishment of rehabilitation and labour, an agricultural reformatory colony or a work camp, to reform vagrants and rogues or to put them out of harm's way. The Committee noted the information provided by the Government on various occasions since 1970, to the effect that the Congress of the Republic is studying a draft text to reform the Penal Code, section 113 which provides that security measures may be imposed only by the judicial authorities. The Committee asked for detailed information on the number of persons who had been the subject, during the past three years, of security measures involving the obligation to work, the duration of these measures and the establishments in which those concerned had been detained.

The Committee notes that, according to the Government's report, no further progress has been made in the revision of the Penal Code, and that the report does not contain the information requested concerning the application, in practice, of the provisions in question.

The Committee trusts that the Act respecting vagrants and rogues will be amended in the near future to ensure that the administrative authorities may not impose sanctions involving the obligation to work, thereby securing compliance with the Convention on this point.

2. The Committee has observed in previous comments that the Act concerning vagrants and rogues defines as vagrants, liable to be subjected to security measures, those persons, in particular, who habitually and unwarrantedly abstain from carrying on a lawful occupation or trade and are therefore a threat to society (sections 1 and 2(a)). The Committee has indicated that laws defining vagrancy and similar offences in an unduly extensive manner are liable to become, directly or indirectly, a means of compulsion to work, in violation of the Convention.

The Committee requests the Government to take the necessary measures to ensure a more restrictive definition of vagrancy in the Act concerning vagrants and rogues, so that penalties for vagrancy can be imposed only on those who, in addition to abstaining habitually from work, disturb the public order by begging, failing to support their dependents, or engaging in any specific illegal action in addition to abstaining from work, and that it will report on progress made in this regard.

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 most recent report, dated 11 May 1988, that consultations among government agencies are being actively pursued with a view to modifying or repealing these regulations. The Committee also notes from the report on the direct contacts mission to Zambia which took place in November 1989 concerning Convention No. 105 that regulations 40 and 41 of the Public Security Regulations had been introduced at the time of independence because of apprehension that there might be large-scale retirement of experienced officials; this having not occurred, the provisions were entirely unused in practice and their repeal had been approved some time ago. The repeal process had become stalled at the time of the last parliamentary elections, but would now be reactivated.

The Committee notes these indications with interest and hopes that the Government will soon be in a position to report the repeal of regulations 40 and 41 of the Public Security Regulations.

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In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Angola, Antigua and Barbuda, Australia, Bahamas, Bahrain, Bangladesh, Barbados, Belize, Benin, Bulgaria, Burundi, Byelorussian SSR, Cameroon, Cape Verde, Central African Republic, Chile, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Cuba, Democratic Yemen, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, Gabon, Ghana, Greece, Grenada, Guinea, Guinea-Bissau, Honduras, Hungary, Indonesia, Islamic Republic of Iran, Iraq, Ireland, Israel, Italy, Jamaica, Jordan, Kuwait, Lao People's Democratic Republic, Lesotho, Liberia, Luxembourg, Malaysia, Mali, Mauritania, Morocco, Myanmar, Nicaragua, Niger, Nigeria, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Portugal, Saudi Arabia, Senegal, Solomon Islands, Somalia, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, United Republic of Tanzania, Thailand, Togo, Trinidad and Tobago, Uganda, Ukrainian SSR, USSR, United Arab Emirates, United Kingdom, Venezuela, Yemen, Zambia.

Information supplied by Belgium, Brazil, Malta and Mexico in answer to a direct request has been noted by the Committee.

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

#### Chile (ratification: 1935)

The Committee notes the information supplied by the Government in its reports, which were received by the Office on 16 January and 13 November 1989 and include replies to its previous comments.

In its previous comments, the Committee requested the Government on several occasions to take the necessary measures to amend section 36 of Legislative Decree No. 2200 of 1978 (as amended by Act No. 18018

of 1981 and by Act No. 18372 of 1984) so as to authorise overtime by workers in commerce only through regulations issued after consultation with the employers' and workers' organisations.

The Committee also referred to section 42 of Legislative Decree No. 2200 (as amended), which permitted the parties to agree to work two additional hours in the day in jobs which, by their nature, do not harm the health of the worker. Furthermore, by virtue of section 43(2) of the same Legislative Decree, working hours that exceed the normal working week, of which the employer is aware, were authorised as overtime hours, even in the absence of a written agreement.

The Committee notes that the new Labour Code (Act No. 18-620 of 6 July 1987), section 454 of which repeals the above Legislative Decree No. 2200, does not change the previous situation. It is therefore bound to point out that exceptions to normal working hours are only permitted in the cases laid down in Article 7, paragraphs 1 and 2, and that the maximum number of additional hours of work which may be allowed must be determined in the day in respect of permanent exceptions and yearly as regards temporary exceptions (Article 7, paragraph 3). Furthermore, these exceptions must be determined after consultation with the workers' and employers' organisations concerned (Article 8).

The Committee requests the Government to take the necessary measures to bring its legislation into full conformity with the Convention on these various points.

#### Morocco (ratification: 1974)

The Committee notes with regret that the Government's report does not contain replies to its comments repeatedly formulated in its direct requests since 1978. It is therefore obliged to take up the matter in a new direct request and trusts that the Government will not fail to take the necessary measures and provide the required information at the dates requested.

#### Nicaragua (ratification: 1934)

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 has noted the information provided by the Government in its report, which, in particular, indicates that a preliminary draft revision of the legislation was under consideration on the basis of the comments of the Committee.

The Committee trusts that the draft will be adopted in the near future and that it will lay down, after consultation with the employers' and workers' organisations concerned, the circumstances in which additional hours may be worked and the maximum number of additional hours authorised, in conformity with Article 7, paragraphs 2(c), (d) and 3 and Article 8 of the Convention.

The Committee requests the Government to provide in its next report detailed information on any developments in relation to this question.

Panama (ratification: 1959)

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

With reference to its previous comments, the Committee notes, in particular, that the technical team of the Ministry of Labour and Social Welfare, to which the Government referred in its previous report, is continuing to seek ways of bringing the legislation into harmony with the requirements of Article 7, paragraphs 2 and 3, of the Convention. It recalls that the Bill fixing the number of overtime hours in commerce and offices at a maximum of 250 per year was drawn up during direct contacts made in November 1977 by a representative of the Director-General of the ILO, because the possibility of working three overtime hours per day and nine per week, without any reasonable annual limitation (the 468 hours per year calculated by the Government being considered too high) was not considered as being in full conformity with Article 7, paragraphs 2 and 3.

The Committee once again hopes that the Government will be able to fix an annual limit for cases of temporary exceptions in the light of the above, and requests the Government to keep the Office informed of any developments in this connection.

Syrian Arab Republic (ratification: 1960)

See comments under Convention No. 1.

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

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

Algeria (ratification: 1962)

The Committee notes with interest the adoption of Act No. 88-07 of 26 January 1988 respecting occupational medicine, health and safety. It notes that this Act, which applies to all workers, is intended to establish the general framework for the prevention of occupational risks, but that it does not contain specific provisions that are applicable to port work and which apply the Convention.

In this connection, the Committee notes that, in its report, the Government reiterates its previous statements that texts applying the above Act will strengthen health and safety measures in port work. In



view of the fact that the absence of a text to give effect to the Convention has been the subject of its comments for some years, the Committee trusts that the necessary texts to apply the Act will be adopted in the near future and that the Government will supply copies of them.

Panama (ratification: 1971)

Further to its previous comments, the Committee notes with satisfaction that the Regulations on safety and health in dock work and the Regulations on safety and health committees on dock work, which were approved by the national Port Authority Executive Committee on 9 August 1988, give effect to the following provisions of the Convention: Article 2, paragraph 1 (maintenance of all regular approaches over a dock, wharf or quay with due regard to the safety of the workers using them); Article 3, paragraphs 1, 2 and 4 (means of access for passing to or from the ship); Article 4 (measures to ensure the safe transport of workers by water); Article 5, paragraph 3 (sufficient free passage to the means of access at the coamings); Article 6 (protection of the coamings of holds by fences); Article 7 (lighting the means of access and workplaces on board ship); Article 9, paragraphs 1, 2(1), (3), (4), (6) and (7) (examination and inspection of hoisting machines and gear); Article 10 (employment of competent and reliable persons to operate lifting machinery); Article 12 (protection of workers dealing with or working in the proximity of dangerous goods); Article 13 (existence of first-aid materials on docks, wharfs, quays and similar places used for work; provision for the rescue of immersed workers); Article 16 (obligation to apply immediately the measures set out in the Convention to ships, the building of which has been commenced); Article 17 (measures to ensure the due enforcement of any regulations).

The Committee is raising a number of other points in a request that is being addressed directly to the Government.

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

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

Argentina (ratification: 1950)

With reference to its previous comments, the Committee notes the information supplied by the Government in its last report that, at present, the National Congress is not considering the ratification of the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96).

The Committee also notes the text of two private members' Bills, supplied by the Government with its report, which have been submitted

by the deputies to the House of Deputies Labour Law Committee. The purpose of both Bills is to abolish the role of fee-charging employment agencies in the placement of temporary workers.

The Committee also notes Decree No. 1455, of 8 August 1985, issuing regulations governing the activities of agencies for temporary workers (ATT).

The Committee recalls that, under the provisions of Articles 2 and 3 of Convention No. 34, fee-charging employment agencies conducted with a view to profit should have been abolished within three years from the coming into force of the Convention. In its previous comments, the Committee drew the Government's attention to the more flexible provisions of Convention No. 96. Each Member ratifying Convention No. 96 must indicate in its instrument of ratification whether it accepts the provisions of Part II, which provide for the progressive abolition of fee-charging employment agencies conducted with a view to profit and the regulation of other agencies, or the provisions of Part III, which provide for the regulation of fee-charging employment agencies, including agencies conducted with a view to profit. The ratification of Convention No. 96 involves ipso jure the immediate denunciation of Convention No. 34.

The Committee trusts that the Government will provide full information on any decision that may be taken regarding the ratification of Convention No. 96. If a decision is taken not to ratify it, the Committee requests the Government to indicate in its next report the measures that have to be taken to give effect to Convention No. 34.

#### Mexico (ratification: 1938)

The Committee notes the Government's report. With reference to the comments that the Committee has been making for a number of years, the Government indicates that the General Directorate of Employment and Legal Affairs of the Secretariat of Labour and Social Welfare (STPS) gave its agreement to considering as a possible solution the ratification of the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96), and accepting the provisions of Part III of that Convention. The Committee notes with interest the report by the General Directorate of International Affairs of the STPS, supplied by the Government with its report, which suggests the ratification of Convention No. 96. It also notes that the STPS has requested the General Directorate for the United Nations system of the Secretariat of Foreign Relations to obtain information from the Senate concerning the stage that the question of the possibility of ratifying Convention No. 96 has reached. The Government adds that it hopes for a decision on this point during the next session of the Senate and informs the Committee that the decision will be notified to the ILO.

The Committee once again refers to its previous comments in which it drew attention to the contradiction between the provisions of the national legislation and those of Articles 2 and 3 of the Convention. In this connection, the Committee notes that the General Directorate of Employment of the STPS, when it was consulted concerning the Committee's 1988 direct request, considered that, even following the



publication of the Regulation respecting employment agencies of 18 November 1982, the above Articles of the Convention, under which fee-charging employment agencies conducted with a view to profit should have been abolished, were not applied.

The Committee is bound to repeat its request to the Government to keep the Office informed of any decision that may be taken concerning the ratification of Convention No. 96, which would involve the denunciation, ipso jure, of Convention No. 34. Until this happens, the Committee requests the Government to indicate in its next report the measures that have to be taken to give effect to Convention No. 34.

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

#### Chile (ratification: 1935)

The Committee takes note of the information provided by the Government in its report for the period 1988-1989; it also takes note of the statistical information.

1. Article 9, paragraph 1 of the Convention. In reply to the Committee's comments, the Government reiterates that the monthly contributions for funding future pensions are wholly the property of the workers and that there is a one-to-one ratio between the amount deducted by the employer from each worker for insurance and the funds accumulated by that worker. At the same time, as the amount deducted depends on the worker's remuneration which is negotiated either individually or collectively with the employer, the latter makes a direct contribution to the constitution of the worker's pension fund, since, when the remuneration is fixed, the employer always takes into account the total costs related to labour. Thus, regardless of whether the contributions are paid by the workers or the employer, a balance will always be reached in accordance with the total amount that each enterprise is able to pay. Therefore, in a system of this kind the source of the contributions (whether coming from the worker's remuneration or the employer's contribution) is irrelevant, since in any event the original source is always the enterprise. Without prejudice to the foregoing, the Government is currently working on a Bill to create the Employer's Bonus, which is negotiable and whose purpose is to increase the worker's insurance assets enabling him to have access to early retirement or increase the amount of his pension. The bonus will not be subject to tax or deductions for insurance and will not have maximum or minimum limits. In this way, workers and employers will be able to prepare pension plans which may be increased, in the case of younger workers, by means of periodical deposits in their individual capital accounts or, in the case of workers who are closer to retirement age, by means of a lump sum deposit. With such a mechanism, the employers' contribution to the resources of the workers' pension funds will exceed their obligation to participate by means of contributions deducted from remuneration.

The Committee takes note of the Government's statement. In particular, it notes with interest the above-mentioned Bill and asks the Government to provide a copy of it. The Committee must stress,

however, that in order for full effect to be given to this provision of the Convention, and to ensure the application of the principle of solidarity embodied in social security schemes, employers should contribute directly to the financial resources of compulsory insurance schemes for employees. In fact, when an employer pays the salary to workers, he or she is not necessarily covering the social security contributions. The Committee, therefore, hopes that the Government will adopt the necessary measure to give effect to the recommendations made by the committee set up by the Governing Body to examine the representation made by the National Trade Union Co-ordinating Council of Chile (CNS), under article 24 of the Constitution, alleging the non-application by Chile of, inter alia, Convention No. 35 (see document GB.234/23/28, 234th Session, November 1986).

2. Article 9, paragraph 4. In reply to the Committee's previous comments, the Government again refers to the various ways in which the State contributes to the financial resources of the insurance scheme. In this connection, it indicates that resources are allocated in such a way as to assist the most needy in the most effective way possible. Under this scheme, workers affiliated to the capital accumulation system are guaranteed minimum old-age, invalidity and survivors' benefits. Thus, the State allocates its resources to those workers who, because their earnings during their working life were low or because they have not contributed for a period of over 20 years, are unable to finance at least a minimum old-age pension from their assets in the individual capital accumulation system. With such a mechanism, the State is taking an active position with regard to its contribution to the financial resources of the pension funds of workers who are really in need, thereby maintaining an adequate policy of income redistribution. Thus, direct participation by the State during the active life of the worker is unnecessary, as it would not be sufficiently profitable to justify public funds being allocated to persons who are not really in need.

The Committee takes note of the information supplied by the Government. However, it cannot but refer to the conclusions of the Committee set up by the Governing Body, that "although the present legislation provides for the possibility of some financial participation by the State in the form of a guarantee, this participation, given its conditional and thereby exceptional nature, does not strictly correspond to the contribution to the financial resources or benefits of insurance schemes" prescribed by the Convention. Consequently, the Committee again expresses the hope that the Government will adopt the necessary measures to give full effect to this provision of the Convention.

3. Article 10, paragraphs 1 and 2. In reply to the Committee's previous comments, the Government indicates that the Chilean Social Insurance System fully complies with these provisions of the Convention, since the law gives broad scope for any worker concerned, or group, to found a Pension Fund Administration (AFP), and establishes the AFP Supervisory Body. In addition, the Government again refers to the facilities provided for groups of workers to form their own AFPs and states the names of those that already exist, their composition and the role and participation of the workers in them. The Committee again takes note of this information. However, it

observes that no new AFPs have been created and that the Government has not provided a copy of the statutes of the AFP FUTURO, requested previously. In the circumstances, the Committee reiterates its request and asks the Government to continue to provide information on the establishment of new occupational AFPs. Lastly, it recalls once again the recommendations of the Committee set up by the Governing Body, that the Government should adopt appropriate measures to amend Legislative Decree No. 3500 to ensure that the insurance scheme is administered by non-profit-making institutions, as prescribed by these provisions of the Convention, except in cases where the administration of the scheme is entrusted to institutions founded on the initiative of the parties concerned or of their organisations and duly approved by the public authorities.

4. Article 10, paragraph 4. In reply to the Committee's previous comments, the Government again states that the workers participate actively in the administration of the system. In this connection, it refers again to the seven Pension Fund Administrations (AFPs) in which the workers have part or total ownership and are represented on the board. The Government indicates that workers also participate by choosing freely the AFP which will administer their insurance funds, in accordance with the law, which grants this right to all those affiliated to the system. Furthermore, a worker affiliated to a given AFP may transfer at no cost to another AFP when and as many times as he so wishes, according to the one most suited to his needs or in which he feels he is best represented, and he may be an active or passive, employed or self-employed member. This active participation by workers has been witnessed on various occasions, when workers or groups of workers have manifested their discontent over some specific action on the part of an AFP, and have withdrawn their funds and placed them with another AFP. The wide personal and active involvement of workers in the administration of their funds and the selection of their representatives is the basis of the Chilean insurance system.

The Committee takes note of this information. However, it must refer once again to the conclusions of the committee set up by the Governing Body, to the effect that "the participation of insured persons in the management of the AFPs results neither from the current legislation nor from the statutes of these limited liability companies, which make no reference to them nor to any occupational organisations ... even if insured persons do in fact participate to some extent in the management of some AFPs, there remains the question of the participation of insured persons in the management of the remaining AFPs".

Accordingly, the Committee again expresses the hope that the Government will give effect to the recommendations of the above-mentioned committee, and will adopt the necessary measures to ensure that the representatives of insured persons participate in the administration of all insurance institutions under conditions determined by national legislation in accordance with the provisions of the Convention.

5. With regard to its previous comments concerning the lack of participation of insured persons in the administration of the institutions of the old system, the Committee takes note of the

information supplied by the Government, to the effect that, although the attributions of the administrative boards have, for the time being, been conferred on the Director of the Institute for the Standardisation of Insurance Schemes by section 6 of Legislative Decree No. 3502 of 1980, or on the persons responsible for those bodies which have not yet merged with the above Institute, according to the provisions of section 71 of Act No. 18768 this is a temporary system which is gradually being replaced by the new pensions system established by Legislative Decree No. 3500 of 1980.

[The Government is asked to report in detail for the period ending 30 June 1990.]

France (ratification: 1939)

Article 12, paragraph 3, of the Convention. The Committee refers to its comments formulated over the past few years and relating to the supplementary allowance from the National Solidarity Fund granted under sections L.815-2 and L.815-5 of the Social Security Code and payable only to nationals and to foreigners who are nationals of countries which have signed a reciprocal agreement with France as well as to workers and former workers who are nationals of the European Economic Community (EEC) and residing in France. The Committee takes note that the Government reiterates that the above-mentioned allowance is not a social security allowance but a supplementary assistance payable on the basis of a means test, the object of which is to guarantee to its beneficiaries a minimum means of existence, irrespective of the nature of the basic benefit. The situation may even arise where there is no basic benefit, as it has been increasingly observed that this allowance is paid to people who have never worked. A distinction must thus be made between pension supplements which constitute an accessory allowance and guaranteed means which are intrinsically bound up with the living standards of the State in which they are paid and are the expression of national solidarity. Furthermore, in allocating supplementary allowances from the National Solidarity Fund, account is taken not only of pensions (including pensions paid by other States), but also of other means such as possible professional income, personal estate, etc. If an applicant possesses a personal estate, the institution which issues the allowance must require that a mortgage be registered on this estate and, if there is a succession, the institution can recover all or part of the sum paid in supplementary allowance on this inheritance. Since these procedures are applied to French applicants for the allowance, foreign nationals residing in France cannot be exempted from them. Hence, the necessity of concluding bilateral agreements, which are separate protocols distinct from social security conventions reflecting the juridical nature of the solidarity fund allowance, providing for the active participation of the contracting State in the indispensable verification of the conditions under which the allowance can be granted, and which are different in each situation depending on whether or not reciprocity can be found in the legislation of the other State.

The Committee takes note of the statement. It points out that the granting of the allowance in question is not subject to discretionary judgement, but constitutes a right for applicants who fulfil the required conditions, this being one of the elements of insurance benefits. It also considers the fact that this allowance can be granted in certain cases where there is no basic benefit. The supplementary allowance, as its name indicates constitutes the complement of a principal benefit, that is to say, an increase payable at present out of public funds, and therefore comes under this provision of the Convention. With regard to the procedures described above which apply to applicants for the allowance, the Committee agrees with the Government that these should also apply without distinction to foreigners if they have property in France. Consequently, it again expresses the hope that the Government will make provision to extend the benefit of the above-mentioned allowance to the nationals of States bound by this instrument at least if they are already beneficiaries of contributory social security benefits and continue to reside in France.

The attention of the Government is invited to the observation of the Committee in regard to Convention No. 118 (Article 4, paragraph 1).

[The Government is asked to report in detail for the period ending 30 June 1990.]

\* \* \*

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

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

France (ratification: 1939)

See under Convention No. 35.

[The Government is asked to report in detail for the period ending 30 June 1990.]

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

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

Chile (ratification: 1935)

The Committee takes note of the information provided by the Government in its report for the period 1988-89; it also takes note of the statistical information.

1. Article 10, paragraph 1, of the Convention. See under Convention No. 35, Article 9, paragraph 1.

2. Article 10, paragraph 4. In reply to the Committee's previous comments, the Government again refers to the various ways in which the State contributes financially to the resources of the insurance fund. In this connection it indicates that the policy with regard to the allocation of resources is to assist those most in need in the most effective way possible. Under this system, the State allocates resources to workers who are declared invalids and have paid contributions for at least two years out of the last five, or have paid contributions for ten years, or are paying contributions at the date on which the contingency begins if the latter is the result of an accident. With this mechanism, the State takes an active position with regard to its contribution to the insurance funds of those who are really in need, thereby maintaining an adequate policy of income redistribution. Thus, direct participation by the State during the active life of the worker is unnecessary, as this would not be sufficiently profitable to justify the allocation of public funds to persons who are not really in need. The Committee takes note of the above information. It asks the Government to indicate which provisions of the legislation fix the minimum contribution period, referred to above, required for the State to guarantee the minimum pension. Moreover, the Committee is bound to refer to the conclusions of the committee set up by the Governing Body, that "although the present legislation provides for the possibility of some financial participation by the State in the form of a guarantee, this participation, given its conditional and thereby exceptional nature, does not strictly correspond to the contribution to the financial resources or benefits of insurance schemes" prescribed by the Convention. Consequently, the Committee again expresses the hope that the Government will adopt the necessary measures to give full effect to this provision of the Convention.

3. Article 11, paragraphs 1 and 2. See under Convention No. 35, Article 10, paragraphs 1 and 2.

4. Article 11, paragraph 4. See under Convention No. 35, Article 10, paragraph 4.

5. With regard to its previous comments concerning the lack of participation of insured persons in the administration of the institutions of the old system, the Committee takes note of the information provided by the Government, to the effect that, although the attributions of the administrative boards of insurance funds have, for the time being, been conferred on the Director of the Institute for the Standardisation of Insurance Schemes by section 6 of Legislative Decree No. 3502 of 1980, or on the persons responsible in those bodies which have not yet merged with the above Institute, in accordance with the provisions of section 71 of Act No. 18768, this is only a temporary system which is gradually being replaced by the new pension system established by Legislative Decree No. 3500 of 1980.

[The Government is asked to report in detail for the period ending 30 June 1990.]



France (ratification: 1939)

See under Convention No. 35.

[The Government is asked to report in detail for the period ending 30 June 1990.]

\* \* \*

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

**Convention No. 38: Invalidity Insurance (Agriculture), 1933**Chile (ratification: 1935)

See under Convention No. 35.

[The Government is asked to report in detail for the period ending 30 June 1990.]

France (ratification: 1939)

See under Convention No. 35.

[The Government is asked to report in detail for the period ending 30 June 1990.]

\* \* \*

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

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

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

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

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

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

Central African Republic (ratification: 1969)

The Committee refers to its previous observations and recalls that, for many years, it has been pointing out to the Government that section 3 of Order No. 3759 of 25 November 1954 authorises exemptions from the prohibition of night work by women in circumstances that are not allowed by this Convention. It again expresses the hope that the measures announced long ago by the Government to bring the legislation into conformity with international standards will be adopted in the near future and requests the Government to report any progress made in this connection.

[The Government is asked to report in detail for the period ending 30 June 1990.]

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

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

Algeria (ratification: 1962)

Article 2 of the Convention. The Committee notes the information supplied by the Government in its report. It regrets to note that no progress has been achieved in bringing the schedules of occupational diseases annexed to the Order of 22 March 1968, as amended, into conformity with the Schedule set out in the Convention. The Committee notes, however, that a technical committee, which includes, in particular, representatives of the Ministry of Social Affairs, the Ministry of Health and the UGTA, is set to examine the existing schedules of occupational diseases and to modify and update them as necessary, taking into account the points raised by the Committee of Experts. The Committee is therefore bound once again to hope that the work of the above technical committee will soon result in the adoption of texts under Act No. 83-13 of 5 July 1983 and that the new schedule of occupational diseases will take into account its previous comments concerning the schedules annexed to the Order of 22 March 1968, as amended, namely:

- (a) the list of the various pathological manifestations appearing under each "disease" in the left-hand column of the schedules in the national legislation should be of an indicative nature, as is the list of corresponding activities in the right-hand column of these schedules;
- (b) the wording of the items concerning poisoning by arsenic (schedules nos. 20 and 21), manifestations due to the halogen derivatives of hydrocarbons of the aliphatic series (schedules nos. 3, 11, 12, 26 and 27), and poisoning by phosphorus and



certain of its compounds (schedules nos. 5 and 34) should be replaced by a wording covering in general terms - like that of the Convention - all manifestations that may be caused by the above substances (a wording of this kind would make it possible also to cover diseases that might be caused by the utilisation of new products, as the Government pointed out earlier);

- (c) the activities that may cause anthrax infection (schedule no. 18) should include the loading and unloading or transport of merchandise in general, so as to cover workers, such as dockers, who may unwittingly have transported merchandise contaminated by the anthrax spore.

[The Government is asked to report in detail for the period ending 30 June 1990.]

Australia (ratification: 1959)

1. Capital Territory. Further to its previous comments, the Committee notes with satisfaction that, as regards public sector employees, the Compensation (Commonwealth Government Employees) Act, 1971, was repealed on 1 December 1988 and replaced by the Commonwealth Employees' Rehabilitation and Compensation Act, 1988. It therefore notes that item 28 of the Schedule of Diseases contained in the Gazette Notice made pursuant to section 7, paragraph 1 of the 1988 Act provides that occupational infections or parasitic diseases (such as anthrax) are compensable in the same circumstances as those prescribed for such diseases in Convention No. 121.

As regards private sector employees in the now self-governing Capital Territory, the Committee notes that new legislation was still before the Legislative Assembly. It requests the Government to communicate a copy of this legislation as soon as it is adopted.

2. Western Australia. Further to its previous comments, the Committee notes with interest that the Workers' Compensation and Assistance Act, 1981 (Western Australia), has been amended to include in column 2 of Schedule 3 - Specified Industrial Relations - the description of conditions in which anthrax is recognised as an occupational disease. It notes however that the new wording refers, among the conditions that may cause this disease, to "the loading and unloading or transport of merchandise containing anthrax organisms", whereas the Convention covers these operations for all merchandise in general with a view to protecting workers who may unwittingly have handled infected merchandise, relieving them of the necessity to prove that they have been in contact with infected merchandise. The Committee hopes that the Government will be able to make the necessary amendments to ensure the complete application of the Convention on this point.

3. Queensland. Since 1963, the Committee has been calling the Government's attention to the legislation in force in this State which, unlike the Convention, does not establish a presumption of the occupational origin of the disease for workers engaged in the industries or occupations mentioned in the right-hand column of the schedule of the Convention, when they suffer from one of the conditions appearing in the left-hand column of this schedule.

The Committee regrets to note once again that the Government limits itself to saying that there is no change to the views provided previously, namely that the Queensland Government still considers that the legislation of that State is sufficiently broad to ensure adequate protection of workers and should remain unchanged at present.

Concerning the possibility of ratifying Convention No. 121, the Committee draws again attention to the fact that Article 8 of this Convention enables each member State to choose between three procedures, i.e. either (a) to describe a list of diseases, comprising at least the diseases enumerated in schedule I of the Convention, which should be regarded as occupational diseases under prescribed conditions; or (b) to include in its legislation a general definition of occupational diseases broad enough to cover at least the diseases enumerated in schedule I to the Convention; or (c) to prescribe a list of diseases in conformity with clause (a), complemented by a general definition of occupational diseases or by other provisions for establishing the occupational origin of diseases not so listed or manifested under conditions different from those prescribed.

The Committee therefore expresses again the hope that while examining the possibility of ratifying Convention No. 121 the Government will take the necessary measures to review the present legislation, in accordance with the intention expressed previously so as to supplement the present workmen's compensation scheme for diseases with a double-list system, in conformity with the Convention.

4. Tasmania. The Committee notes that the Government's report contains no reply to its previous comments; it must therefore repeat these comments which read as follows:

The Committee noted that the State's existing legislation on workmen's compensation was still under review and that there had been no further development since the last report. The Committee therefore again expressed the hope that the review in question would soon be completed and that the list would include poisoning by alloys and compounds of lead, amalgams and compounds of mercury, compounds of phosphorous and arsenic and halogen derivatives of hydrocarbons of the aliphatic series, as well as all pathological manifestations due to radiation and also silicosis in association with tuberculosis, and that it would set out the industries or occupations likely to lead to the diseases covered by the Convention.

5. South Australia. The Committee notes that the Government's report contains no reply to its previous comments; it must therefore repeat these comments which read as follows:

The Committee had noted the adoption of the Workmen's Compensation Act, 1971-82. It drew attention to the fact that the conditions in which anthrax is recognised as an occupational disease are limited to "loading or unloading or transport of animals infected or their parts" whereas the Convention covers on this point "loading, unloading or transport of merchandise" among the activities that may lead to anthrax infection. The Committee expressed the hope that the Government would be able to make the

necessary amendments to ensure the complete application of the Convention on this point.

[The Government is asked to report in detail for the period ending 30 June 1991.]

Bahamas (ratification: 1976)

The Committee regrets to note that for the second consecutive time the Government's report contains no reply to its previous comments. It must therefore repeat its previous comments which read as follows:

The Committee had noted the information furnished by the Government in its reports (received in September 1983 and January 1984) to the effect that steps were being taken to amend the third schedule to the National Insurance (Industrial Benefits) Regulations, 1975, issued under the National Insurance Act.

The Committee expressed the hope that the amendment would be made very shortly and that the above-mentioned schedule would be completed on the points that attention had already been called to, in order to give full effect to the Convention.

Article 2 of the Convention. 1. Item 1(1) and (p), of the third schedule to the 1975 Regulations mentions only some of the halogen derivatives of hydrocarbons of the aliphatic series (for example: tetrachlorethane and methyl bromide), whereas the Convention, which is drafted in general terms on this point, covers all the halogen derivatives of these hydrocarbons.

2. Item 2 of the third schedule to the 1975 Regulations, which concerns anthrax infection, does not mention among the activities likely to lead to this disease the loading and unloading or transport of merchandise in general, as the Convention does.

3. Item 7 of the third schedule to the Regulations, which relates to pathological manifestations due to x-rays and radioactive substances, covers only certain of the manifestations caused by exposure to X-rays, ionising particles or other radioactive substances. The Convention, which is drafted in general terms on this point, covers, without enumerating them all, manifestations that may be caused by such exposure, including those that do not appear in the third schedule of the Regulations (for example: bronchial cancer, cancer of the thyroid; ocular lesions, cataracts, irritations, keratitis; possible lesions of the internal organs and the effects on the development of the embryo).

The Committee again requests the Government to indicate in its next report the measures taken or envisaged to bring the schedule of the national legislation into full conformity with the Convention on the above-mentioned points.

[The Government is asked to report in detail for the period ending 30 June 1990.]

France (ratification: 1948)

1. The Committee notes with satisfaction the improvement made by Decree No. 89.667 of 13 September 1989 to the schedule of occupational diseases which adds, among the activities likely to cause primary epitheliomatous cancer of the skin, processes involving the handling of certain products such as extracts of aromatics, mineral oils used at high temperatures in the processing and machining of metals and soot from the combustion of petroleum products. It also notes the statistical information for 1986 concerning the occupational diseases covered by the Convention.

2. As regards the restrictive nature of the pathological manifestations listed under each of the diseases in the schedule of occupational diseases, the Government states that this restrictive nature is a result of a legal interpretation of section L.461.2 of the Social Security Code under which French schedules of occupational diseases list the morbid conditions suffered by workers and, from a medical point of view, of the intent to only compensate diseases which, according to epidemiology and medical literature, occur more frequently among workers.

3. As regards the absence in the schedules of occupational diseases of a heading covering, in general terms, poisoning by all halogen derivatives of hydrocarbons of the aliphatic series and by all compounds of phosphorus, the Government emphasises that this absence is only partial since most of the conditions related to phosphorus are covered by schedule No. 5 of occupational diseases and that schedules Nos. 3, 11, 12, 26, 27 and 52 refer to pathological manifestations related to the halogen derivatives of hydrocarbons of the aliphatic series. The Government explains that the general philosophy underlying the French system for the compensation of occupational diseases is based on schedules of occupational diseases and not on lists of diseases drawn up in very general terms. Compensation therefore only covers a limited number of conditions, although this restriction does not prevent all pathological manifestations of an occupational origin that are listed in a particular field of activities being covered. Indeed, this is the objective of French legislation which could be summarised, according to the Government, in the following way: "to compensate all occupational pathological conditions and nothing but occupational pathological conditions".

The Committee notes this information. It can only draw attention to the fact that the exclusion of certain conditions that occur less frequently among workers, who would not therefore be compensated, cannot be in accordance with the Convention, which is worded in general terms and covers all occupational diseases and all poisonings caused by the substances enumerated in the Schedule annexed to the Convention when they occur among workers employed in the corresponding trades, industries or processes set out in the Schedule. The Committee is therefore bound once again to hope that measures will be taken to give an indicative character to the list of pathological manifestations set out under each of the occupational diseases included in the schedules established by the legislation in order to complete the national legislation in the sense of the Convention, both as regards poisoning by all halogen derivatives of hydrocarbon of the

aliphatic series and by all compounds of phosphorus, and as regards certain products likely to cause primary epitheliomatous cancer of the skin.

[The Government is asked to report in detail for the period ending 30 June 1991.]

Guyana (ratification: 1966)

The Committee notes once again with regret that the modified list of occupational diseases attached to Regulation No. 34 of 1969 has not yet been finalised, bearing in mind that the occupational health and safety department of the Ministry of Labour is still in the process of reorganisation. The Government states that it is at present considering the possibility of asking the ILO for technical assistance. Legislation will be drawn up for the areas in question with a view to completing it as soon as possible. The Committee takes note of this statement with interest. It hopes that with the help of the ILO the above-mentioned list may soon be completed, taking the following indications into account:

- (a) Nos. 1(x), (xi), (xii) and (xiv) on this list are to be replaced by a heading containing in general terms all halogen derivatives of hydrocarbons of the aliphatic series;
- (b) No. 7, which refers to certain disorders due to radiation should include all pathological manifestations due to radium and other radioactive substances or X-rays and the list of processes likely to induce these should be completed;
- (c) Nos. 1(i) and (v) relating to poisoning by lead and its compounds and mercury and its compounds should include lead alloys and mercury amalgams respectively;
- (d) No. 1(iii), which refers to poisoning by phosphorus and its compounds, should include the inorganic compounds of phosphorus;
- (e) to No. 2 should be added among the processes likely to induce anthrax infection, all loading and unloading or transport of merchandise of any kind;
- (f) silicosis with or without pulmonary tuberculosis and the industries or processes involving the risk of this infection should also be added to the list.

Finally, the Committee would also hope that the Government will examine the possibility of including in the list of occupational diseases an explicit reference to the direct consequences of poisoning caused by arsenic and benzene (Nos. (iv), (vii) and (viii) of No. 1 of the list attached to Regulation No. 34 of 1969).

[The Government is requested to provide a detailed report on the period ending 30 June 1990.]

Haiti (ratification: 1955)

The Committee notes that the Government's reports contain no reply to its previous comments. However, it notes with interest that the International Labour Office has conducted a number of technical co-operation missions in Haiti and that, in the reports it prepared

for the Government, it recommended that a detailed statistics programme be implemented (protected persons, beneficiaries, benefits, receipts, expenditure). In this connection, the Committee notes the Statistical Yearbook for 1987-88 of the Office of Industrial Accidents, Sickness and Maternity (OFATMA). The Committee hopes that, with ILO technical assistance, the Government will be able to report separately on the cases of occupational diseases and that it will be in a position to provide other information on the application of the Convention, in practice, particularly statistics of the number of workers employed in the trades, industries and processes in the schedule to Article 2 of the Convention, the cases of sickness reported and the sums paid by way of compensation, in accordance with Point V of the report form adopted by the Governing Body on this Convention.

[The Government is asked to report in detail for the period ending 30 June 1991.]

Mauritius (ratification: 1964)

The Committee notes with satisfaction that item 6 of the First Schedule to the National Pensions (Industrial Injuries) Regulations, 1979 has been amended by Notice No. 28 of 1986 to include, in accordance with Article 2 of the Convention, the nitro- and amino-derivatives of benzene in the list of poisoning due to benzene or its homologues.

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

New Zealand (ratification: 1938)

In reply to the comments that the Committee has been making for a number of years, the Government restricts itself to indicating that there has been no change in its position since the last report. The Government, however, is currently examining the possibility of ratifying the Employment Injury Benefits Convention, 1964 (No. 121), in view of the legislation that it plans to adopt on 1 April 1991. Until then any action would be premature.

The Committee notes this statement with interest. In view of the time that has passed since the ratification of this Convention and the absence in the national legislation of a schedule of occupational diseases and corresponding activities, as laid down in Article 2 of the Convention, the Committee hopes that the above ratification will come about in the near future. It requests the Government to supply information on any progress achieved in this respect.

[The Government is asked to report in detail for the period ending 30 June 1991.]

Suriname (ratification: 1976)

The Committee regrets to note from the reply of the Government to its earlier comments that the list of occupational diseases established by section 25 of Decree No. 145 of 1947, as amended by Ordinance of 24 November 1975, has not yet been amended. It also observes that the general revision of the legislation on employment injury announced previously by the Government has not yet taken place. It notes however that the above-mentioned section 25 of Decree No. 145 of 1947 will be taken into consideration when the legislation is revised. The Committee therefore again expresses the hope that the revision of the legislation on employment injury benefits will shortly take place and that the list of occupational diseases established by section 25 of Decree No. 145 of 1947, as amended, will be completed so as to include among the activities likely to cause anthrax infection (section 25(c)) the "loading and unloading or transport of merchandise" in general, as provided by the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: Brazil, Comoros, Greece, Mauritius, Papua New Guinea, South Africa, Turkey.

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

**Convention No. 45: Underground Work (Women), 1935**China (ratification: 1936)

Further to its previous comments, the Committee has noted with satisfaction the adoption of the Regulation of 21 July 1988 relating to the working conditions of female employees and workers, section 5 of which prohibits their being assigned to underground work in mines.

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In addition, requests regarding certain points are addressed directly to the following States: Brazil, Guinea-Bissau, Haiti, Zimbabwe.

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

**Convention No. 50: Recruiting of Indigenous Workers, 1936**

Requests regarding certain points are being addressed directly to the following States: Ghana, Saint Lucia.



**Convention No. 52: Holidays with Pay, 1936**Central African Republic (ratification: 1964)

The Committee notes that the Government's report contains no new information in reply to its previous comments. It must therefore repeat its previous observation which read as follows:

With reference to its earlier comments, the Committee notes with regret that no progress has so far been made in giving effect to Article 2 of the Convention. It recalls that section 129(2) of the Labour Code provides that the length of service entitling workers to holiday can be of up to two or two-and-a-half years in the case of an individual contract or collective agreement, whereas under Article 2 of the Convention, every person to whom this Convention applies is entitled after one year of continuous service to an annual holiday with pay of at least six working days. It also recalls that in 1980 a draft Decree was drawn up with the assistance of the ILO, providing for the amendment of section 129 of the Code so that persons covered by the Convention may benefit from a minimum holiday with pay every year. In its last report, the Government indicates that the draft, which has again been updated, is still before the competent legislative authorities. The Committee trusts that the draft will be adopted in the very near future, in accordance with the Government's assurances.

[The Government is asked to supply full particulars to the Conference at its 77th Session.]

Côte d'Ivoire (ratification: 1961)

The Committee notes with regret that, for the second consecutive year, the report submitted by the Government is merely a copy of the report communicated in 1986 concerning which the Committee made the following observation in 1987 and 1988:

The Committee has been drawing the Government's attention for many years to the fact that section 108, subsection 2, of the Labour Code (under which collective agreements or individual employment contracts may provide for a period of up to 30 months of actual service to give entitlement to the holiday) is in conflict with the provisions of Articles 2 and 4 of the Convention. In its latest report the Government transmitted draft legislation prepared within the framework of the revision of the Labour Code which would amend section 108 by deleting subsection 2. The Committee notes this information with interest and expresses the hope that measures to bring national legislation into full conformity with the Convention will be adopted in the very near future.

The Committee expresses the hope that in its next report the Government will be able to indicate the measures that have been taken to ensure that all workers are entitled to an annual holiday with pay



of at least six working days, as laid down in Article 2 of the Convention.

[The Government is asked to supply full particulars to the Conference at its 77th Session.]

Myanmar (ratification: 1954)

The Committee notes with regret that no progress has yet been made concerning the adoption of appropriate legislative measures in order to give full effect to the Convention as regards some points which have been raised in its comments since 1957. The Committee must once again urge the Government to take the necessary steps to bring the legislation into conformity with 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 supply full particulars to the Conference at its 77th Session.]

Ukrainian SSR (ratification: 1956)

Article 2, paragraph 1, of the Convention. With reference to its previous observations, the Committee notes with satisfaction that section 80 of the Labour Code has been supplemented by a provision under which, for each year of work, an annual holiday of at least six working days must be taken at the latest within the year following the acquisition of the entitlement to holiday, thereby bringing the legislation into conformity with this provision of the Convention.

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

Finland (ratification: 1947)

Article 3 of the Convention. Further to its previous observations, the Committee notes with satisfaction that under section 71 of the Decree on the manning of vessels and the competency of ship

personnel (No. 250 of 16.3.84), exceptions to officers' competency requirements are allowed only in cases of force majeure.

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In addition, requests regarding certain points are being addressed directly to the following States: Brazil, Denmark, France, Ireland.

### 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 provisions which would ensure the application of the Convention. It also takes note with interest of the direct contacts which took place in May 1989 between the representatives of the Director-General of the ILO and the Government. 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 noted 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 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, such 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 supply full particulars to the Conference at its 77th Session and to report in detail for the period ending 30 June 1990.]

Tunisia (ratification: 1970)

In reply to the Committee's previous comments the Government indicates in its report that the services of the Ministry of Transport are currently working on the preparation of draft legislation to amend certain sections of the Maritime Labour Code in order to bring the national legislation into harmony with the Convention. While noting this information, the Committee can only once again express the hope that this draft text will be adopted in the near future and that it will give full effect to Articles 4 (medical care) and 5 (payment of wages in the event of sickness (in conjunction with Article 11 of the Convention)). The Committee requests the Government to supply information on any progress achieved in this respect.

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

Peru (ratification: 1962)

1. In its previous comments, the Committee noted the observations made in December 1987 by the "Sindicato Marítimo de Tripulantes y Defensa en el Trabajo al Servicio de CPVSA" to the effect that insured workers could not receive medical treatment because of the non-payment of the financial contributions to the sickness insurance institutions by the enterprise "Compañía Peruana de Vapores SA".

In its report, the Government refers to section 34 of Legislative Decree No. 22482 of 27 March 1979, according to which the insurance benefits shall be granted by the Peruvian Institute of Social Security (IPSS) even if the employer has not paid its financial contributions, in which case all the costs incurred by the Institute shall be recovered by legal action from the employer.

While noting this information, the Committee would be glad if the Government would supply in its next report information on the practical implementation of this provision of the legislation regarding medical benefits, in particular with regard to the observations made by the above-mentioned organisation, so as to give full effect to Article 3, paragraph 1, of the Convention.

The Committee also requests the Government to indicate the measures taken or contemplated in order to ensure that in practice employers (as well as workers) share in providing the financial resources of the sickness insurance scheme, in conformity with Article 8 of the Convention.

2. The Committee takes note of the Government's statement in the report to the effect that there has been no modification of the

national legislation, but that the Peruvian Institute of Social Security has taken note of the Committee's previous comments in respect of Article 3 of the Convention which does not authorise the provision of medical treatment to be subject to any qualifying period. It can but reiterate its hope that the Government will take the necessary measures in order to abolish any qualifying periods regarding medical benefit so as to bring the national legislation into full conformity with the Convention on this point.

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

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

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

##### Sierra Leone (ratification: 1961)

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

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

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

**Convention No. 62: Safety Provisions (Building), 1937**Algeria (ratification: 1962)

In its previous observation, the Committee noted the adoption of Act No. 88-07 of 26 January 1988 respecting occupational health, safety and medicine, which establishes the general framework for the prevention of occupational risks, and noted that it was still necessary to adopt special regulations on safety in the building and public works sector.

In reply, the Government indicates in its last report that two texts issued under the above Act are on the point of being enacted, namely a draft Decree concerning general provisions for health and safety at work (which deals with the aspects connected to the prevention of falls and periodical verifications) and a draft Decree respecting occupational medicine. Five other draft decrees are near completion, one of which relates to specific provisions for the building and public works sector, and another to inter-enterprise health and safety committees in the building and public works sector.

The Committee takes due note of this information. It also notes that, according to the statistics provided by the Government with its last report, the number of industrial accidents remains fairly high in the building and public works sector, which clearly indicates the urgent need to adopt specific regulations on safety in this sector. Since the Government refers to texts which have been in the process of being drafted for a number of years, the Committee expresses the hope that the necessary regulations will be adopted as soon as possible in order to give effect to the provisions of the Convention.

[The Government is asked to report in detail for the period ending 30 June 1990.]

Central African Republic (ratification: 1964)

1. For a number of years, the Committee has been drawing attention to the need to adopt legislation to give effect to the provisions of the Convention.

In its previous observations, the Committee noted that a draft Decree had been prepared as a result of the direct contacts with the competent government departments which took place in 1978 and 1980, but that the draft had not yet been adopted. In its last report, received in June 1988, the Government indicates that owing to the far-reaching changes in the country's institutions, the announced drafts have been withdrawn and again submitted to the competent authorities, that they are now before the above-mentioned national authorities as part of the legislative process leading to adoption and that the Government will inform the ILO in due course of any new developments in the situation.

In the absence of any further information on measures which may have been taken to give effect to the Convention which was ratified more than 25 years ago, the Committee again draws attention to the need to adopt specific provisions to ensure the safety of workers in the building industry, in accordance with the following provisions of

the Convention: Article 7, paragraphs 1, 2, 5 to 8 (construction, use and inspection of scaffolds), Article 8, paragraphs 1(c) and 2(a) and (b) (standards for construction and maintenance of platforms), Article 9, paragraph 2 (suitable precautions when persons are employed on a roof), Article 10, paragraphs 3 to 5 (adequate lighting of all workplaces; precautions to prevent danger from electrical equipment; rules regarding stocking of material), Article 12, paragraph 2 (periodical examination of chains and similar devices), Article 13, paragraph 2 (prescription concerning the age of persons in control of hoisting machines or giving signals to operators), Article 14, paragraphs 1 to 3 (safe working load to be ascertained and plainly marked), Article 16 (use of personal safety equipment), Article 17 (prompt rescue of persons working in proximity to any place where there is a risk of drowning), Article 18 (prompt first-aid treatment of all injuries sustained during the course of work).

The Committee trusts that a text giving effect to these provisions will be adopted in the very near future and that the Government will provide a copy.

2. Articles 4 and 6. The Committee notes the Government's statement in its report that a group of engineers and technical experts coming under the Ministry of Public Works is responsible, in collaboration with labour inspectors, for monitoring the application of safety provisions in the building industry, as required by Article 4 of the Convention. Furthermore, with regard to Article 6, which provides that statistical information on the number and classification of accidents in the building industry shall be communicated to the ILO, the Government indicates in its report that the Labour Department has no reliable statistics on the subject at present.

In these circumstances, the Committee trusts that the Government will shortly provide more detailed information on the practical activities of the group of engineers and technical experts and of the labour inspectorate with regard to the monitoring of compliance with safety provisions in the building industry, indicating the accidents reported and measures taken.

[The Government is asked to report in detail for the period ending 30 June 1990.]

#### 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:

Further to its previous comments concerning the need to bring section 42 of Order No. 10281 of 2 June 1965 into conformity with Article 13, paragraph 2, of the Convention (which requires that a minimum age be fixed for the operation of hoisting machines or for giving signals), the Committee noted from the last report that no progress had been made. The Government has repeated that it intends to publish the Order drafted during the direct contacts in 1979, once the new Labour Code has been adopted. The Committee trusts that the Government

will do everything possible to ensure that real progress is made and that this Order will be adopted in the very near future.

The Committee again requests the Government to communicate with its next report the statistical information requested under Article 6 of the Convention.

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

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

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

### **Convention No. 64: Contracts of Employment (Indigenous Workers), 1939**

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

### **Convention No. 65: Penal Sanctions (Indigenous Workers), 1939**

A request regarding certain points is being addressed directly to Saint Lucia.

### **Convention No. 67: Hours of Work and Rest Periods (Road Transport), 1939**

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

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

Algeria (ratification: 1962)

Further to its previous comments, the Committee notes with satisfaction that the Inter-Ministerial Order of 15 December 1984, respecting the provision of food to seafarers, deals with the quantity, nutritive value, quality and variety of food, in accordance with Article 5, paragraph 2(a), of the Convention. Certain other matters are being taken up in a direct request.



Panama (ratification: 1971)

1. Articles 2(d) and 12 of the Convention. Further to its previous observations, the Committee has noted with satisfaction the publication of the Study Guide for Ratings (Cooks and Stewards). It hopes future reports will give further details of the research and information activities undertaken in relation to food and catering on board ship, in conformity with the Convention.

2. Whilst various questions as to ships' cooks are being considered under Convention No. 69, the Committee would be glad if the Government would in addition deal with the following matters also referred to previously:

Article 1. The Committee notes the Government's policy of minimising the exceptions to the Convention; exceptions made are said to concern, amongst others, coasters. Since these are covered by the Convention, so long as they are sea-going (and even if they are under 500 GRT or built before 1971), the Committee hopes the Government will now indicate how far the application of the Convention to them is in practice ensured.

Article 2(a) and Article 5(2)(a). The Committee notes the Government's indication that Resolution No. 603-04-62-ALCN of 16 June 1988 concerning certification of seafarers is a first step in promoting provisions as to the quantity, nutritive value, quality and variety of food and water supplies on board ship. It trusts further steps will soon be taken to ensure the legislation required in this respect by the Convention, and that the next report will include details.

Article 3. The Committee notes with interest the indication that ensuring the co-operation of shipowners' and seafarers' organisations is one of the aims of the current IMO/UNDP project (PAN 86/008) concerning the maritime sector in Panama, although the project document transmitted does not refer to this point. It notes also that the shipowners' attitude to both inspections and corrective measures has been positive. The Committee hopes progress will now be made in obtaining such co-operation, as required by the Convention, and that details will be supplied.

Article 10. The Committee notes the annual reports for 1985-87 of the Panama Bureau of Shipping attached to the Government's report. It trusts that such reports will in future be issued as soon as practicable each year and made available to all concerned, including the ILO.

Article 11. The Committee hopes the next report will include details of all measures relating to the training and refresher courses required by the Convention.

Peru (ratification: 1962)

1. Further to its previous observation, the Committee notes the Government's reply to the earlier communication of the Maritime Trade Union of Crews in the Service of the Peruvian Steamship Company, referring to certain problems in the hygiene of food and water supplies. The Union had stated in its comments in December 1987 that



drinking water tanks were rusty and in a poor condition, not being properly maintained, so that 90 per cent of crews suffered stomach complaints; they also referred to generally poor conditions of hygiene and infestation by vermin. The Government states in its report received February 1990 that the comments of the Union are unfounded. The Government states that appropriate action is always taken under the law - requiring corrective measures and if necessary imposing fines - when such questions arise.

2. The Committee has noted with interest the provisions of Supreme Decree No. 012-77-SA of 1977 concerning the quality and handling of food and water supplies (Article 5(1) of the Convention), and the arrangement of the catering department (Article 5(2)(b)). It is again referring to certain matters in a direct request.

\* \* \*

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

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

Peru (ratification: 1962)

Further to its previous observations, the Committee notes the Government's indication that its comments will be taken into account in the current revision of legislation. The Committee recalls that for several years it has been referring to the absence of provisions to apply the Convention. It hopes the next report will indicate the measures taken to give effect to the Convention.

The Committee is again referring to certain aspects of the Government's earlier draft legislation in a direct request.

\* \* \*

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

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

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

Peru (ratification: 1962)

The Committee notes the information supplied by the Government in reply to the observations made in March 1988 by the Fishermen's Federation of Puerto Supe concerning the rates of the contributions payable to the fishermen's social security and benefits fund (*Caja de beneficios y seguridad social del pescador*). According to this organisation the contribution rates would be 7.5 per cent as far as

the fishermen's pension scheme is concerned (5 per cent payable by the shipowners and 2.5 by the fishermen) whereas this rate would be 9 per cent (6 per cent payable by the employers and 3 per cent by the employees) as far as the pension scheme for other workers is concerned.

The Committee wishes to recall that where the seafarers' pension scheme guarantees old-age pensions at the level prescribed by paragraph 1(a) of Article 3 of the Convention, this instrument does not provide for rules pertaining to financing of the scheme, other than those provided for in paragraph 2 of Article 3, under which "seafarers collectively shall not contribute more than half the cost of the pensions payable under the scheme".

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

#### Tunisia (ratification: 1970)

With reference to its previous comments, the Committee trusts that the draft Order which, according to the Government's report, is now being prepared by the departments of the Ministry of Transport, will soon be adopted and that it will specify, in accordance with the Convention, the nature of the medical examination for seafarers (Article 4) and the period of validity of the medical certificate (Article 5).

\* \* \*

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

### **Convention No. 74: Certification of Able Seamen, 1946**

#### Portugal (ratification: 1952)

1. In its previous observations, in the light of comments made by the General Confederation of Portuguese Workers, the Committee referred to the requirement of Article 1 of the Convention that any person engaged on a vessel as an able seaman must hold the relevant certificate of qualification. It noted that, whilst the Convention does not apply to fishermen as such, where a seafarer on a fishing vessel has to carry out duties in the deck department corresponding to those of an able seaman, the conditions laid down in Article 2 apply.

The Committee now notes that section 18 of the revised regulations - Decree No. 251 of 1989 - specifies that a seafarer on fishing vessels (marinheiro-pescador) has competence to perform deck duties, and may be certificated after following the corresponding qualification course. The Committee recalls the Government's earlier indication that in revising the regulations it would take the Committee's comments into account. It therefore once more requests the Government to indicate the measures taken or proposed to ensure

that the Article 2 requirements as to minimum age, prior sea service in the deck department and the passing of an examination are observed in respect of this category of seafarer.

2. The Committee notes that, under section 12 of the revised regulations, certification as able seaman (*marinheiro*-first class) is possible after, amongst other things, completion of a seafarers' training course. However, there appears to be no provision as to the passing of an examination, as there was in section 56 of the earlier legislation now repealed (Decree No. 45969 of 1964). The Committee would be grateful if the Government would indicate how it is ensured that the requirements in this respect of Article 2(2)(c) and (5) of the Convention are now met.

\* \* \*

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

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

Dominican Republic (ratification: 1973)

With reference to its previous comments, the Committee recalls that, for a number of years, the Government has indicated its intention to ensure the application of the Convention by adopting either a Minors' Code or draft regulations under Book IV, Chapter 2, of the Labour Code concerning the work of young persons, similar to the one drawn up during the direct contacts mission undertaken in 1980.

The Committee notes from the Government's last report that no progress seems to have been made with regard to either of the above points. It none the less notes the Government's statement that it fully intends to adopt the necessary measures as rapidly as possible. The Committee is therefore bound to reiterate its previous comments and to request the Government once again to take the necessary measures to give effect in particular to the following provisions of the Convention: Article 2, paragraphs 1 and 4 (thorough medical examination for employment and specification of the authority competent to issue the document certifying fitness for employment); Article 3 (medical supervision up to the age of 18 years); Article 4 (annual medical examination up to the age of 21 years in occupations that involve high health risks); Article 6 (vocational guidance, physical and vocational rehabilitation of children and young persons found by medical examination to have physical handicaps or limitations); Article 7 (supervisory measures for ensuring the strict enforcement of the Convention).

The Committee trusts that the Government's next report will provide appropriate replies to the Committee's repeated observations. Furthermore, it would be grateful if the Government would indicate the decisions taken by virtue of paragraph 3 of Article 1 (definition of the line of division which separates industry from agriculture, commerce and other non-industrial occupations), and provide, as soon

as they are available, extracts of reports of the labour inspection services and general indications on the manner in which the Convention is applied, as requested in the report form (Part V).

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Bolivia, Nicaragua, Peru, Turkey.

**Convention No. 78: Medical Examination of Young Persons  
(Non-Industrial Occupations), 1946**

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

**Convention No. 79: Night Work of Young Persons  
(Non-Industrial Occupations), 1946**

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

**Convention No. 81: Labour Inspection, 1947**

Bahamas (ratification: 1976)

With reference to its previous comments, the Committee notes the Government's statement to the effect that the Convention is applied by custom and practice and that no progress has yet been made to adopt legislative measures to give effect to its provisions. The Committee trusts that appropriate legislation will be adopted in the near future.

Articles 20 and 21 of the Convention. The Committee notes that no report on the activities of the inspection services has yet been drawn up. Recalling the importance that it attaches to annual inspection reports, the Committee requests the Government to take the necessary measures to ensure that these reports, containing information on the subjects set out in Article 21, are published and transmitted to the ILO within the time-limits set forth in Article 20.

[The Government is asked to supply full particulars to the Conference at its 77th Session.]

Bangladesh (ratification: 1972)

Articles 20 and 21 of the Convention. The Committee notes with regret that no progress has been made with regard to publication of the annual reports on the work of the labour inspection services. It

trusts that the Government will not delay in taking the necessary measures to ensure that these reports containing, in particular, statistical data on the points listed at Article 21 are published, placed at the disposal of the persons concerned and transmitted to the International Labour Office within the period laid down by Article 20.

Barbados (ratification: 1967)

Article 20 of the Convention. The Committee notes the annual report of the Department of Labour for 1983. It hopes that in future annual reports will be published and transmitted to the ILO in the time-limits set forth in Article 20.

Bolivia (ratification: 1973)

Article 5 of the Convention. The Committee notes that no specific measures have yet been taken to give effect to this provision of the Convention. It recalls that, as early as 1984, the Government informed the Conference Committee that it had taken the necessary steps to give statutory effect to the practice of co-operation between the various inspection services on the one hand, and between the inspectors and the employers and workers on the other. The Committee hopes that these measures will be taken shortly.

Article 6. The Committee notes from the Government's report that the Labour Inspection Regulations which, inter alia, guarantee stability of employment to labour inspectors and makes them independent of changes of government and of improper external influences, have been approved by Ministerial Resolution No. 346/87 of 26 November 1987, but that they are not yet in force. It trusts that these Regulations will soon be adopted, and requests the Government to provide a copy of them.

Articles 10, 11 and 16. With reference to its previous comments, the Committee notes the information supplied by the Government, to the effect that owing to the budgetary restrictions prompted by the economic crisis it has not been possible to increase the number of labour inspection staff and that there has so far been no improvement in the working conditions of inspectors. It hopes that the Government, in accordance with its assurances to the Conference Committee in 1984, will take certain measures to remedy the difficulties, so as to enable labour inspectors to perform their duties effectively.

Articles 20 and 21. The Committee notes with regret that since the ratification of the Convention, no reports on the work of the labour inspection services have yet been published. Recalling the importance it attaches to the publication of annual inspection reports, the Committee can only urge the Government once again to take all the necessary measures to give effect to these Articles of the Convention. It hopes that in future, in accordance with the repeated assurances of the Government, annual reports containing information on

all the subjects listed at Article 21 will be published and transmitted to the ILO within the time-limits set forth in Article 20.

[The Government is asked to supply full particulars to the Conference at its 77th Session.]

Central African Republic (ratification: 1964)

Article 11, paragraph 2, of the Convention. With reference to its previous comments, the Committee notes from the Government's report that a draft text is to be prepared to ensure that labour inspectors are reimbursed for any travelling and incidental expenses which may be necessary for the performance of their duties. The Committee hopes that this text will be adopted shortly and asks the Government to include information on any progress made in this respect in its next report.

Articles 20 and 21. In the comments it has been making since the ratification of the Convention, the Committee has drawn the Government's attention to the obligation to publish and transmit to the ILO, in accordance with the provisions of Article 20, annual general reports on the work of the inspection services containing, in particular, detailed information on all the subjects listed in Article 21. While noting the Government's statement that all the necessary arrangements have been made for such reports to be transmitted regularly to the ILO, the Committee notes with regret that no reports have yet been received. It trusts that, in future, annual inspection reports will be published and transmitted to the ILO within the time-limits laid down in Article 20.

[The Government is asked to supply full particulars to the Conference at its 77th Session.]

Chad (ratification: 1965)

Articles 10, 11 and 16 of the Convention. With reference to its previous comments, the Committee notes from the information supplied by the Government that, despite a number of recent improvements in the application of these Articles of the Convention, the problem of material means and qualified staff has not been solved. It trusts that the Government will do its utmost to increase labour inspectorate staff and provide them with the necessary material means (suitably equipped offices and necessary transport facilities) so that all the duties conferred on inspectors, and in particular visits of inspection to workplaces, may be discharged under better conditions.

Article 12, paragraph 2, and Article 13, paragraph 2(b). For many years, the Committee has been drawing the Government's attention to the need to empower inspectors, on the one hand to decide whether or not they should notify the employer of their presence at the workplace and, on the other, to make or have made orders requiring measures with immediate executory force in the event of imminent danger to the health or safety of the workers. In its report, the Government indicates that a committee has been established to revise the Labour and Social Welfare Code with a view to bringing national

legislation into conformity with these Articles of the Convention. In this connection, the Committee recalls that in its 1987 report, the Government stated that the Code had already been revised with the assistance of the ILO and would shortly be adopted. In view of this fact, the Committee can only urge the Government once again to ensure that the necessary measures are taken to secure compliance with the Convention on the above points without delay.

Articles 20 and 21. The Committee reiterates the hope that the Government will be in a position to ensure that, in future, annual inspection reports are drawn up containing information on all the subjects listed under Article 21. It trusts that these reports which are essential at both national and international levels to an assessment of the practical results of the activities of the inspection services, will be published and communicated to the ILO within the period fixed in Article 20.

Colombia (ratification: 1967)

Articles 20 and 21 of the Convention. With reference to its previous comments, the Committee notes that under section 57(9) of Decree No. 1422 of 1989 concerning the restructuring of the Ministry of Labour and Social Security, the General Inspection Directorate is responsible for collecting, processing and analysing information on inspection work at national and regional levels. Accordingly, the Committee hopes that it will be possible for annual reports on the activities of the inspection services containing detailed information on all the subjects listed at Article 21 to be published and transmitted to the International Labour Office within the period laid down at Article 20.

The Committee is also addressing a direct request to the Government concerning the application of Articles 15(c) and 16 of the Convention.

Dominican Republic (ratification: 1953)

The Committee takes note of the information supplied by the Government in its report. It notes in particular the decision to set up a national labour inspection system combining the inspection services for industry, commerce, services and agriculture, with a sufficient number of labour inspectors to secure the effective discharge of the duties of the inspectorate, taking into account the provisions of Article 10 of the Convention.

Furthermore, in this new system, appropriate measures are to be taken to ensure effective co-operation between the inspection services on the one hand and other government services and public or private institutions engaged in similar activities, employers and workers or their organisations and duly qualified technical experts and specialists on the other, in accordance with the provisions of Articles 5 and 9.

The Committee requests the Government to keep it informed of any developments in this respect. It also asks the Government to transmit



the document to which it refers in its report (Annex I, which was not appended to the report), containing a description of the structure and functions of the inspection services.

Article 6. With reference to its previous comments, the Committee notes that no progress has been made with regard to the adoption of the statute for the civil service to which the Government has been referring for many years. It trusts that the Government will take the necessary steps to ensure that appropriate measures are taken shortly to give effect to this Article of the Convention. In this connection, the Committee notes the information provided by the Government, to the effect that, should the draft statute for the civil service not receive approval, the adoption of legislative measures within the national labour inspection system is being considered, to guarantee labour inspectors stability of employment and independence in the exercise of their functions, by means of an adequate definition of the legal status and the establishment of appropriate conditions of service for these public servants.

Article 13, paragraphs 2(b) and 3. The Committee notes with regret that legislative measures providing labour inspectors with the right to make or have made orders requiring measures with immediate executory force in the event of imminent danger to the health and safety of workers have not yet been adopted. The Government states that the Bills drafted in 1977 and 1980 to give effect to these provisions of the Convention are still being examined. The Committee hopes that these Bills will be adopted without delay.

Article 14. The Committee has been drawing the Government's attention for many years to the fact that the labour inspectorate must be notified not only of occupational accidents, but also of cases of occupational disease. It hopes that the necessary measures to ensure the application of this Article of the Convention will be adopted very shortly, in accordance with the Government's assurances.

Article 20 and 21. In reply to the Committee's previous comments, the Government indicates that the annual inspection reports containing all the information required by Article 21 will be published within a reasonable period and transmitted to the International Labour Office. The Committee must again recall that these reports must be published within a period not exceeding 12 months after the end of the year to which they relate. It hopes that the International Labour Office will shortly receive the annual inspection reports for 1983-88.

[The Government is asked to supply full particulars to the Conference at its 77th Session.]

#### Finland (ratification: 1950)

With reference to its previous observation the Committee notes from the Government's report that municipal labour protection inspection was placed under central Government and the labour protection administration was transferred from the Ministry of Social Affairs and Health to the Ministry of Labour. As a result the personnel of the labour protection districts increased which should



intensify the supervision and increase the frequency of inspection visits in the sectors most susceptible to accidents.

The Committee also noted the comments of the Finnish Employers' Confederation (STK) and the Central Organisation of Finnish Trade Unions (SAK) concerning the labour protection supervision. It requests the Government to provide with its next reports detailed information in this respect.

#### Guinea (ratification: 1959)

Article 13, paragraph 2, of the Convention. With reference to its previous comments, the Committee notes with satisfaction that, under section 173 of the Labour Code of 1988, in the event of serious and imminent danger to the health or safety of the workers, the labour inspector can require measures with immediate executory force in order to eliminate the danger.

Articles 20 and 21. The Committee notes with regret that for many years, the International Labour Office has received no report on the work of the inspection services. It trusts that the Government will take appropriate steps to ensure that, in future, annual inspection reports containing information on all the subjects listed under Article 21 are published and transmitted to the International Labour Office within the period laid down by Article 20.

#### Haiti (ratification: 1952)

Articles 10, 11 and 16 of the Convention. With reference to its previous comments, the Committee notes with interest, from the Government's report, that over recent months the number of inspectors has been increased, new vehicles have been put at their disposal and working conditions have been improved, which should result in the regular inspection of an increasing number of workplaces. It requests the Government to supply detailed information in its next report on the staff of the labour inspection service, the number of workplaces liable to inspection and the number of workplaces inspected during the period covered by the report.

Article 14. The Committee notes the Government's statement that it will be possible to notify the labour inspection services of occupational diseases as soon as the early detection procedure has been established that is planned within the context of the reform of the Occupational Accidents, Sickness and Maternity Insurance Office (OFATMA). The Committee hopes that this reform will be made in the near future and requests the Government to supply information on any progress achieved in this connection.

Articles 20 and 21. The Committee recalls the importance that it attaches to the publication of inspection reports and hopes that the Government will take the necessary steps to ensure that in future annual reports of a general nature, which include detailed information on all the subjects set out in Article 21, are published and transmitted to the ILO within the time-limits set forth in Article 20.

Iraq (ratification: 1951)

Article 20 of the Convention. The Committee notes with regret that no reports on the activities of the inspection services have been transmitted to the ILO since 1974. While noting from a communication of the Government that a report has been published, it is bound to recall that annual reports on the work of the inspection services must be published within 12 months from the end of the year to which they relate and transmitted to the ILO within three months of publication. The Committee trusts that, in future, the time-limits laid down in this Article of the Convention will be respected.

[The Government is asked to supply full particulars to the Conference at its 77th Session.]

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:

Referring to its earlier comments the Committee notes with interest from the Government's report that the Safety, Health and Welfare at Work Bill, 1988, was introduced into Parliament. It expresses the hope that this Bill which, according to previous information given by the Government will ensure, inter alia, the application of Article 14 (in conjunction with Article 21(f) and (g)) of the Convention, will be adopted very shortly.

Article 20 of the Convention. 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. It hopes that in the future the requirements of this Article will be observed.

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

Italy (ratification: 1952)

The Committee notes with interest the information supplied by the Government in reply to its previous observations. It is addressing a direct request to the Government on a number of points concerning the application of Articles 5 and 21 of the Convention.

Jamaica (ratification: 1962)

Article 13, paragraphs 2(b) and 3, of the Convention. In answer to the comments that the Committee has been making for many years, the Government states yet again that the Factories Act will be reviewed in an effort to determine what provisions should be included in order to empower factory inspectors to require measures with immediate executory force in the event of imminent danger to the health and safety of workers. The Committee can only urge the Government to

ensure that measures are taken without delay to give effect to these provisions of the Convention.

Article 14. With reference to its earlier comments, the Committee notes that section 65 of the Mining Act and regulation 11 of the Mining (Safety and Health) Regulations, provide for notification of occupational accidents in mines. It also notes that the question of the promulgation of legislation requiring notification of occupational diseases is being taken up with the competent authority; it requests the Government to provide information on any progress made in this regard with its next report.

Articles 20 and 21. The Committee notes with regret that since 1973 no report on the work of the inspection services has been received by the International Labour Office. Recalling the importance that it attaches to annual inspection reports, the Committee asks the Government to take the necessary measures to ensure that, in future, these reports, containing detailed information on all the subjects listed at Article 21, are published and transmitted to the International Labour Office within the period laid down in Article 20.

[The Government is asked to provide full particulars to the Conference at its 77th Session.]

Japan (ratification: 1953)

Article 16 of the Convention. With reference to its previous observation, the Committee notes with interest the information supplied by the Government to the effect that, during the course of 1987 and 1988, the staff of the inspectorate was increased and other measures will be taken to strengthen the inspection services with the objective of providing effective supervision of legal provisions in the highest possible number of workplaces. It requests the Government to indicate in future reports any new measures that have been adopted in this respect.

Jordan (ratification: 1969)

Article 12, paragraph 1(a), (b) and (c)(iv), of the Convention. With reference to its previous comments, the Committee regrets to note that no progress has yet been achieved in the adoption of the draft new Labour Code which, according to the Government's repeated assurances, should give effect to these provisions of the Convention (the right of inspectors to enter freely workplaces liable to inspection and to take or remove for the purposes of analysis samples of materials and substances used or handled). It trusts that the Government will not fail to take the necessary measures so that the draft Code giving effect to these provisions of the Convention is adopted in the very near future.

Article 13. In reply to the Committee's previous comments, the Government states that by virtue of the powers with which he is entrusted, the administrative governor has the right to close workplaces in which workers are exposed to danger. The Committee hopes that the new Code will contain provisions giving inspectors the

right to make or have made orders requiring all the necessary measures to safeguard the health and safety of workers.

Article 14. The Committee notes that section 34 of the Labour Code which is currently in force provides for the notification of industrial accidents to the Department of Labour. It hopes that the new Code will also make it obligatory to give notification of occupational diseases.

[The Government is asked to supply full particulars to the Conference at its 77th Session.]

Libyan Arab Jamahiriya (ratification: 1971)

Articles 20 and 21 of the Convention. Having examined the brief report on the activities of the labour inspection department of the Public Service Secretariat for the Municipality of Tripoli for 1986-87 and 1988 transmitted by the Government, the Committee notes that it contains none of the information required by Article 21 of the Convention. Recalling the comments it has been making for many years and the assurances given by the Government at the Conference in 1988, the Committee expresses the hope that the Government will take the necessary steps to ensure that, in future, the obligations deriving from these Articles of the Convention are fully respected. It therefore trusts that annual inspection reports covering the whole national territory and containing information on the work of the labour inspection services, including the statistics on the subjects listed under Article 21, will be published and transmitted to the International Labour Office within the time-limits established by Article 20.

[The Government is asked to supply full particulars to the Conference at its 77th Session.]

Malawi (ratification: 1965)

Articles 20 and 21 of the Convention. With reference to its previous comments, the Committee notes with regret that no progress has yet been made with regard to the publication of annual inspection reports. However, it notes from the report communicated by the Government in 1988, that it is planned to include the information and statistics provided for in Article 21 of the Convention in the Ministry of Labour's annual statistical bulletin. The Committee trusts that the Government will not fail to take the necessary steps to ensure that annual reports on the work of the inspection services are published and communicated to the International Labour Office 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:

Article 3 of the Convention. With reference to its previous comments, the Committee notes with concern that there has been no progress in separating manpower offices from labour inspection offices in order that labour inspectors may perform their main duties more efficiently. On the contrary, in the light of the information provided by the Government, the situation appears to be deteriorating: whereas in 1986 such a separation existed in three regions (Nouakchott, Zouérate and Nouadhibou), in 1989 it exists only in Nouakchott.

The Committee takes note of the Government's indications that, given the important economic activity and the volume of labour in the various regions, the separation of manpower offices and labour inspection offices is not essential in all regions and that the labour inspectorate carries out its tasks to the satisfaction of the social partners, but expresses the hope that the Government will make every effort to create conditions to enable labour inspectors to perform effectively the tasks set out in Article 3, paragraph 1, of the Convention. In this context, the Committee asks the Government to refer also to its direct request in which a certain number of points are raised concerning the application of Articles 10, 11, 16, 20 and 21 of the Convention.

Article 6. The Committee notes with regret that the draft statute of the labour inspectors and supervisors, to which the Government has been referring for a number of years, has not yet been adopted. It trusts that this statute will shortly be promulgated and will ensure the inspection staff stability of employment and make them independent of any change of government and improper external influences.

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

Mauritius (ratification: 1969)

Article 12, paragraph 1(c)(iv), of the Convention. With reference to its previous comments concerning the powers of inspectors to take or remove for the purpose of analysis, samples of materials and substances used or handled at the workplace, the Committee notes with satisfaction that section 14(1)(j) of the Occupational Safety, Health and Welfare Act of 1988 gives effect to this provision of the Convention.

Articles 20 and 21. The Committee notes with interest the information contained in the report of the Ministry of Labour and Industrial Relations, Women's Rights, and Family Welfare for the period 1981-87 and the statistics of the present number of filled and vacant posts in the factory inspectorate and labour inspectorate. It

hopes that, in future, the reports concerning the activities of the labour inspection services will be published annually.

Mozambique (ratification: 1977)

Articles 11, 12, paragraph 1(c)(iv), 14, 15 and 16 of the Convention. The Committee notes with regret that there has been no progress towards the adoption of the draft Regulations for the labour inspectorate which, according to the assurances given by the Government in its previous report, were to give full effect to the above provisions of the Convention. It trusts that the Government will not fail to take the necessary measures to ensure that the draft Regulations are adopted shortly.

Articles 20 and 21. In reply to previous comments made by the Committee, the Government states that, for technical reasons, it has not been possible to publish the annual inspection report. The Committee expresses the hope that these difficulties will shortly be overcome and that, in future, the annual reports on the work of the labour inspection services containing information on all the subjects listed at Article 21 will be published and transmitted to the International Labour Office within the period laid down by Article 20.

Nigeria (ratification: 1960)

Articles 20 and 21 of the Convention. While noting the statistical data provided by the Government, the Committee must draw the Government's attention once again to the obligation to publish a general annual report on the work of the inspection services including detailed information on the subjects listed under Article 21. It trusts that, in future, these reports will be published and transmitted to the International Labour Office within the period laid down at Article 20 of the Convention.

Pakistan (ratification: 1953)

The Committee notes that the Government's report has not been received. It is therefore bound to renew its previous observation, which read as follows:

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.

Articles 20 and 21, of the Convention. The Committee notes the consolidated annual reports on the working of labour laws for 1981,

1983 and 1984 and notes that information on the staff of the labour inspection service is not included (point (b) of Article 21). It hopes that, in future, inspection reports will be published and transmitted to the ILO within the time-limits set in Article 20 and that they will contain all the information provided for in Article 21.

Paraguay (ratification: 1967)

Article 13 of the Convention. The Committee notes Decree No. 20.814 of 25 March 1987 to establish the Directorate of Health and Safety of the Ministry of Justice and Labour. It notes that this Decree does not give effect to this Article of the Convention, under which labour inspectors should have the right to make or have made orders requiring any appropriate measures to eliminate risks to the health or safety of workers. The Committee trusts that the Government will take the necessary measures in the near future to give full effect to the provisions of this Article of the Convention.

Article 16. In reply to the Committee's previous comments, the Government states that workplaces are inspected regularly. In this connection, the Committee recalls that, in order to enable it to gain a precise idea of the extent to which this Article of the Convention is applied, it is indispensable for it to be provided with statistics concerning the frequency of inspection visits. It therefore once again requests the Government, either in the context of its report on the application of the Convention, or in the annual inspection report, to supply detailed information on the number of workplaces that have been inspected and the number of workplaces that are liable to inspection.

Articles 20 and 21. The Committee notes with regret that, since the ratification of the Convention, no inspection report has yet reached the ILO. It trusts that the Government will not fail to take the necessary measures to ensure that annual reports on the work of the inspection services, containing detailed information on all the subjects listed in Article 21, are published and transmitted to the ILO within the time-limits set forth in Article 20.

[The Government is asked to provide full particulars to the Conference at its 77th Session.]

Peru (ratification: 1960)

Articles 20 and 21 of the Convention. The Committee takes note of the information and the statistics concerning the activities of the labour inspectorate communicated by the Government in its report on the application of the Convention. However, it regrets to note that, since the ratification of the Convention, no inspection reports have yet been published. It trusts that, in accordance with the repeated assurances of the Government, appropriate steps will be taken without delay to ensure that annual inspection reports, containing detailed information on all the subjects listed in Article 21, are published



and communicated to the ILO within the time-limits set forth in Article 20.

[The Government is requested to supply full particulars to the Conference at its 77th session.]

Romania (ratification: 1973)

The Committee notes with regret that the Government's report supplied in October 1989 contains no reply to previous comments. It must therefore repeat its comments, which read as follows:

Article 15(c) of the Convention. The Committee requests the Government to indicate the provisions under which labour protection inspectors and specialised inspectors from the supervision corps of the various ministries must treat as absolutely confidential the source of any complaint bringing to their notice a defect or breach of legal provisions and must give no intimation to the employer or his representative that a visit of inspection has been made in consequence of the receipt of such a complaint.

Articles 20 and 21 of the Convention. The Committee must again stress the importance it attaches to well drawn up annual inspection reports which enable the practical results of labour inspection activities to be assessed at both national and international levels. It therefore trusts that the Government will not fail to take the necessary measures to ensure that, in future, reports containing precise information on all the points listed under Article 21 of the Convention are published and communicated to the ILO within the period specified by Article 20.

Senegal (ratification: 1962)

Article 21 of the Convention. The Committee notes with interest the information contained in the Note on labour statistics for 1988. It expresses the hope that, in future, it will be possible for the Note to be completed by a list of the laws and regulations relevant to the work of the inspection services and by statistics of occupational diseases (Article 21(a) and (g)).

Suriname (ratification: 1970)

With reference to its previous comments, the Committee notes that no progress has yet been achieved in giving effect to the provisions of Articles 14 (notification of cases of occupational diseases to the labour inspectorate) and 15(b) (obligation for inspectors not to reveal secrets) of the Convention. It hopes that appropriate measures to give effect to these Articles will be taken in the near future.

Articles 20 and 21 of the Convention. The Committee notes that the annual inspection report for 1987 provides statistics that mainly concern industrial accidents. It trusts that in future the reports will contain information on the work of the inspection services,



including statistics on all the subjects enumerated in Article 21, and that they will be published and transmitted to the ILO within the time-limits set forth in Article 20.

Uganda (ratification: 1963)

The Committee notes that, despite the assurances given by the Government in 1989 at the Conference Committee, the report on the work of the labour inspection services has not reached the International Labour Office. It is therefore bound to repeat its previous observation, which read as follows:

Articles 20 and 21 of the Convention. The Committee notes with regret that, since the communication in 1985 of the annual reports of the Ministry of Labour for 1977 and 1978, it has received no information on the activities of the labour inspection services. It trusts that the Government will not fail to take the necessary measures to ensure that, in future, annual inspection reports, containing all the information laid down in Article 21 of the Convention are published and communicated to the ILO within the time-limits set forth in Article 20.

[The Government is requested to supply full particulars to the Conference at its 77th Session.]

Yemen (ratification: 1966)

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

Articles 19, 20 and 21 of the Convention. With reference to its previous comments, the Committee notes from the Government's report that the periodical reports submitted to the central administration of labour inspection and occupational health and safety contain information on all the points listed under Article 21 of the Convention, but that the central inspection authority is unable to publish these reports annually owing to a lack of material means. In this connection, the Committee wishes to stress (as it has already done in paragraph 277 of its General Survey of 1985 on Labour Inspection and in its general observation of 1986) that, in cases where there are difficulties of a financial nature in the publication of an annual report, recourse to inexpensive methods of printing - for instance, roneoed or mimeographed inspection reports - should enable the requirements of the Conventions to be met, provided that the reports are widely disseminated among the authorities and administrations concerned and among workers' and employers' organisations and that they are placed at the disposal of all interested parties. The Committee hopes that the Government will take note of these suggestions and take the necessary steps to ensure that, in future, annual inspection reports are published

and transmitted to the ILO within the period laid down in Article 20 of the Convention.

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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, Austria, Bahrain, Bangladesh, Belgium, Belize, Burkina Faso, Burundi, Cameroon, Cape Verde, Colombia, Comoros, Costa Rica, Côte d'Ivoire, Cuba, Djibouti, Dominica, Ecuador, Egypt, France, Gabon, Ghana, Grenada, Guatemala, Guinea-Bissau, Guyana, Honduras, Italy, Jamaica, Kenya, Kuwait, Madagascar, Malaysia, Mali, Malta, Mauritania, Morocco, New Zealand, Niger, Panama, Portugal, Qatar, Rwanda, Sao Tome and Principe, Sierra Leone, Singapore, Solomon Islands, Spain, Sri Lanka, Sudan, Swaziland, Switzerland, Syrian Arab Republic, United Republic of Tanzania, Tunisia, Turkey, United Arab Emirates, United Kingdom, Uruguay, Venezuela.

Information supplied by India and Saudi Arabia 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)

1. 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).

2. The Committee is continuing, in a direct request, its examination of the compatibility of section 13(1)(e) of the Trade Unions Act (Registrar's discretion to refuse to register a trade union) with Article 2 of the Convention.

3. The Committee notes that since the change in regime in September 1987, several pieces of major legislation have been promulgated during the period under review. It requests the Government, (a) to confirm that the Internal Security Decree No. 32 of June 1988 is currently suspended; (b) to explain the effects of the Sunday Observance Decree No. 13 of May 1989 (section 4 of which, inter alia, restricts assemblies and processions on Sundays anywhere except in dwelling-houses) on the right of employees to associate in unions under Article 2; (c) to explain the effect of the Public Service Decree No. 8 of January 1988 (section 5 of which empowers a government-appointed "co-ordinating committee" to advise statutory bodies in setting the terms and conditions of employment of their employees) on Articles 3 and 4 of the Convention (which, respectively, promote the conclusion of collective agreements and consultation of workers' organisations on labour-related issues).

4. The Committee also observes that a draft Constitution was announced in September 1988. It requests the Government to supply a

copy of this document and to advise on developments towards its adoption. In particular, the Committee requests clarification as to whether this draft is intended to repeal the Protection of Fundamental Rights and Freedoms of the Individual, Decree No. 6 of January 1988.

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

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

Algeria (ratification: 1963)

The Committee takes note of Presidential Decree No. 89-18 of 28 February 1989 concerning the publication in the Official Gazette of the Republic of Algeria of the revised Constitution adopted by referendum on 23 February 1989.

The Committee notes with interest the amendments to the Constitution which, as the Government stresses in its last report, give statutory effect to the separation of the Party and the State, prepare the way for political pluralism by allowing associations of a political nature to be created, free social and occupational organisations from all accountability in respect of their actions and procedures for the appointment of their officers by excluding any references to the Party and the National Charter.

However, the Committee notes that, while the new Constitution introduces far-reaching political reforms, the status of the right to organise is still not consistent with the requirements of the Convention.

For many years, the Committee's comments have addressed the question of the single-trade-union system instituted by the legislation in favour of the General Federation of Algerian Workers (UGTA), which is designated as the sole central workers' organisation and which has the exclusive right to set up the trade union structure nationwide (Ordinance No. 71-75, 16 November 1971; Ordinance No. 75-31, 29 April 1975; Act No. 78-12, 5 August 1978). The new Act (No. 88-28) of 19 July 1988 respecting the procedures for the exercise of the right to organise incorporates, rather than repealing the former provisions mentioned by the Committee and has therefore not changed the situation in this respect. Although the right to organise is set forth in the new Constitution in the chapter on the rights and freedoms of citizens, this right can only be exercised to the advantage of the UGTA (sections 9 and 10 of Act No. 88-28). Furthermore, the UGTA has exclusive competence in respect of the establishment, organisation, suspension and dissolution of trade union structures (sections 7 and 8 of Act No. 88-28). In addition, section 6 of Act No. 87-15 of 21 July 1987 respecting associations allows the administrative authority to dissolve an association, which is contrary to Articles 2 and 4 of the Convention. Lastly, in the private sector,

competence for collective bargaining is conferred on trade unions established by the UGTA by sections 29 and 31 of Act No. 88-28, and exercise of the right to strike, without the permission of the trade union authorities, is liable to sanctions (section 30 of Act No. 88-28; sections 15 and 21 of Ordinance No. 71-75 of 16 November 1975).

The UGTA also retains its responsibility for the cultural, social and political training of workers (section 4 of Act No. 88-28).

The Committee therefore reminds the Government once again that a trade union monopoly system, when it is established by law, is not consistent with Article 2 of the Convention whose purpose is to enable workers to set up organisations of their own choosing, and Article 8 which provides that the law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in the Convention. The principle of Article 2 is not intended as an expression of support for either trade union unity or trade union pluralism. However, the Convention implies that pluralism should at least be possible in all cases. Furthermore, under Article 4 of the Convention, workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority.

The Committee notes the Government's statement in its last report to the effect that the highly relevant comments made by the Committee of Experts on the provisions of the laws and regulations to give effect to the Convention are a focal point of the discussions taking place in the context of the current constitutional and political reforms. The Committee trusts that these reforms will be pursued with a view to repealing the restrictions imposed by the legislation on the right of workers to establish organisations of their own choosing provided for in Article 2 of the Convention, and the statutory provisions that are contrary to Article 4. The Committee requests the Government to guarantee that all workers have the right, if they so wish, to establish trade unions of their own choosing, outside the established trade union structure, and that such unions shall not be liable to be dissolved by the UGTA or by an administrative decision, and to provide information on the measures taken or under consideration to bring the legislation into conformity with this Convention which was ratified many years ago.

#### Burkina Faso (ratification: 1960)

The Committee notes with interest that according to the reply to its previous observation, to the effect that, within the context of the measures taken to reinstate the teachers dismissed after the 1983 strike, teachers who have reached the retirement age and their dependants, have recovered their pension rights.

With reference to its previous comments and to the observations of the Trade Union Confederation of Burkina Faso (CSB) dated 21 April 1987, the Committee takes note of Zatu No. AN VI-008/FP/TRAV dated 26 October 1988 containing the general conditions of service of public employees, transmitted by the Government with its report.

The Committee notes that the new Zatu repeals Zatu No. AN IV-011 BIS CNR-TRAV of 25 October 1986, which was the subject of its comments and the observations of the CSB. The provisions of the former Zatu,

which referred to criteria of political allegiance for public employees and were liable to endanger the principles of trade union freedom, have not been reproduced in the Zatu of 26 October 1988. Public servants now enjoy the civil liberties guaranteed to all citizens of Burkina Faso and, accordingly, they enjoy the right to organise, the right to bargain collectively and the right to strike (sections 47, 52 and 53 of Zatu No. AN VI-008/FP/TRAV). However, public servants remain under the obligation to respect the revolutionary order, and several advisory bodies, including the Disciplinary Council, are composed of representatives of the Government, the trades unions and the revolutionary committees (sections 6, 7, 9 and 36 of Zatu No. AN VI-008/FP/TRAV).

The Committee also notes that the probationary period for public servants lasts for one year, that it may be extended once for an identical period (section 24) and that the right to strike does not apply during the trial period (section 27).

As regards the obligation for public servants to respect the revolutionary order, the Committee recalls the importance it attaches to the relationship between civil liberties and trade union rights. It stresses in particular that special importance attaches to the right to express thoughts freely as an integral part of the freedom which trade union organisations, including those of public servants, should enjoy and that the public authorities must refrain from any interference which would restrict this right or impede the lawful exercise thereof (Article 3 of the Convention).

The Committee asks the Government to provide information on the application, in practice, of these provisions, so that it can ascertain their scope.

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

With reference to its previous comments and the comments made in the Committee on the Application of Standards of the International Labour Conference in June 1989, the Committee notes with interest that a direct contacts mission went to the Central African Republic from 8 to 12 October 1989 and that it met representatives of the Government, the workers and the employers in order to examine questions of fact and of law respecting the application of the Convention.

The Committee notes the information gathered by the mission and the report written by the Government concerning the application of this Convention.

The Committee recalls that its comments concerned the following points:

- the general suspension since September 1981 of all trade union activities, which is known as the "trade union truce";
- the dissolution by administrative authority, on 16 May 1981, of the General Union of Central African workers (UGTC);
- the fate of the property of the 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 by-laws of two central trade union organisations, the Central African Confederation of Free Unions (CCSL) and the Central African Workers' Federation (FCT), which were deposited in 1981, have not yet been approved by the authorities.
- the incompatibility with the requirements of the Convention of section 4 of Act No. 88/009 of 19 May 1988, which refers to the single trade union system, and the requirement that persons be employed in an occupation in order to be members of a trade union or to stand for trade union office.

#### 1. Trade union truce

The Committee notes with interest, from the information gathered during the mission, in October 1989, that the trade union truce was lifted by the Act of 19 May 1988 respecting freedom of association and protection of the right to organise. It notes that the government authorities stated that trade union activities had been maintained during the trade union truce and that workplace agreements had been signed between employers' and workers' delegates in the private sector. The Committee notes that the mission was able to examine some of these agreements.

The Committee also notes that the government authorities have indicated that the National Confederation of Central African Workers (CNTC) had received the approval of the authorities in May 1981 before the imposition of the trade union truce and that its Secretary-General had represented Central African workers at the International Labour Conference until June 1988. They explained that the CNTC did not represent Central African workers at the Conference in June 1989, since the Act of 19 May 1988 had been adopted and it was necessary to re-establish first-level trade unions. They also indicated that the CNTC desired to hold a congress in the near future in order to pronounce its voluntary self-dissolution in the spirit of solidarity with the workers.

The Committee notes that the mission was able to observe on the spot that first-level trade unions were actually in the process of re-establishing themselves, and that model rules for trade unions had been distributed in the month of May 1989 in the various sectors, both public and private, and that the general assemblies of trade unions had been held and were continuing to be held and that trade unions had deposited their rules with the Minister of the Interior, under the terms of section 7 of the 1961 Labour Code, as of August 1989. At the time that the mission was in the country, 24 first-level trade unions had deposited their rules.

Since then, trade union sources report that 35 first-level trade unions have obtained a registration receipt and that a trade union co-ordinating committee, which has been in operation since 5 January 1990 and is composed of representatives of the various trade unions,



is responsible for organising trade union activities until the new trade union central organisation is set up in the coming months.

2. The question of the Central African Confederation of Free Unions (CCSL) and the Central African Workers' Federation (FCT)

The Committee notes that the information gathered during the mission confirmed that these two confederations, which, according to the allegations before the Committee on Freedom of Association (Case No. 1040), had been established at the Government's initiative, had been affected by the trade union truce of September 1981 and that they had not been approved by the authorities. Both the government authorities and workers' representatives stated that the executives of the above central organisations had been made up of persons who did not represent groups of first-level trade unions or federations and that in consequence these central organisations only consisted of theoretical groupings. Both also agreed that, since the lifting of the trade union truce, the officers of these central organisations have not made themselves known and that some of them have died. The workers' representatives that were met by the mission stated that at the present time the trade union movement wishes to re-establish itself from first-level trade unions.

3. The fate of UGTC property

The Committee notes from the information collected by the mission, that this question remains controversial. According to the Government authorities, the funds deposited in the accounts of the UGTC have been spent by officers of the trade union which had formally belonged to that confederation. A complaint has been lodged in the courts by the Government against the ex-trade union officers, but the courts have not yet given a decision. The workers' representatives met by the mission explained that when the UGTC was dissolved by administrative authority, the premises of the Labour Exchange were occupied by gendarmes without judicial authorisation. The gendarmes expelled the trade union employees who were there and then made a thorough search of the premises. Subsequently, police officers replaced the gendarmes in guarding the premises. Property such as typewriters, files, blackboards and archives were plundered or had disappeared, while the UGTC's account at the National Central African Deposit Bank (BNCD) was blocked. Furthermore, the mission noted that the Labour Exchange is now destroyed. The ex-Secretary-General of the UGTC indicated that trade unionists wished to preserve some of the property from destruction and that the ex-leaders of the UGTC wished to report how they had managed this property at the next trade union congress.

The Committee also notes, from the information gathered by the mission, that the President of the High Court of Bangui indicated that the order dissolving the UGTC on 16 May 1981 was issued by the then President of the Republic. As regards the distribution of the property of the dissolved trade union, according to the President of the Court, the authority to take a decision in this respect belongs to

the congress of the delegates of first-level trade unions. In this case, since the dissolution of the UGTC was the result of a clear act of force, the President of the Court did not know the destination of the goods, property and bank assets which it owned, since the act of dissolution gave no information in this connection.

The Committee recalls, in this connection, that suspension by administrative authority of trade union organisations is a grave limitation of trade union rights, since it does not give them the right of defence, which can only be guaranteed by normal judicial procedure. It also emphasises that any searching of trade union premises should only be possible when a warrant has been issued for the purpose by the regular judicial authority when it is satisfied that there is good reason to presume that such a search will produce evidence for criminal proceedings under the ordinary law and provided the search is restricted to the purpose for which the warrant was issued. In the Committee's opinion, the public authorities should not therefore intervene abusively in trade union premises and the assets of dissolved trade unions should be distributed among the members of the dissolved organisation or transferred to the organisation which succeeds it, it being understood that this expression means the organisation which continues the aims for which the first organisation was set up and does so in the same spirit.

4. Bringing Act No. 88/009 of 19 May 1988  
on freedom of association and protection of  
the right to organise into conformity with  
the requirements of the Convention

The Committee notes that a preliminary draft of a Bill, prepared by the ILO, was communicated by the mission to the Central African Government in order to bring the provisions of sections 1, 2 and 4 of the Act into conformity with Articles 2 and 3 of the Convention. This draft text amends the legal provisions respecting the requirement that persons belong to the occupation as employees in order to be members of a trade union and to stand for trade union office (sections 1 and 2 of the new Act).

It also amends the provisions respecting the single trade union system which are set out in the legislation (section 4 of the new Act).

The Committee notes that, during the direct contacts mission, the government authorities noted the suggestions put forward by the ILO and contained in the draft text. They indicated that they would examine the effect that should be given to it but they recalled that the Legislative Assembly had adopted a text which, in their opinion, does not impose a single trade union system. This text only provides that occupational trade unions, federations and confederations "may" and not "shall" group together in a single central trade union organisation. The Assembly had given its opinion and the people had been able to present their point of view on this subject.

Since then, the Government stated in a communication dated 17 February 1990, that the preliminary draft of the Bill provided by the mission has been transmitted to the competent authorities, which



considered that Act No. 88/009 of 19 May 1988 is in conformity with Convention No. 87 and that no amendments were necessary to it. The Government also confirms, in its written communication, the establishment of several first-level trade unions, the approval of 39 internal rules and regulations and the effective exercise of trade union activities. It indicates, however, that to its knowledge no trade union co-ordinating committee has been approved officially.

The Committee, while noting these interesting developments as regards the effect given to this Convention in practice, recalls that by virtue of Articles 2, 5 and 6 of the Convention, workers' organisations have the right to establish federations and confederations without previous authorisation and that by virtue of Article 7, the acquisition of legal personality shall not be made subject to conditions of such a character as to restrict the application of the Convention.

The Committee therefore once again invites the Government to re-examine its position as regards the need to amend sections 1, 2 and 4 of the Act on freedom of association and protection of the right to organise of 1988 in order to guarantee all workers, without distinction whatsoever, the right to establish trade unions of their own choosing outside the single central trade union organisation referred to in the law, if they so wish.

[The Government is asked to provide full particulars to the Conference at its 77th Session.]

#### Colombia (ratification: 1976)

The Committee notes the Government's reports and the information supplied by a Government representative to the Conference Committee in 1989.

The Committee notes the assurances given by the Government in its last report concerning the creation of a special committee to examine the whole of the labour legislation, which is now outdated in the light of its comments, in order to bring the legislation into conformity with ILO Conventions. It also notes the creation of a national labour council, a tripartite body that is to play an advisory role in the planned reform of the labour legislation (Decree No. 2393 of 20 October 1989).

The report indicates, however, that an in-depth reform requires detailed examination and analysis within the context of the political, economic and social situation of the country.

In this connection, the Committee recalls the divergencies existing between the national legislation and the Convention:

(1) The establishment of workers' organisations (Article 2 of the Convention):

- the requirement of 75 per cent of members to be Colombian to establish a trade union, whereas it should be possible for workers to establish organisations of their own choosing without distinctions on grounds such as nationality (section 384 of the Labour Code).

(2) Interference in the internal administration of trade unions (Article 3 of the Convention):

(a) By-laws, financing, administration and meetings:

- ministerial approval of amendments to the rules of first-level unions, federations and confederations (sections 369, 370 and 425 of the Labour Code and section 15 of Resolution No. 4 of 1952);
- regulation by Resolution No. 4 of 1952 of questions that should be governed by the rules of the unions rather than by the law (quorum of the general assembly, composition of the executive bodies, electoral procedure, etc.);
- supervision of the internal management and meetings of unions by public servants (section 486 of the Labour Code and section 1 of Decree No. 672 of 1956), strict rules for trade union meetings (Decree No. 2655 of 1954) and presence of authorities at general assemblies convened to vote the calling of a strike (section 444(2) of the Labour Code).

(b) Election and suspension of trade union officers:

- the requirement that persons be Colombian for election to trade union office (section 384 of the Labour Code and section 18(a) of Resolution No. 4 of 1952);
- the election of trade union officers to be submitted for approval by the administrative authorities (section 21 of Resolution No. 4 of 1952 and sections 10 to 13 of Decree No. 1469 of 1978);
- the suspension, with loss of trade union rights, of trade union officers who have been responsible for the dissolution of their unions (section 380(2)(b) and (4) of the Labour Code);
- the requirement that persons belong to the trade or occupation in order to be considered eligible for election to trade union office (sections 388(1)(c) and 432(2) of the Labour Code; section 18(c) of Resolution No. 4 of 1952 for first-level trade unions; and section 422(1)(c) of the Labour Code for federations).

(3) Right of trade unions to further and defend the interests of the workers (Article 3 of the Convention):

- prohibition on trade unions from taking part in political matters (sections 12 and 50(a) of Resolution No. 4 of 1952; section 16 of Decree No. 2655 of 1954; and section 379(a) of the Labour Code);
- prohibition on trade unions from holding meetings on political matters (section 12 of Resolution No. 4 of 1952);
- prohibition on federations and confederations from calling a strike (section 417(1) of the Labour Code);
- prohibition of strikes not only in the essential services in the strict sense of the term, but also in a very wide range of public services which are not necessarily essential (section 430 of the Labour Code and Decrees Nos. 414 and 437 of 1952, 1543 of 1955, 1593 of 1959, 1167 of 1963, 57 and 534 of 1967);
- the power of the Minister to terminate a dispute lasting more than 40 days and the power of the President to

terminate a strike which is affecting the interests of the national economy and to submit disputes to compulsory arbitration (Decree No. 939 of 1966, as amended by Act No. 48 of 1968, and section 4 of Act No. 48 of 1968);

- the prohibition of strikes combined with administrative penalties (the suspension of the legal personality of trade unions) and sentences of imprisonment in cases where the state of emergency has been declared (Decree No. 2004 of 1977, Decrees Nos. 2200 and 2201 of October 1988);
- the automatic dismissal of trade union officers who have intervened or participated in an illegal strike (section 450(2) of the Labour Code).

(4) Suspension and dissolution by administrative authority (Article 4 of the Convention):

- the withdrawal or suspension by administrative authority of the legal personality of a trade union in the event of violation of the provisions respecting trade unions (section 380 of the Labour Code) or in the event of a strike that is declared illegal (section 450(2) of the Labour Code).

In its report and at the Conference Committee, the Government supplied information on a number of points:

1. As regards the procedure for granting legal personality to trade unions and for approving their rules, a matter on which the Workers' Central Organisation of Colombia (CUT) submitted comments, the Government once again indicates that the authorities place no obstacle on the establishment of trade unions. On the contrary, over the past three years, two new federations have been registered, legal personality has been recognised for 359 trade unions and 294 cases of amended rules have been approved. The Government also reports its intention to speed up the processes in consultation with trade union leaders.

The Committee, in the same way as the Committee on Freedom of Association, which, in its examination of Case No. 1434 (259th Report, approved by the Governing Body at its November 1988 Session), noted many cases of the refusal of applications for the recognition of legal personality and long delays in the process, once again requests the Government to take practical measures to speed up the procedure and reduce the formalities.

2. The Committee notes that a Bill is to be submitted in the near future to the Congress of the Republic to amend section 379 of the Labour Code, which prohibits trade unions from intervening in political matters. It requests the Government to supply information on the development of the situation in this connection.

3. The Committee takes due note of the repeal of Decrees Nos. 2200 and 2201 of October 1988, which prohibited strike action under penalty of imprisonment.

The Committee notes that during a state of emergency the authorities avail themselves of such measures, as was the case in 1977 with the adoption of Decree No. 2004, which was repealed by the lifting of the state of emergency in 1982 (Decree No. 1674 of 1982), in 1985 and most recently in 1988, although Colombia has been under a state of emergency since 1984 (Decree No. 1038 of 1984).

The Committee wishes to draw the Government's attention to the fact that the prohibition of strikes constitutes a major restriction of one of the essential means that should be available to workers' organisations to defend their interests, that such measures should only be introduced in a situation of acute national crisis and then only for a limited period, and that penalties of imprisonment should not be imposed in the case of peaceful strikes (paragraphs 206 and 223 of the 1983 General Survey on Freedom of Association and Collective Bargaining).

4. As regards the compulsory arbitration machinery, the Government refers to Decree No. 939 of 1966, as amended by Act No. 48 of 1968, under which at any time during a strike a dispute may be referred to compulsory arbitration where the majority of the workers so decide after a ballot has been taken either at the decision of the workers or the Minister. The Committee recalls that by virtue of section 2 of the above Decree (which was not repealed by Act No. 48 of 1968) the Minister is empowered, at his own initiative, to terminate a dispute that has lasted more than 40 days by referring it to compulsory arbitration, and that this power is also conferred upon the President in certain circumstances under section 4 of Act No. 48 of 1968.

The Committee recalls once again that these provisions, which empower the authorities to terminate a strike by referring a dispute to compulsory arbitration, restrict the exercise of the right to strike. In the opinion of the Committee, the principle whereby the right to strike may be limited or prohibited should be confined to public servants acting in their capacity as agents of the public authority, to essential services - whether they are public, semi-public or private (i.e. those whose interruption would endanger the life, personal safety or health of the whole or part of the population) - or in a situation of acute national crisis, and then only for a limited period.

The Committee therefore requests the Government to take measures to confine the possibilities of resorting to compulsory arbitration to the circumstances mentioned above.

5. As regards the withdrawal or suspension by administrative authority of the legal personality of a trade union, on which the CUT has also commented, the Committee recalls that this measure may be imposed either in the event of continued violations of the provisions respecting trade unions (section 380(c) of the Code), or in the event of a strike being declared illegal (section 450), or under Decrees adopted during a state of emergency as a result of participating in strikes that have been declared illegal, the most recent of which date from October 1988.

The Committee notes that Decrees Nos. 2200 and 2201 of October 1988 have been repealed and notes the Government's statement that even in a state of emergency a trade union whose legal personality has been suspended can appeal through administrative channels, which has the effect of suspending the measures, or through the disputes procedure which may be accompanied by an appeal requesting the temporary suspension of the decision.

However, in the opinion of the Committee, it does not appear from the provisions of the Code of Labour Procedure respecting appeals

relating to strikes (sections 121 to 129) that an appeal against a decision to suspend the legal personality of a union due to an illegal strike has the effect of suspending such a decision. The Committee wishes to draw the Government's attention once again to paragraph 232 of its 1983 General Survey on Freedom of Association and Collective Bargaining where it states that the proper implementation of the principle set out in Article 4 of the Convention implies more than the existence of a legislative provision providing for the possibility of appealing against such decisions to the courts; decisions should not be permitted to take effect until a specified period of time has elapsed without any appeal being lodged or until they have been confirmed by the judicial authority. However, even a right of appeal to the courts does not always constitute a sufficient guarantee since, if the authority possesses discretionary power in reaching its decision, the judges can do no more than verify whether the law has been correctly applied. The judges should therefore be in a position to examine the substance of the case as well as the grounds for the dissolution or suspension of an organisation.

The Committee once again requests the Government to eliminate from the legislation any possibility of suspending or dissolving a trade union organisation by administrative authority, or at least to provide that the administrative decision does not take effect until the judicial authority has ruled on any appeal that may be made, even when such a decision has been taken in a situation of emergency. The Committee also notes the information supplied by the Government to the Committee on Freedom of Association (270th Report, Case No. 1477, approved by the Governing Body at its February-March 1990 Session) to the effect that the trade union organisations that had been subject to a suspension decision under section 1 of Decree No. 2201 of October 1988 recovered their legal personality when the penalties imposed through suspension expired in December 1989.

The Committee trusts that the revision of the legislation that has been announced will make it possible to achieve firm results as regards all the points that have been raised, and it requests the Government to supply detailed information on the work of the above special committee and the measures that have been taken or are envisaged in this respect. It recalls that the ILO is at the Government's disposal to assist it in its task of revising the legislation.

#### Congo (ratification: 1960)

The Committee notes with regret that the Government's report merely indicates that the question of harmonising the national legislation with the provisions of the Convention will be the subject of a national debate, the conclusions of which will be transmitted in due course.

In the absence of any indication as to whether the situation has evolved in the light of its comments, the Committee must again draw the Government's attention to the following points.

For several years, the Committee has been noting that the legislation establishes a system of trade union monopoly (section 173

of the Labour Code of 1975) reinforced by the check-off system instituted by law to the benefit of a single organisation designated by name.

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 Government's report for 1979 that this means the Congolese Trade Union Confederation. Furthermore, under Decree No. 73/167 MJT of 18 May 1973, the Congolese Trade Union Confederation receives a percentage of the basic monthly wage, which each worker in the country must pay as trade union dues. As the Committee pointed out earlier, this situation under the law conflicts with Article 2 of the Convention, which guarantees the freedom of workers to establish and join organisations of their own choosing, even if, as the Government has repeatedly stated, the single trade union system results from the common will of the workers and from political, economic and historical development, which the Government has merely confirmed.

The Committee indicated in its 1983 General Survey on Freedom of Association and Collective Bargaining, particularly in paragraphs 134, 136 and 137, that 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 pluralism must be possible in all cases. The Committee stresses 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 trusts that the national debate on the question of trade union monopoly instituted by law will prepare the way for the legislation to be revised to take account of the Committee's comments. The Committee recalls that the Government has already stated its intention to review the question of the institution of the system of deducting trade union dues at source for the Congolese Trade Union Confederation.

The Committee urges the Government to provide information on the measures taken or under consideration to guarantee that all workers have the right to set up trade union organisations of their own choosing outside the existing trade union structure, should they so wish, in accordance with the requirements of Article 2 of the Convention.

[The Government is asked to supply full particulars to the Conference at its 77th Session.]

#### Dominican Republic (ratification: 1956)

With reference to its previous comments, the Committee notes the Government's report and the written information that it supplied to the Conference Committee on the application of standards in June 1989 and the reply that it supplied to the comments of the General Confederation of Workers (CGT) and the Workers' Central "Clasistas" in January 1989.

The comments made by the Workers' Central "Clasistas" dealt mainly with the prohibition of unionising public employees (Act No. 56), employees in the State television channel (Act No. 126), workers in free trade zones and certain multinational enterprises, and particularly those established in the tourism and communications sectors. They also dealt with the massive dismissals of employees from the independent and decentralised sector and the sugar industry, and the cancellation of the registration of several trade unions between 1986 and 1988.

The comments made by the General Confederation of Workers (CGT) referred in particular to the refusal to register several trade unions (the Union of Agricultural Workers in the Rio Haina and Ozama Plantations, the United Union for the Free Zone of San Pedro de Macoris), the refusal to register certain trade union assemblies and the prohibition placed upon certain trade unions (in particular, the Union of Workers of the Valdesia-Santo Domingo Aqueduct) from joining confederations. They also dealt with the massive dismissals of workers and trade union officers to prevent them from forming unions.

In its reports, the Government indicates that the refusal to register the trade unions of the agricultural workers in the Rio Haina and Ozama plantations and the trade union assemblies is due to the non-observance of the legal requirements for this purpose. It adds that the authorities will register these trade unions once they have completed the legal requirements and that it has also recently registered the Union of Workers of the Valdesia-Santo Domingo Aqueduct, which conformed to these requirements. As regards the denial of the right to join a central trade union organisation for the Union of Workers of the Aqueduct, this was due not to the Government but to the result of a decision taken by the workers who enshrined this in their by-laws. The Government also explains that since the Union of Workers of the Aqueduct had already been registered, the Secretary of State for Labour could not accept the registration of a second trade union leadership covering the workers of a parallel trade union. Finally, the Government provides certain information regarding dismissals, which will be examined under Convention No. 98.

The Committee notes with regret that the Government itself admits that it has refused the registration of a trade union in a sector of activity on the grounds that another trade union had previously been legally registered. In the Committee's opinion, this refusal to register the second trade union constitutes on the part of the public authorities an action that is such as to limit the right of workers to establish unions of their own choosing outside the existing trade union structure, and impedes the legal exercise of this right. The Committee recalls that under the terms of Article 7 of the Convention the acquisition of legal personality by workers' organisations cannot be made subject to conditions of such a character as to restrict the application of the provisions of the Convention.

The Committee also recalls that for several years its comments have covered the following points:

- the exclusion from the scope of the Labour Code by virtue of section 265 of agricultural, agro-industrial, stock-raising or forestry enterprises employing not more than ten permanent workers continuously;



- 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 (in particular, the prohibition of all trade union propaganda or proselytism within public and municipal administrations or autonomous institutions of the State (Act No. 56) and the power of the Executive to dissolve by administrative procedures any associations which might be formed by public officials (section 13, Act No. 520));
- 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 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, which involves the resumption of work within 48 hours following the above notification);
- the prohibition of the right to strike in public utilities 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 of the Labour Code)

The Committee takes due note that the Government indicates once again that the provisions of section 265 of the Labour Code, which exclude from the scope of the Code agricultural workers in enterprises employing no more than ten workers, do not imply any restriction on their right to organise because they have the possibility of forming or joining occupational unions and because the minimum number of workers required for the formation of a union is 20.

The Committee also notes the Government's assurance that it will re-introduce into the legislature a Bill to repeal section 265 of the Code. The Committee requests the Government to supply information on any developments in the situation in this connection.

Furthermore, the Committee is of the opinion that the right of these workers to organise will be better guaranteed if the provisions protecting them against any act of anti-union discrimination are strengthened. The Committee therefore refers to its comment under Convention No. 98 on this point.



## II. Public officials and employees

The Government once again emphasises that in practice certain categories of public employees in decentralised, semi-independent or independent enterprises have established unions. It adds that in several centralised enterprises there already exist unions covering special categories of employees such as physicians, nurses and engineers, and that public officials and supporting staff in centralised enterprises can form associations in accordance with the special legislation covering them.

Finally, the Government states that it envisages the possibility of introducing certain specific restrictions into the national legislation on the right to organise of certain public officials involved in high-level management or decision-making, since such restrictions are not contrary to the provisions of Article 2 of the Convention, in accordance with the suggestion made by the Committee in its previous observation.

In this connection, the Committee recalls that it stated in its 1983 General Survey on Freedom of Association and Collective Bargaining (paragraph 131) that forbidding these persons to join trade unions representing other workers is not necessarily incompatible with the Convention, but only on condition they have the right to form their own organisations and 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 sector of activity are weakened by depriving them of a substantial proportion of their potential membership. The Committee also recalls that Acts Nos. 2059, 520 and 56 contain provisions restricting the right to organise of public officials and employees and it hopes that the planned measures will result in the amendment of these provisions so as to guarantee public officials and employees all the rights set out in the Convention.

## III. Restrictions concerning the right to strike

The Committee notes that the Government indicates that the competent authorities are currently examining the possibility of amending section 374(3) of the Labour Code so as to reduce the number of workers necessary for a strike to be declared to a simple majority of the workers in an enterprise. The Committee states once again that this must consist of a simple majority of the voters (excluding those workers not taking part in the vote) for this provision to be in conformity with the principles of freedom of association. The Committee also notes that the Government envisages removing transport in general from the list of public utilities. The Committee recalls in this connection that, under the terms of the legislation that is currently in force, the prohibition of strikes applies to other public services which are not necessarily essential as, for example, the sale of transport fuel and the retailing of foodstuffs in markets, and it invites the Government to amend the legislation so that these provisions are limited to strikes in the essential services, that is,

those services whose interruption would endanger the life, personal safety or health of the whole or part of the population.

The Government also states that it has noted the Committee's suggestion that the prohibition on political strikes be limited so that workers may come out on strike in protest against economic and social policies that they consider to be contrary to their interests, it being understood that the essential objective of unions should be to ensure the economic and social development and well-being of all workers while respecting the Constitution, the labour legislation and the internal security of the Republic.

Finally, as regards sympathy strikes, the Government states, with reference to Act No. 5915, that this type of strike is not prohibited in cases where the initial strike is legal.

While noting this information, the Committee recalls that section 1(2) of Act No. 5915 explicitly prohibits sympathy strikes without qualification. The Committee therefore requests the Government to envisage amending this provision, in order to set out in law the situation regarding sympathy strikes described by the Government. It also trusts that measures will be taken in the near future to raise the legal restrictions on the right to strike which are not compatible with the principles of freedom of association.

Furthermore, as regards the provisions of the Labour Code which make it possible to end a legal strike when a dispute is referred to the arbitration procedure at the initiative of one of the parties to the dispute (sections 374, 375, 636, etc.), the Committee recalls, in the absence of information on this point in the Government's report, that these provisions are such as to restrict the exercise of the right to strike which, in the opinion of the Committee, should only be limited or prohibited for public servants acting in their capacity as agents of the public authority, in the essential services in the strict sense of the term, or in a situation of acute national crisis and then only for a limited period.

The Committee notes once again that the Government limits itself to announcing its intention of amending the legislation. It once again urges the Government to bring its law and practice into conformity with the Convention that it ratified very many years ago and to supply detailed information in its next report on the progress achieved in this respect.

[The Government is asked to supply full particulars to the Conference at its 77th Session.]

#### Ecuador (ratification: 1967)

The Committee takes note of the Government's report and the discussions that took place in the Conference Committee in 1989.

The Committee notes that, at the Government's request, an advisory mission visited Ecuador from 27 November to 1 December 1989 to examine questions relating to the application of Conventions Nos. 87 and 98, among others. According to the mission report, the mission prepared jointly with the authorities of the Ministry of Labour and Human Resources drafts which would satisfy all the points raised by the Committee of Experts concerning freedom of association, and the

authorities undertook to submit these texts to the appropriate parliamentary committees. The Committee notes that, according to the Government's report, these drafts are to be submitted immediately to Congress with the support of and recommendation for adoption expressed by the Executive.

The Committee has been pointing out that the following provisions of the legislation are incompatible with the requirements of the Convention:

- the prohibition placed on public servants from setting up trade union (section 10(g) of the Civil Service and Administrative Careers Act of 8 December 1971), although they have the right to associate and to appoint their representatives (section 9(h) of this Act);
- the requirement 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 religious or political activities, 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 (7 June 1967) for the instigators of collective work stoppages and for those who participate in them;
- the lack of protection against acts of anti-union discrimination at the time of recruitment.

Furthermore, the Committee had noted the comments on the application of this Convention sent by the Ecuadorian Confederation of Class Organisations (CEDOC) in a communication of 22 January 1988. The CEDOC referred to a number of provisions which the Committee has already criticised, and pointed out that requirements not provided for in the legislation are imposed on public sector workers subject to the Labour Code, if they wish to establish trade union organisations (for example, that they must present work contracts and daily wage slips). In addition, the authorities make unnecessary observations and changes to the by-laws of incipient organisations and, according to the CEDOC, decisions concerning refusals to register are illegally delegated to officials of a lower category. Subsequently, on 13 April 1989, the CEDOC sent further comments stressing that General Clause 12 of the State's 1988-89 Budget obstructs collective bargaining. The Committee regrets that the Government has not replied in detail on these points.

The Committee requests the Government to inform it of progress in the passage of the drafts that have been submitted to Congress and expresses the hope that in its next report the Government will be in a position to indicate progress in the application of Conventions Nos. 87 and 98 and that it will send a detailed reply to the CEDOC's comments.

Gabon (ratification: 1960)

The Committee takes note of the new comments made by the Trade Union Confederation of Gabon (COSYGA), transmitted by the Government. It also takes note of the Statutes of the COSYGA.

The Committee recalls that its previous comments concerned the following points:

- the impossibility of establishing more than one union in a given occupation or a given region and the obligation placed on every workers' or employers' organisation to affiliate with the Trade Union Confederation of Gabon (COSYGA) or the Employers' Confederation of Gabon (CPG) (sections 173 and 174 of the Labour Code);
- the imposition of a trade union solidarity tax deducted each month by the employers for the COSYGA, the rate of 0.4 per cent of a worker's wage being fixed by decree (Act No. 13/80 of 2 June 1980 and Decree No. 9000882/PR/MFPTE);
- the imposition of compulsory arbitration, making it legally impossible to call a strike (sections 239, 240, 245 and 249 of the Labour Code) even though in practice strikes may be called without legal action being taken.

For several years, the Committee has been drawing the Government's attention to the fact that the legislation is not consistent with the Convention in that it provides that workers may establish only one union in a given occupation, that unions must affiliate with the COSYGA, the sole confederation, and that the solidarity tax is deducted for the sole confederation, designated by name.

The Government has consistently stated that the fact that this situation is confirmed in the law is the result of the wish of the workers and not of the will of the Government to interfere with the freedom of workers to set up unions of their own choosing in the future.

In its latest comments, the COSYGA reaffirms that trade union unity is the result of the wish of the workers and that the introduction of the trade union solidarity tax responds to the COSYGA's need for independence from extra-national trade unions, which used to subsidise the central trade union organisations, and that no discontent has been reported from workers. The COSYGA adds that it is not opposed to a trade union security clause being inserted in the general collective agreement but that certain elements, particularly the rates and variations of deductions at source, should not be the subject of negotiations.

While noting these statements, the Committee recalls that the obligation by law to affiliate to the COSYGA implies that trade unions must comply with the statutes of the single confederation; in this connection, an examination of the statutes of the COSYGA reveals that the organisation of the trade union movement, the activities of its various affiliates - provincial professional unions, provincial unions, national federations - are established by the single central trade union. The legislation therefore leaves the workers no other choice but to group together in the manner laid down by the Statutes

of the COSYGA, i.e. in a system of trade union unity, thereby impeding the emergence of any other structure.

The Committee once again draws the Government's attention to the fact that the Convention does not aim to make trade union pluralism compulsory, but it does imply that such pluralism should be possible in all cases. The legislation should therefore allow the workers, should they so wish, to establish trade unions of their own choosing outside the existing structure. With regard to union security clauses which, in the present context, reinforce trade union monopoly because they are instituted by law to the benefit of a single central trade union designated by name, the Committee recalls that, in order to be compatible with the Convention, they should be negotiated between the social partners, it being understood that the workers themselves, through their trade union organisations, determine the rates of trade union dues.

As regards the question of recourse to compulsory arbitration, the Committee recalls its previous comment to the effect that the right to strike is one of the means available to trade unions to further and defend the interests of their members (Article 10 of the Convention) and to organise their activities (Article 3). Restrictions or prohibitions on calling strikes should only be admissible in exceptional cases for workers in essential services in the strict sense of the term, namely services the interruption of which 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 (in this connection, see paragraphs 199 to 226 of the General Survey on Freedom of Association and Collective Bargaining of 1983, concerning the right to strike).

In its previous observation, the Committee noted that a general review of the Labour Code was being undertaken and that the Government requested the Committee to grant the necessary time to carry this out, particularly in view of the delicate nature of some of the points to be revised.

The Committee again expresses the hope that, as part of this review, it will be possible to amend the legislation to take account of the Committee's comments, and requests the Government in its next report to provide information on the measures taken in this respect.

#### Greece (ratification: 1962)

The Committee takes note of the Government's report and the written information submitted to the Conference Committee in June 1989.

The Committee recalls that its comments addressed the following points:

- procedures for the collection of trade union dues, selected from those provided for by Act No. 1264 of 1982 (section 6, subsections 2 and 3), i.e., a general collective agreement, an arbitration award or a provisional presidential decree;
- the need to draft and adopt legislation on the freedom of association and the protection of the right to organise of seafarers, who are excluded from the scope of Act No. 1264 of 1982 respecting freedom of association;

- the need to amend section 4 of Act No. 1365 of 22 June 1983 which contains excessive restrictions on the right to strike in state enterprises.

1. The Committee notes with satisfaction that section 4 of Act No. 1365, which provided that a strike would not be called in a state enterprise unless voted for by an absolute majority of the registered members of base-level trade union organisations, has been repealed by Act No. 1766 of 1989 (Official Gazette No. 61, Part a, of 4 April 1989); accordingly, the right to strike in state enterprises is governed by the general provisions of Act No. 1264 of 1982.

2. Collection of trade union dues. The Committee recalls that it has been addressing this question in its comments for several years. It was in 1985 that the Government requested the most representative organisations to make proposals on draft regulations for the collection of trade union dues, in accordance with Act No. 1264 of 1982.

In its last observation, the Committee noted that a draft presidential decree was to be adopted on the basis of the proposals made.

The Committee notes from the information supplied by the Government in its last report and to the Conference Committee in 1989, that the draft Presidential Decree could not be adopted owing to the latest proposals of the General Confederation of Labour of Greece (CGTG) calling for a provisional presidential decree to set a compulsory fixed amount of dues, which would deprive the parties concerned of the right to fix such an amount freely (as, for example, by collective bargaining).

In view of this fact, the Government requested the most representative trade union organisations to submit new proposals for another draft decree. The Government is still awaiting the proposals of the CGTG which has just elected a new administration and to which it addressed its request on 27 April 1989. As soon as it receives the proposals, the Government undertakes to adopt a presidential decree in order to settle this question conclusively.

While noting this information, the Committee again recalls that the Convention is not opposed to the existence of union security clauses that are freely negotiated between the workers and the employers. However, when the union security system ceases to be based on clauses freely agreed upon between workers' unions and employers but is imposed by the law itself, the right of workers to establish organisations of their own choosing is jeopardised, particularly where the law designates a specific trade union as benefiting from the system, or where the law establishes the system of compulsory trade union contributions in circumstances such that the same aim is achieved.

The Committee trusts that the question of the collection of trade union dues will be settled on the basis of clauses freely negotiated between workers' and employers' organisations. It requests the Government to keep it informed of developments in this respect.

3. Seafarers. The Committee notes that the comments of the Greek Shipowners' Union (EEE) and the Panhellenic Maritime Federation (PNO) on the Bill respecting the democratisation of the seafarers'

trade union movement have at last been received and are now being examined.

The Committee recalls that the problem of freedom of association for seafarers, who are excluded from Act No. 1264 of 1982 respecting freedom of association, has been the subject of its comments for several years. It again expresses the hope that legislation that is consistent with the Convention will be adopted in the near future to ensure that seafarers enjoy the rights laid down in the Convention.

#### Iceland (ratification: 1952)

The Committee takes note of the information provided by the Government in its report. It has also taken note of Case No. 1458, examined by the Committee on Freedom of Association in its 262nd Report, approved by the Governing Body at its February-March 1989 Session, and of the observations made by the Icelandic Federation of Labour (ASI), forwarded by the Government on 26 May 1989.

1. The observations of the ASI of 26 May 1989 and Case No. 1458 relate to the Act of 20 May 1988 which fixes workers' wage increases and prohibits strikes for a specified period and is therefore inconsistent with Conventions Nos. 87 and 98.

In its report, the Government does not reply to the ASI's observations of 26 May 1989, but indicates that it reserves the right to do so.

The Committee draws the attention of both the Government and of the ASI to the fact that the questions raised in Case No. 1458 and referred to by the ASI in its observations - suspension of collective bargaining for a specific period, failure of the discussions between the trade union organisations and the Government on the measures needed to deal with the economic situation - relate essentially to Convention No. 98. It therefore refers to the comments it addressed to the Government in 1989 in which it requested, inter alia, to be kept informed of developments in the situation.

The Committee would therefore be grateful if the Government would include its reply to the ASI's latest observations with its next report under Convention No. 98 so that they can be examined at the next regular review.

With regard to Convention No. 87, the Committee notes that the measures taken under the Act of 20 May 1988 were accompanied by a prohibition of strikes for a specified period.

The Committee asks the Government to state whether this prohibition has now been lifted as the period fixed by the Act of 20 May 1988, which, according to the information provided by the Government in Case No. 1458, was due to expire on 15 February 1989, has now elapsed.

#### Jamaica (ratification: 1962)

The Committee notes that the Government's report does not provide new information on the points raised in its previous observation.

The Committee recalls that, for several years, it has requested the Government to amend sections 9 and 10, paragraphs 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 so-called essential services (which are too broadly defined) and in other services if the strike is liable seriously to jeopardise the interests of the nation.

Since, in the Committee's opinion, the right to strike is one of the essential means which should be available to workers and their organisations to promote and defend their economic and social interests, 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 (see paragraphs 214 and 215 of the 1983 General Survey on Freedom of Association and Collective Bargaining).

Therefore, the Committee urges once again 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.

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

#### Japan (ratification: 1949)

The Committee notes the comments submitted by the Japanese Trade Union Confederation (JTUC-RENGO) on 4 January 1990 concerning the application of the Convention.

In a communication dated 23 February 1990, the Government indicated that it would forward its reply with its next report on the application of the Convention.

Consequently, the Committee will examine the comments made by the JTUC-RENGO in the light of the Government's observations at its next session.

#### Liberia (ratification: 1962)

The Committee takes note of the Government's report and of the information communicated during the direct contacts mission which took place from 10 to 19 May 1989.

The Committee notes with regret from the above information that there has been no change in the legislative situation, which has been the subject of its comments for many years. The revised draft of the Labour Code which has already been referred to several times and which was to eliminate the discrepancies between the national legislation and the Convention has not yet been adopted despite the Government's assurances to the Conference Committee in 1987.



The Committee once again recalls the need to amend or repeal Decree No. 12 of 30 June 1980 which prohibits strikes, section 4601-A of the Labour Practices Law which prohibits agricultural workers from joining industrial workers' organisations, and section 4102, subsections 10 and 11, of the Labour Practices Law which provides for the supervision of trade union elections by the Labour Practices Review Board. The Committee observes that these provisions are still in force and that they are contrary to Articles 2, 3, 5 and 10 of the Convention.

Furthermore, the Committee recalls that the right to associate of workers in state enterprises and the public service is still not recognised in the national legislation, despite the Government's assurances in previous reports that the Civil Service Act was to be amended in order to give statutory effect to the right of the workers in this sector to establish and join organisations of their own choosing, in accordance with Article 2 of the Convention.

However, in its previous observation, the Committee noted from the information furnished by the Government to the Conference Committee in 1987 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.

Accordingly, the Committee again urges the Government to take the necessary measures to amend its legislation in respect of the above matters which have repeatedly been the subject of its comments.

[The Government is asked to supply full particulars to the Conference at its 77th Session.]

#### Mauritania (ratification: 1961)

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

The Committee recalls that the divergencies between the national legislation and the Convention relate to the single-trade-union system established in the legislation and the prohibition of a strike where a collective dispute has been referred to compulsory arbitration, even where this does not affect an essential service in the strict sense of the term. For several years, the Committee has been asking the Government:

- to repeal the provisions of Act No. 70-030 of 23 January 1970 that amend certain provisions of Book III of the Labour Code;
- section 1: providing that persons carrying on the same occupation, similar crafts or allied trades associated with the preparation of given products or belonging to the same profession may establish only "one occupational association" per class of persons as defined above and that any worker or employer may freely join the trade union of his occupation;

- section 2: providing that that any natural person or physical entity may freely join the trade union of his occupation;
- the amendment of the provisions of Book IV of the Labour Code (as amended by Act No. 74-149 of 11 July 1974):
- sections 39, 40 and 45 empowering the Minister of Labour, where an objection to the recommendations of the Mediation Board has been notified, taking into account the circumstances and the effects of the dispute, to submit the dispute to compulsory arbitration;
- section 48 prohibiting a strike after a decision of the Minister to resort to arbitration.

1. As regards the question of the single-trade-union system, the Government stated to the Conference Committee in 1987 that nothing in the legislation prohibits unions from creating unions or confederations other than the Trade Union Federation of Mauritania since, although the legislation provides for only one trade union per occupation, those unions can in turn form other central trade union organisations. Furthermore, the Government adds that the current system is the expression of the wish of the workers and it is not for the Government to impose a different situation if the workers are satisfied with the current trade union structure.

While noting these statements, the Committee is once again bound to note that Book III of the Labour Code, as amended, by providing in section 1 that one occupational association may be established per occupation and, in section 22, read in conjunction with sections 1 and 2, that trade unions can only be established by occupation, does not permit workers or their base-level organisations to establish, respectively, organisations and federations of their own choosing, contrary to Articles 2, 5 and 6 of the Convention.

The Committee draws the Government's attention to the fact that the purpose of the Convention is not to express support either for the idea of trade union unity or for that of trade union pluralism. However, even in a situation where, at some point in the history of a nation, all workers have preferred to unify the trade union movement, they should, however, be able to safeguard their freedom to set up, should they so wish in the future, unions outside the established trade union structure, which is not permitted by the legislation when it establishes a single-trade-union system.

In its previous observation, the Committee noted that sections 226, 228 and 229 of the draft Labour Code of 1984 provided that persons carrying on the same occupation, similar crafts or allied trades may establish an occupational association, although the draft omitted to add, as the 1979 draft drawn up with the assistance of the ILO had provided, that any worker or employer must be able to join freely an association of his own choosing within his occupation.

It also referred to the difficulties in trade union life noted by the Committee on Freedom of Association in Case No. 1088 of 1982 which continued to exist.

The Committee therefore requests the Government to amend the legislation to enable workers who so wish, to freely establish and join associations of their own choosing, as set out in Article 2 of the Convention, which, as already indicated by the Committee, would contribute to finding a solution to the problems in question.

2. With regard to the prohibition on strikes after a dispute has been referred to compulsory arbitration, the Committee notes the Government's statement to the effect that strikes are not really a solution to the crucial problems of the social partners. According to the Government, consultation should prevail and recourse to strikes should only occur when the possibility no longer exists for the workers to obtain satisfaction for their legitimate claims. Referral to compulsory arbitration with the possibility of appeal should avoid recourse to strikes.

The Committee once again draws the Government's attention to the fact that the provisions of Book IV respecting the settlement of disputes, which are taken up in the draft Code of 1984 (sections 292, 293, 298 and 301), by empowering the Minister (after taking into account, *inter alia*, the circumstances and effects of the dispute) to submit the dispute to arbitration by the Labour Court (whose decision is without appeal except for the power of review on points of law), are such as to restrict the exercise of the right to strike, which should only be restricted or forbidden in the case of public servants engaged in the administration of the State or in essential services, in the strict sense of the term, that is those 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 envisaged to amend the legislation in order to limit restrictions on the right to strike to the cases mentioned above.

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 77th Session.]

#### Netherlands (ratification: 1950)

In a communication dated 6 February 1990 the Confederation of the Netherlands Trade Union Movement (FNV) addressed certain comments to the Committee concerning the application of the Convention in the national insurance and subsidised sectors. The Government supplied its observations on these comments in a communication dated 23 February 1990.

In its 1989 observation the Committee asked the Government to repeal sections 10 and 11 of the so-called "WAGGS" Act so that employers and workers in the national insurance and subsidised sectors should be permitted freely to conclude agreements in relation to their terms and conditions of employment. In making this observation, the

Committee drew attention to the fact that the Wage Determination Act, 1970 (as amended), gives the Government powers to intervene in the bargaining process in the face of compelling reasons of national economic interest.

In its communication of 6 February 1990 the FNV states that its repeated attempts to be consulted on the necessary changes to the WAGGS legislation had been unsuccessful. The FNV also pointed out that to the best of its knowledge no proposals for change had yet been developed, and that they certainly had not been presented to the Socio-Economic Council (which must be consulted before such legislation is presented to Parliament).

In its communication of 23 February 1990 the Government states that it is carefully investigating the possibilities of amending sections 10 and 11 of the WAGGS Act. The conclusions of the Committee of Experts and of the Governing Body's Committee on Freedom of Association (265th Report of the Committee, approved by the Governing Body at its May-June 1989 Session, paras. 161-209) will be taken into account in the course of this investigation. The Government also hopes to take account of experience in some other European countries in this context.

The Government attributes some of the delay in relation to this matter to the recent appointment of a new Minister of Social Affairs and Employment. However, it intends to inform the Second Chamber of the Parliament of the way in which the legislation may be amended in May of this year. It is hoped, therefore, that there will be substantial progress in relation to this matter before the next session of the International Labour Conference.

The Committee takes note of the information provided by the FNV and by the Government. It asks the Government to keep it informed of further developments on the matter, so that it can examine the operation of the Convention in detail at its next session.

#### Pakistan (ratification: 1951)

The Committee notes that the Pakistan National Federation of Trade Unions (PNFTU) sent comments on the implementation of the Convention in communications dated 21 December 1989 and 24 February 1990. According to these communications almost all multinational corporations which operate in Pakistan try to undermine union membership by offering "promotions" to union members and activists, without actually giving them managerial responsibilities. This then moves the workers into the category of "employers" as defined in the Industrial Relations Ordinance 1969, and obliges them to resign from union membership.

In view of the fact that the Government has not yet responded to the comments of the PNFTU, the Committee considers that it would be more appropriate to deal with these questions after taking account of the observations of the Government at its next session. Furthermore, the Committee notes that the Government's report in reply to its previous observation and direct request has been received on 13 March 1990, during its sittings. The Committee will examine this report at its next session.

Panama (ratification: 1958)

The Committee takes note of the Government's report received on 19 October 1989 and of the information provided at the Conference Committee in 1989 and the discussion that ensued. Furthermore, the Committee takes due note of the assurances supplied by the new Government in its report, to respect fully the application of the Convention and to examine the appropriate measures to bring the national legislation into conformity with the Convention.

The Committee recalls that since 1973 its comments have addressed the following points:

- the requirement of too high a number of members to establish an occupational organisation (50 workers or ten employers, section 344 of the Labour Code);
- the requirement that 75 per cent of union members shall be Panamanian (section 347);
- the automatic removal from office of a trade union officer in the event of his dismissal (section 359);
- the wide powers of supervision of the authorities over the records and accounts of trade unions (section 376(4));
- the exclusion of public servants from the scope of the Labour Code and consequently from the right to organise and bargain collectively (section 2(2)).

1. With regard to the minimum number of workers and employers to establish an occupational organisation, the Committee notes that in its report received on 19 October 1989 the Government recalls the statement that a reduction of this number would result in trade union pluralism, which was not the wish of the organisations. Furthermore, the danger that workers in small enterprises would thus be excluded from the right to organise, which was pointed out by the Committee, would not exist because such workers would be able to group together in professional or industrial unions, as is the case in practice.

While noting these statements, the Committee recalls that, under the legislation, the requirement regarding the minimum number of members for establishing an organisation applies to works unions and to professional or industrial unions. As the Committee has constantly stressed, the minimum number laid down by the legislation is clearly too high and is contrary to the principle of Article 2 of the Convention whereby workers and employers are entitled to establish and join organisations of their own choosing.

The Committee requests the Government to amend the legislation to reduce the number of workers or employers required to establish a workers' or employers' organisation to a reasonable level, so that the principle contained in Article 2 of the Convention is not compromised.

2. With regard to the minimum number of Panamanian members of a union (section 347), the Committee also notes that in its report received on 19 October 1989, the Government merely indicates that the trade unions, which are already critical of the number of foreign workers, would not like to see an increase in the number of foreigners admitted to the trade unions. The Government adds, in response to the Committee's comments, that to allow trade unions to deal with this question in their by-laws which would be tantamount to the State abdicating its constitutional function of protection of the native

manpower in favour of the trade unions, and that this could also prejudice employer-worker relations. None the less, the Government representative to the Conference Committee stated that it would be desirable for this provision to be made more flexible.

While noting these statements, the Committee wishes to remind the Government that the right of workers to establish and join trade unions without distinction whatsoever implies that all the workers legally in its territory enjoy the trade union rights provided for by the Convention without distinction, in particular, as to nationality (see in this connection paragraphs 76, 77, 96 and 97 of the 1983 General Survey on Freedom of Association and Collective Bargaining).

The Committee therefore urges the Government yet again to take the necessary measures to remove any legal restrictions on the right of foreign workers legally in its territory to establish trade unions without any distinction, in particular, as to nationality.

3. The Committee also notes that in its report received on 19 October 1989 the Government reiterates its statements to the effect that section 359 of the Code, which provides for the automatic removal from office of a trade union officer in the event of his dismissal, applies only to officers of works unions and not to those of industrial or professional unions or of trade union federations or central organisations.

The Committee recalls that under Article 3 of the Convention workers' organisations are entitled to elect their representatives in full freedom and that, consequently, it is up to those organisations to designate their representatives.

4. With regard to the obligation imposed on trade unions to allow the labour authorities to examine their records and accounts (section 376, subsection 4, of the Labour Code), the Committee again notes the Government's statement to the effect that this provision is not applied in practice. It also notes that the Government intends to examine this question with the trade unions.

The Committee trusts that this provision, which confers excessive powers on the authorities over the internal administration of trade unions, will be amended to bring it into conformity with Article 3 of the Convention, which provides that workers' and employers' organisations have the right to organise their administration without any interference from the authorities which would impede the lawful exercise thereof.

5. In its previous observation, the Committee noted that the draft Decree to extend Book III of the Labour Code to public servants had been set aside since it was hoped that the Legislative Assembly would discuss a Bill to regulate administrative careers, which would recognise the rights to associate, bargain collectively, strike and go to arbitration for public servants, who are excluded from the Labour Code.

In its report received on 19 October 1989, the Government states that it has not been possible for the Legislative Assembly to discuss this Bill and that the Committee will be informed of any developments in this respect. The Government recalls that, in practice, there is a large national federation of public servants which carries on union activities and which has all the prerogatives of a union.

While noting these statements, the Committee recalls that the rights guaranteed by the Convention apply to all workers without distinction, including public servants, except for the armed forces and the police, and it trusts that measures will be taken in the near future to guarantee these rights for the persons concerned.

The Committee expresses the hope that the Government, as stated in its last report, will take steps in the near future to bring all the legislation into conformity with the Convention. It recalls that in its 1981 report the Government included the texts of two Bills that were to bring its legislation into conformity with the Convention but the Government subsequently stated it was unable to resume the examination of these Bills owing to the country's internal situation.

The Committee trusts that these Bills could be re-examined and it requests the Government to provide full particulars of any developments in this respect with its next report.

#### Peru (ratification: 1960)

With reference to its previous comments, the Committee notes the information supplied by the Government in its reports on the provisions of the draft version of the General Labour Bill, which was published on 10 August 1989 and which has been formulated to bring the legislation respecting freedom of association and protection of the right to organise into conformity with the principles contained in the Convention. It also notes the conclusions of the Committee on Freedom of Association in Cases Nos. 1478 and 1484, approved by the Governing Body at its May-June 1989 Session.

The Committee recalls that its comments have for several years dealt with the following points:

- (1) the requirement of too high a number of trade unions for the formation of a federation of public servants' (servidores publicos) unions (20) and of too high a number of federations for the formation of a confederation (10) (section 17, subsection 3);
- (2) the prohibition of the re-election of the officers of the public servants' union immediately after the end of their term of office (section 16, subsection 2, of Presidential Decree No. 003-82 PCM);
- (3) the prohibition of public servants' federations and confederations from forming part of organisations representing other categories of workers (section 19);
- (4) the necessity of changing the requirement of over 50 per cent of the manual workers for the creation of a manual workers' union, over 50 per cent of the non-manual workers for a non-manual workers' union and over 50 per cent both of the manual and of the non-manual workers for a mixed union of manual and non-manual workers laid down by section 11 of Presidential Decree No. 009 of 3 May 1961, as amended by section 1 of Presidential Decree No. 021 of 21 December 1962;
- (5) the necessity of changing the requirement of belonging to the enterprise for election to trade union office (Presidential Decree No. 001 of 15 January 1963);



- (6) the necessity of amending Presidential Decree No. 009 of 1961 prohibiting trade unions from engaging in political activities as institutions (section 6).

Trade union rights of public servants  
(servidores publicos)

1. The Committee notes with interest that the minimum number of trade unions and federations for the formation of a higher level organisation has been reduced respectively from 20 to 10 for trade unions and from 10 to 5 for federations following the adoption of Presidential Decree No. 050-85 PCM.

2. With regard to the divergences between the national legislation and the Convention concerning the trade union rights of public servants, the Government indicates that the comments of the Committee of Experts have been submitted to the National Institute of Public Administration (INAP), which has been entrusted through multi-sectoral committees with examining this question and that the Institute's comments will be transmitted to the ILO once they have been received. The same applies to the question of the prohibition of the re-election of trade union officers immediately after the end of their term of office (section 6, subsection 2, of Presidential Decree No. 003-82 PCM). The Committee trusts that the rules governing the re-election of trade union officers will not be regulated by law but by the by-laws of trade unions.

3. The Committee notes that the Government does not provide any reply concerning the prohibition of public servants' federations and confederations from establishing and joining organisations composed of other categories of workers (section 19 of Presidential Decree No. 003-82 PCM).

The Committee once again requests the Government to indicate the measures that have been taken so that federations and confederations of public servants can freely join the federations and confederations of their choosing at the level of higher organisations (see once again paragraph 126 of the 1983 General Survey on Freedom of Association and Collective Bargaining).

Right of workers to establish unions of their own choosing

4. With regard to the high percentages of manual and non-manual workers required to form a trade union of manual workers, non-manual workers or a mixed trade union, the Committee takes due note that this provision has not been taken up in the General Labour Bill and that it will be for the workers to decide between trade union pluralism and unity.

The Committee trusts that the restrictions imposed by the legislation upon the right of workers to establish organisations of their own choosing will be lifted and it requests the Government to supply information on the progress achieved in this respect.



The right of workers to elect their representatives  
in full freedom

5. With regard to the necessity of belonging to the enterprise to exercise trade union office (Presidential Decree No. 001 of 15 January 1963), the Government indicates that this obligation has been eliminated from the General Labour Bill.

The Committee trusts that these new provisions will be adopted in the near future so as to eliminate any obstacle to the right of workers to elect their representatives in full freedom, in accordance with Article 3 of the Convention. The Committee requests the Government to supply information on the progress achieved in this connection.

Prohibition of trade unions from engaging  
in political activities

6. With regard to the prohibition of trade unions from engaging in political activities as institutions under section 6 of Presidential Decree No. 009 of 1961, the Government indicates in its reports that this prohibition applies to trade unions and not to their individual members. In the Government's opinion, the objective of trade unions is to defend the rights of the workers strictly within the field of labour; as trade union organisations, they do not have the mandate to represent workers at the political level; this does not mean that they must refrain from expressing opinions on questions concerning State policy as regards the situation, interests and rights of their members. The Government also indicates that the General Labour Bill does not propose to prohibit trade unions from undertaking political activities.

While noting these indications, with reference to Cases Nos. 1478 and 1484 examined by the Committee on Freedom of Association, the Committee draws the Government's attention to the fact that trade union organisations should have the possibility to express their views publicly on questions of general interest in so far as this involves promoting the development of the social and economic well-being of all workers. It recalls in particular that workers and their organisations should be able to show their discontent as regards economic and social questions through recourse to strike action.

The Committee therefore requests the Government to indicate whether, within the context of the current reform, it is proposed to repeal Presidential Decree No. 009 of 1961.

The Committee also once again requests the Government to supply any court decisions handed down by virtue of section 6 of Presidential Decree No. 009 of 1961 during the period covered by the report and recalls that the ILO is at its disposal for any technical assistance within the context of the current legislative reform to bring the legislation into conformity with the Convention on this point.

[The Government is asked to supply full particulars to the Conference at its 77th Session.]

Philippines (ratification: 1953)

The Committee notes the information supplied by the Government representative to the Conference Committee in 1989. It also notes the conclusions of the Committee on Freedom of Association in Case No. 1444 (268th Report of the Committee on Freedom of Association, approved by the Governing Body at its November 1989 Session) and the adoption of Act No. 6715, which came into force on 2 March 1989, to amend the Labour Code, and in particular Book V (labour relations) and the Regulations issued thereunder which came into force on 7 June 1989. Although these texts make a number of positive changes, particularly as regards limiting the supervisory powers of the authorities over trade union finances and the trade union rights of aliens, they continue not to be in full conformity with the requirements of the Convention on several points.

The Committee recalls that its comments dealt with the following points:

Articles 2 and 5 of the Convention

- the requirement for at least 20 per cent of the workers in a bargaining unit to be members of a union for the union to be registered (section 234(c) of the Labour Code);
- the requirement of too high a number of unions to establish a federation or a central organisation (section 237(a));
- the prohibition of aliens from engaging in any trade union activity (section 269) under penalty of deportation (section 272(b)).

Article 3

- the broad powers of inquiry of the Secretary of Labor into the financial affairs of trade unions;
- the requirement of a majority of union members in a bargaining unit for the calling of a strike (section 263(f)), whereas a simple majority (excluding those workers not taking part in the ballot) of a bargaining unit should be sufficient for this purpose;
- compulsory arbitration when, in the opinion of the Secretary of Labor and Employment, a planned or current strike affects the national interest, including industrial export zones, which result in restrictions on the right to strike in non-essential services (section 263(g) and (i));
- sentences in the event of illegal strikes: the dismissal of trade union officers (section 264(a)); penal liability under section 272(a) which provides for the possibility of a maximum prison sentence of six months, or under section 164 of the revised Penal Code relating to illegal strikes which provides for sentences of penal servitude for life for the organisers or leaders of strikes or collective actions deemed to be for propaganda purposes against the Government, and imprisonment for pickets for strikes or collective actions deemed to be for propaganda purposes against the Government.

1. The Committee notes with satisfaction that section 274 of the Labour Code respecting the powers of inquiry into the financial affairs of trade unions has been amended and only authorises the authorities to undertake such inquiries upon the filing of a complaint

that is duly supported and is signed by at least 20 per cent of the members of a bargaining unit.

2. As regards the trade union rights of alien workers, the Committee takes due note that, by virtue of section 269, as amended by Act No. 6715, aliens with valid permits issued by the Department of Labor and Employment may establish organisations of their own choosing and join them. However, the Committee notes that the legislation still requires, for the granting of trade union rights to aliens, that the same rights are granted to Filipino workers in the country of origin of the alien worker. Any violation of the provisions of Title VIII respecting strikes and lock-outs and the participation of aliens in trade union activities may result in the immediate deportation of alien workers (section 272(b)).

In its 1983 General Survey on Freedom of Association and Collective Bargaining, the Committee of Experts indicated in paragraph 97 that restrictions based on nationality may, among other effects, prevent migrant workers from playing an active role in the defence of their interests, especially in sectors where they are the major source of labour.

The Committee therefore requests the Government to amend its legislation so as to guarantee the trade union rights of aliens working legally in the country without distinction on grounds of reciprocal conditions.

3. In its previous observation, the Committee indicated that the powers of the Secretary of Labor and Employment to prevent or terminate a strike, when the dispute affects the national interest, may constitute a restriction on the right of workers to take strike action in non-essential services.

Although it notes that certain amendments introduced by Act No. 6715 are along the lines of observing the principles of the Convention, the Committee nevertheless notes that by virtue of section 263(g), as amended, the Secretary of Labor and Employment may still prevent or terminate a strike by referring a dispute to compulsory arbitration when it takes place in an industry that is indispensable to the national interest (without giving other details).

The Committee once again recalls that the purpose of trade union organisations is to defend the interests of their members; in this connection, they should be able to take strike action, which is considered as one of the essential means of achieving this objective, without the authorities being able to terminate it unilaterally. However, the Committee has always admitted that strikes could be restricted, or even prohibited, in three cases: (1) for public servants acting in their capacity as agents of the public authority; (2) in essential services, i.e. those whose interruption would endanger the life, personal safety or health of the whole or part of the population; (3) in a situation of acute national crisis for a reasonable period. Nevertheless, the wording of section 263(g) empowers the Secretary of Labor and Employment to restrict the right to strike in industries which are not essential in the sense of the Convention.

The Committee therefore requests the Government to take measures to limit restrictions on the right to strike as set out in these comments.

4. As regards penalties for engaging in illegal strikes, the Committee notes that trade union officers who have participated in illegal strikes are still liable to dismissal and that the penal sanctions have been strengthened since, under the terms of the new section 272(a), any person who has engaged in an illegal strike may be punished by a sentence of imprisonment, the minimum length of which has been increased from one day to three months and the maximum from six months to three years. Furthermore, section 164 of the Penal Code has not been repealed.

The Committee emphasises once again that it should not be possible to impose penal sanctions for strikes except where the grounds for their illegality are in accordance with the principles of freedom of association. However, in such cases, the sanctions should be proportionate to the offences committed and penalties of imprisonment should not be imposed in the case of peaceful strikes. It therefore requests the Government to make the sanctions for illegal strikes more flexible within the limits mentioned above.

5. The Committee notes that the provisions respecting the minimum number of members of a trade union, which is set at 20 per cent of the workers of a bargaining unit, for the union to be registered (section 234(c)), the provisions concerning the minimum number of trade unions to establish a federation or a central union organisation, which is fixed at ten (section 237(a)), and the provisions laying down the majority of the members of a trade union in a bargaining unit that are needed in a vote for the calling of a strike (section 263(f)) have not been amended by Act No. 6715.

The Committee also takes due note, from the information supplied by the Government representative to the Conference Committee in 1989, that the National Tripartite Review Committee is now a permanent body convened regularly for the purpose of reviewing legislation in accordance with the principles of the Convention.

The Committee therefore trusts, in the same way as the Committee on Freedom of Association, that the aspects of the legislation that remain contrary to the Convention will be re-examined in the light of its comments. It therefore requests the Government to supply information in its next report on the work of the National Tripartite Review Committee concerning the provisions of the national legislation that are not in conformity with the Convention and on the measures that the Government plans to take to give full effect to the Convention.

The Committee reminds the Government that the ILO is at its disposal for any assistance that it may need for the current revision of the legislation in order to bring the whole of its legislation into conformity with the requirements of the Convention.

#### Poland (ratification: 1957)

The Committee notes the information supplied by the Government to the Conference Committee on the Application of Standards in June 1989 and the discussion which followed, as well as the Government's reports.

In its previous observation, the Committee noted that the Round Table committee responsible for dealing with questions related to

trade union pluralism recognised the need to amend the legislation on trade unions as regards the establishment of unions, the choice of trade union structures, trade union rights in the agricultural sector, the scope of trade union legislation and the settlement of disputes, including the right to strike.

The Committee notes with satisfaction that Act No. 105 of 7 April 1989, amending the Trade Union Act, 1982, introduces the possibility of trade union pluralism by repealing section 60 which imposed the existence of a single trade union for each enterprise, by recognising the right of workers to establish trade unions with structures of their own choosing (enterprise, branch, occupational or national unions) and to join them (sections 1 and 2 of Act No. 105). It also notes that the Act guarantees the equality of all trade unions (sections 6, 8, 10 and 11 of Act No. 105).

In the area of agriculture, the Committee notes with satisfaction that the new Act No. 106 of 7 April 1989 on trade unions of individual farmers also introduces the possibility of trade union pluralism, gives individual farmers and the active members of their families the right to establish organisations of their own choosing, the right to draw up their constitutions and rules and to formulate their programmes without supervision by the State, which must refrain from any interference which would restrict their independence, and guarantees equality of rights of the new trade unions with the socio-occupational organisations of farmers.

In this new context, the Committee notes the registration on 17 and 20 April 1989 of the Independent Self-Governing Trade Union "Solidarity" and the organisation in the agricultural sector, "Rural Solidarity".

The Committee also notes the creation in January 1989 of the Association of Employers of Poland, which covers employers from the state, co-operative and private sectors.

Finally, the Committee notes with satisfaction the adoption of Act No. 104 of 7 April 1989 which grants all citizens, whatever their religion or opinion, the right to establish associations of their own choosing.

With regard to the other matters on which the Round Table committee voiced the need for change and which have been the subject of the comments of the Committee of Experts for several years, namely the denial of trade union rights to officials in prison establishments and restrictions on the right to strike, the Government indicates that amendments to the relevant provisions of the Trade Union Act of 1982 will be introduced, since the principle was recognised during the Round Table. The Government indicates that work has started on bringing the legislation into conformity with the provisions of Convention No. 87 and that the ILO will be kept informed of the outcome.

In this respect, the Committee notes that, according to the Government's most recent report, provisional occupational organisations for prison staff and members of the militia have been created, namely the Initiative Group of the Independent Self-Governing Trade Union of Officials in prison establishments and the Independent Self-Governing Trade Union of Militia Personnel. It adds that steps

aimed at the amendment of their legal status will enable these officials to organise in trade unions.

The Committee takes due note of this information and in particular notes with satisfaction that Act No. 179 of 29 May 1989 annuls all convictions imposed in respect of strikes or other protest actions committed after 31 August 1980. It hopes that in the near future it will be possible to amend the legislation along the lines of the recommendations of the Round Table committee and the comments of the Committee of Experts in order to recognise the trade union rights of officials in prison establishments and to make the provisions concerning strikes more flexible. It requests the Government to supply detailed information in this connection.

#### Seychelles (ratification: 1978)

The Committee notes with regret that the Government merely indicates that, for the period covered by the report, there has been no change in the situation with respect to subjects covered by the Convention. The Committee must therefore repeat its previous observation which read as follows:

The Committee takes note of the statutes of the National Workers' Union. It observes no new information in addition to the general statements that were made in the first report (1979) submitted since the accession of the country to independence has been supplied on the application of the Convention.

The Committee considers that it would be useful to recall the obligation on all States Members under article 22 of the Constitution of the ILO to transmit detailed reports on the effect given to ratified Conventions and to use as a basis the report forms adopted for the purpose by the Governing Body.

With reference to its previous comments, the Committee would point out that, after the voluntary dissolution of all trade unions, the "National Workers' Union", representing all categories of workers, was set up in 1979. Under the constitution of the "Seychelles People's Progressive Front", promulgated as a schedule to the national Constitution in 1979, the Union functions under the direction of the Front (section 4); for example, the consent of the Front is necessary for every decision, it must also approve the expenditure of the Union, and it receives 25 per cent of the total amount of union dues (section 12 of the constitution of the Front). The Committee has noted that the law in force provides for the existence of only one trade union organisation, mentioned by name and placed under the direction of a political party, as is confirmed by the comments of the National Workers' Union, and thus establishes a system of trade union monopoly, which is contrary to the Convention.

The Committee recalls that it has already pointed out in the General Survey on Freedom of Association and Collective Bargaining, which it submitted to the 69th (1983) Session of the International Labour Conference, particularly in paragraphs 132 to 138, that trade union unity imposed directly or indirectly by

law is in conflict with express standards of the Convention (Article 2) and that trade unions should have the right to organise their activities and to formulate their programmes in full freedom, and also to draw up their constitutions and elect their representatives in full freedom. The Committee feels bound to emphasise, in reply to the statement of the Government that the socialist development of the country will be carried out in accordance with the doctrine of the party, which advocates the support of a single national trade union organisation, that, even in a situation where, at some point in the history of a nation, all workers have preferred to unify the trade union movement, they should, however, be able to safeguard their freedom to set up, should they so wish in the future, unions outside the established trade union structure.

Lastly, the Committee considers it useful to recall that the resolution on the Independence of the Trade Union Movement (adopted by the International Labour Conference at its 35th Session, 1952) stresses, in particular, that governments should not seek to transform the trade union movement into a political instrument which they could use to achieve their political aims.

The Committee requests once again the Government to take appropriate measures to ensure that the legislation guarantees the above-mentioned rights.

[The Government is asked to supply full particulars to the Conference at its 77th Session.]

#### Swaziland (ratification: 1978)

The Committee takes note of the Government's report and recalls that for several years its comments have addressed the following points.

##### Article 2 of the Convention

1. Exclusion of prison staff from the enjoyment of the right of association (section 83(c) of the Act of 1980);
2. obligation upon workers to organise within the context of the industry in which they exercise their activity (sections 2(1) and (2) of the Act of 1980);
3. power of the Labour Commissioner to refuse to register a trade union if he is of the opinion that the interests of the workers are fully, or substantially, represented by a trade union that has already been registered (section 23(3) of the Act of 1980), even though, by virtue of section 24(1)(d) an appeal may be made against such a refusal before the Labour Tribunal;
4. obligation for an occupational organisation or federation to obtain authorisation before affiliating with any international organisation (section 34(1) of the Act of 1980).

##### Article 3 of the Convention

5. Prohibition upon federations to carry on political activities and limitation of their activities to providing advice and services (section 33 of the Act of 1980);



6. prohibition of the right to strike in essential services, including, in particular, the postal, radio and teaching sectors (section 65(6) of the Act of 1980);
7. power of the Minister to refer any dispute to compulsory arbitration if he is of the opinion that a current or pending strike constitutes a threat to the national interest (section 63(1) of the Act of 1980).

1. With regard to prison staff, the Government stresses that their exclusion from the enjoyment of the right of association is due to the fact that their function is similar to that of the police and that they are part of the security forces.

While noting this statement, the Committee points out that the functions performed by this category of workers are not such as to justify their exclusion from the right to organise under Article 9 of the Convention which applies only to the police and the armed forces. Consequently, they should be able to group together in an association in order to defend their interests. However, the right to establish associations does not exclude the possibility of considering the functions performed by these persons as an essential service and measures may therefore be taken to restrict, inter alia, their right to strike. The Committee therefore asks the Government to indicate the measures taken or under consideration to grant prison staff the right of association.

2. and 3. The Committee notes the Government's statement that the workers have never complained that they are free to organise only within the industry in which they exercise their activities, and that they have the possibility of expressing any discontent before institutions such as the Labour Advisory Board.

Furthermore, the Committee notes from the Government's report that a decision by the Labour Commissioner to refuse to register a trade union on the grounds that a union that has already been registered fully or substantially represents the interests of the workers must be based on a bona fide opinion which may also be appealed.

The Committee wishes to remind the Government that, although the obligation to group together in branch unions has not to date been contested by the workers and the Labour Commissioner's powers, as the Government stresses, are not absolute but discretionary, these provisions are liable, nonetheless, to restrict the right of workers to establish organisations of their own choosing, which is contrary to Article 2 of the Convention.

4. The Committee notes that the Government reiterates that the purpose of requiring authorisation from the authorities for workers' (or employers') organisations to become members of international organisations is to ensure that the workers' or employers' organisations do not affiliate to undesirable international organisations.

The Committee recalls that workers' and employers' organisations enjoy the right to affiliate to international organisations without previous authorisation, under Articles 5 and 6 of the Convention. It also requests the Government to state whether it has already refused an application to affiliate to an international organisation.



5. With regard to the restrictions imposed by law on the activities of federations, the Committee notes that the Government is currently holding consultations on this matter.

The Committee recalls that, under Article 6 of the Convention, federations enjoy identical rights to those of lower-level organisations. Accordingly, they must be able to express their opinion publicly on the Government's economic and social policy, as the fundamental purpose of trade unions, federations and confederations should be to ensure development of the economic and social well-being of all workers.

6. and 7. With regard to the provisions concerning compulsory arbitration, which allow the authorities to prevent strikes or to end them if the national interest is threatened, the Government indicates that their purpose is to promote peaceful negotiation between the social partners. In the Government's opinion, although strikes are the only economic weapon available to workers, at the same time, they are economically detrimental to the nation as a whole.

While noting these statements, the Committee recalls the right to resort to strikes is one of the essential means available to workers' organisations for defending the interests of their members. However, under the Convention, this right can be restricted or prohibited: (a) in the case of public servants acting in their capacity as agents of the public authority; (b) in essential services in the strict sense of the term, namely services whose interruption would endanger the life, personal safety or health of the whole or part of the population; (in the opinion of the Committee, this restriction would become meaningless if the legislation defined essential services too broadly; it is for this reason that, in its previous observation, the Committee stressed that the post, radio and teaching sectors, in which strikes are prohibited, could not be considered essential services in the meaning of the Committee's definition); (c) in the event of an acute national crisis for a limited period.

Thus, in the light of the foregoing comments, section 63(1) of the Act of 1980 which allows a dispute to be referred to compulsory arbitration at the discretion of the authorities when the national interests are at stake, confers powers on the authorities which are so broad as to be liable to restrict the right of workers' organisations to resort to strikes as a means of defending the interests of their members, which is contrary to Articles 3 and 10 of the Convention. In the Committee's opinion, the prohibition of the right to strike in essential services (section 65(6) of the Act of 1980) should be restricted to services whose interruption would endanger the life, personal safety or health of the whole or part of the population.

The Committee notes that, according to the Government, proposals to amend certain sections of the Act have been made and some of the discrepancies will be eliminated. The Committee trusts that measures will be taken in the near future to amend the provisions of the Act to take account of its comments.

In addition, in its last observation, the Committee noted with interest that the Labour Tribunal had recognised the right to hold meetings for trade union purposes without prior authorisation from the police, whereas section 12 of the Decree of 1973 imposes substantial

restrictions on the right of trade unions to hold meetings and demonstrations.

In the absence of any information on this point, the Committee requests the Government to indicate the measures taken or envisaged to amend section 12 of the Decree of 1973 to take account of the above ruling.

United Kingdom (ratification: 1949)

The Committee notes the comments concerning the application of the Convention submitted by the Trades Union Congress (TUC) on 21 December 1989 and 19 January 1990. These comments relate to: (i) trade union rights at Government Communications Headquarters (GCHQ); (ii) the Government's alleged failure to adopt measures to extend legislative protection against common law liability and to reduce the current complexity of the law relating to industrial action; (iii) the further uncertainties which have been introduced by court decisions in relation to a proposed docks strike in May-July 1989; and (iv) proposed legislative changes relating to sympathy action and dismissals of strikers.

The communications of the TUC have been transmitted to the Government for its comments. The Committee will examine the issues raised by the TUC, in the light of the Government's observations, at its next session.

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In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Central African Republic, Colombia, Comoros, Djibouti, Dominica, Dominican Republic, Guyana, Jamaica, Niger, Peru, Philippines, San Marino, Spain, Venezuela.

**Convention No. 88: Employment Service, 1948**

Algeria (ratification: 1962)

The Committee takes note of the Government's detailed report covering the period June 1988 to June 1989. The Government indicates that measures are currently being taken to set up efficient machinery to monitor and manage the labour market, in particular by reorganising the existing employment services and adapting their functions to present employment requirements. The Committee would be grateful if the Government would continue to supply information on the reorganisation of the employment services, along with all other available information, as required by the report form, particularly under Parts IV and VI.

Articles 4 and 5 of the Convention. The Committee notes that the question of equal representation of employers and workers on the Executive Council of the ONAMO is taken into account in the context of

the draft text currently being prepared concerning the reorganisation of the above institution. It also notes that the Government intends to provide the Office with a copy of this text as soon as it is enacted. With reference to its previous comments, it trusts that the measures envisaged will be adopted in the near future and that they will enable national regulations to be brought into line with the provisions of these Articles of the Convention. The Committee also hopes that the Government will be able to provide detailed information on the manner in which representatives of the employers and workers are consulted concerning the organisation, operation and policy of the ONAMO. Other questions relating to the consultation of the social partners are raised in direct requests concerning the application of the Employment Policy Convention, 1964 (No. 122) and the Human Resources Development Convention, 1975 (No. 142).

Argentina (ratification: 1956)

Articles 4 and 5 of the Convention. In its previous observations, the Committee expressed the hope that the Government would supply information on the progress made in obtaining the co-operation, through advisory committees, of employers and workers in the organisation and operation of the employment service. In its last report, the Government states that it is in the process of formulating a National Employment Bill, which introduces far-ranging changes to the current system, and provides for the active participation of employers' and workers' representatives. The Committee once again hopes that the Government will make every effort to adopt the necessary measures, also through advisory committees, in the near future, in order to obtain the co-operation of employers' and workers' representatives in the organisation and operation of the employment service.

The Committee trusts that the Government's next report will include the information required by the report form for the Convention concerning the above provisions, and the statistical information that has been published on the operation of provincial employment services.

Costa Rica (ratification: 1960)

1. With reference to its previous comments, the Committee notes with interest that the Directorate of Employment has established three regional employment offices, with the support of resources supplied by the European Economic Community, which give special emphasis to the employment situation of refugees without neglecting the need to place Costa Rican workers in employment. It has also signed agreements with industrial groups and local authorities to install employment services. The Government also describes the programmes carried out by the National Directorate of Employment through the Statistics and Research Unit of the Research and Planning Department. It states that notable progress has been made in establishing a general employment system, with the support of the ILO, which encompasses all the possible variations in vacancies and jobseekers and provides a service

which is continually being improved as regards its organisation and is directed to providing a rapid response to the job applications that it receives. The Committee appreciates the efforts being made by the Government to organise an employment service in accordance with Articles 3, 6, 7 and 8 of the Convention. It trusts that in its future reports the Government will continue to supply information on the progress achieved by the employment service, and in particular with regard to adequately meeting the needs of particular categories of applicants for employment, such as disabled persons and juveniles, and that it will provide with its report the statistical information available in published annual or periodical reports concerning the number of public employment offices established, the number of applications for employment received, the number of vacancies notified, and the number of persons placed in employment by such offices (point IV of the report form).

2. In its previous comments, the Committee referred to the functions of the National Employment Council in relation to the application of Articles 4 and 5 of the Convention which provide, in particular, that the necessary agreements shall be concluded, through advisory committees, for the co-operation of representatives of employers and workers in the organisation and operation of the employment service and in the development of employment service policy. In its last report, the Government states that the National Employment Council did not commence operations and it refers to the activities of the National Directorate of Employment and the support received from the ILO, UNDP and PREALC for the National Employment Generation Programme (see, in this connection, the observation made in 1989 concerning the application of the Employment Policy Convention, 1964 (No. 122)). The Committee notes the above and hopes that the Government's next report will also contain the information called for in the report form on the establishment of advisory committees.

#### Egypt (ratification: 1954)

Articles 4 and 5 of the Convention. (Establishment of advisory committees.) The Committee takes note of the information supplied by the Government in reply to its previous comments. The Government's report indicates that the Central Council for Manpower and Training has been established in accordance with Decision No. 795 of 1976 of the President of the Republic. The Committee requests the Government to state in its next report whether this body is specifically empowered to co-operate in the organisation and operation of the employment service and in the development of employment service policy. It also asks the Government to indicate whether the representatives of employers and workers on this Council are appointed in equal numbers after consultation with representative organisations of employers and workers, as stipulated in the Convention.

The Committee also notes that the Government's report again refers to sections 76 and 79 of Act No. 137 of 1981 (enacting the Labour Code) which provide for the establishment of a Central Advisory Labour Council (section 76) and of advisory employment committees at various geographical and sectoral levels (section 79). Since it

appears that measures to implement these provisions have not yet been issued, the Committee asks the Government to clarify the legal and practical situation with regard to the creation and attributions of the various advisory bodies referred to in the information on the implementation of Articles 4 and 5 of the Convention.

India (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:

1. The Committee took note with interest of the Government's report and the information provided in reply to its earlier comments. With regard, in the first place, in a general manner, to the implementation of the recommendations of the Report of the Committee on the National Employment Service (the "Mathew Report"), the Committee noted that of the 56 recommendations initially formulated, 35 have been implemented in various forms and to various degrees, or transmitted to State Governments and to Union Territory Administrations for implementation. The Committee would be grateful if the Government would indicate in more detail in its next report the recommendations that have been implemented and the measures that have been taken or are envisaged based on the recommendations, in relation to the relevant provisions of the Convention.

2. The Committee noted that the Government had decided not to follow up the recommendation of the Mathew Report concerning the setting up of a Department of Manpower and Planning and a Manpower Service Committee which would have been placed under the control of the national authorities. It would be grateful if the Government would supply additional information on the way in which Article 2 of the Convention is implemented, with reference to the analysis in the Mathew Report (Chapter 11, paragraph 11.8) on the consequences of the transfer of resources and responsibilities to the States. The Committee pointed out that Article 2 of the Convention stresses the value of the principle of organisation upon which the employment service shall be established on a national basis and under the direction of a national authority; however, this principle is naturally not an obstacle to the decentralisation of administrative responsibilities in the operation of the service.

3. Finally, the Committee took note of the Government's position concerning the question of compulsory use being made of the employment service. However, recalling the earlier statement by the Government concerning the limited use of the employment service by the private sector, the Committee would be grateful if the Government would provide information on the measures taken or envisaged, when necessary, to encourage full use of the employment service on a voluntary basis, in accordance with the provisions of Article 10.

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

Peru (ratification: 1962)

1. With reference to its previous comments, the Committee notes with interest the extension of the network of employment offices to the peripheral zones of the capital, the different types of service provided for the various occupational groups and the support that is given to selective placement and the placement of juveniles. The Committee appreciates the Government's endeavours to organise an employment service and set up three regional employment offices in the cities of Cuzco, Huancayo and Piura (Articles 3, 6, 7 and 8 of the Convention). It trusts that in its future reports the Government will supply new information on the measures that have been taken to meet the needs of each of the geographical areas of the country and that it will furnish in its report statistical information available in published annual or periodical reports concerning the number of public employment offices established, the number of applications for employment received, the number of vacancies notified and the number of persons placed in employment by such offices (point IV of the report form).

2. The Committee refers to the comments that it has been making for some years concerning suitable arrangements for the co-operation of representatives of employers and workers in the organisation and operation of the employment service and in the development of employment service policy, as required by Articles 4 and 5 of the Convention. It notes that no advisory tripartite committees have yet been set up. Nevertheless, according to the Government's statement in its last report, continuous contacts are maintained with employers and employers' associations in order to increase awareness and improve the consultation system. The Committee trusts that the Government will supply information in its next report on the above contacts with employers' representatives and hopes that the report will also contain the information called for by the report form on the establishment of advisory committees.

Philippines (ratification: 1953)

Articles 4 and 5 of the Convention. The Committee notes from the Government's report that the advisory committees on the employment service have not been officially organised. With reference to its comments over many years on the same subject, the Committee would like to recall that these Articles of the Convention require the setting up of national, and where necessary regional and local, advisory committees ensuring the co-operation of employers' and workers' representatives, appointed in equal numbers, in the organisation and operation of the employment service and in the development of the general policy of this service. The Committee trusts that the Government will not fail to adopt necessary measures in order to give effect to the provisions of these Articles and requests the Government to report any progress made in this connection.

Sierra Leone (ratification: 1961)

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

The Committee noted from the reply of the Government to its earlier comments that the draft Employment Service Regulations to which the Government had been referring for a number of years was still under consideration.

The Committee trusts that the new provisions will be adopted very shortly and that the next report will contain the information previously requested on: (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.

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

Singapore (ratification: 1964)

Articles 4 and 5 of the Convention. The Committee notes from the Government's reply to its earlier comments that ad hoc tripartite advisory committees on issues related to the different aspects of employment have often been set up to obtain views from workers' and employers' representatives. It also notes the Government's view expressed in the report that with regular consultations with the employers' and employees' organisations and the setting up of such ad hoc committees, there is no need to establish a tripartite employment service advisory committee. However, the Committee would like to recall that these Articles of the Convention require the establishment of advisory committees ensuring the co-operation of employers' and workers' representatives, appointed in equal numbers, in the organisation and operation of the employment service and in the development of the general policy of this service. The Committee reiterates its hope that the Government will not fail to give consideration to the establishment of an appropriate body to discharge these functions and to give fuller effect to the provisions of these Articles. It asks the Government to report any progress made in this connection.

United Republic of Tanzania (ratification: 1962)

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

The Committee has noted that a draft project document containing measures to improve the employment service system had been shelved due to unavoidable circumstances. It also noted the Government's intention to consolidate the employment function of the labour division and its view that the law should then encompass most of the provisions of the Convention.

The Committee hopes that the Government will provide information in its next report on all developments in the implementation of Articles 6, 7 and 8 of the Convention.

The Committee would be glad if the Government would also describe any consultations taking place with representatives of employers and workers, either in the newly established National Human Resources Deployment Advisory Committee or in the tripartite Labour Advisory Board, concerning the organisation and operation of the employment services and the development of employment service policy (Articles 4 and 5).

The Committee hopes that the Government will provide statistical information as soon as it is available in conformity with point IV of the report form.

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

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In addition, requests regarding certain points are being addressed directly to the following States: Angola, Bahamas, Belize, Bolivia, Brazil, Central African Republic, Colombia, Cuba, Djibouti, Dominican Republic, Ethiopia, Guatemala, Guinea-Bissau, India, Kenya, Libyan Arab Jamahiriya, Malaysia, Mozambique, Nicaragua, Nigeria, Panama, San Marino, Sao Tome and Principe, Suriname, Thailand, Venezuela.

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

#### Dominican Republic (ratification: 1953)

The Committee refers to its previous comments concerning the need to modify paragraph 6 of section 219 of the Labour Code so that such exceptions to the prohibition of night work for women as may be authorised by the State Secretariat for Labour are limited to those provided for under Articles 4, 5 and 6 of the Convention.

The Committee notes that the draft law, which had been formulated for this purpose following the direct contacts which took place in 1976, has not yet been adopted. It trusts that measures will be introduced in the very near future to bring the proposed modifications to a successful conclusion and thus ensure full application of the Convention. The Committee would be grateful if the Government would indicate all progress made in its next report.



Ghana (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 4(a) of the Convention. The Committee refers to its previous comments concerning the need to amend section 41(2)(a) of the Labour Decree of 1967 which, contrary to the Convention, permits the suspension of the prohibition of night work by women when work is interrupted by reason of a strike. It recalls that this question has been the subject of comments for several years. It hopes that the necessary measures will be adopted in the near future to ensure the conformity of the legislation with these provisions of the Convention, and requests the Government to report any progress accomplished in this respect.

Philippines (ratification: 1953)

The Committee refers to its previous comments in which it noted that the legislation was not in accordance with the Convention on the following points:

1. Section 130 of the Labour Code prohibits the employment of women in industrial undertakings between 10 p.m. and 6 a.m., representing a period of only eight hours while under Article 2 of the Convention, the prohibition of night work shall cover a period of at least 11 consecutive hours.

2. Under section 131(e) of the Labour Code and section 5(e), Chapter XI, Book III of the Regulations under the Labour Code, the prohibition of night work by women does not apply (i) where the manual skill and dexterity required for the work is an attribute of female workers and where this work cannot be carried out with the same efficiency by male workers, and (ii) where the employment of women constitutes an already established practice in the enterprises concerned at the date when the Regulations under the Labour Code came into force. These exceptions are not authorised by the Convention.

The Committee notes, from the Government's last report, that studies have been undertaken in recent years on night work and that the Bureau of Women and Young Workers is in the process of formulating proposals in accordance with the conclusions reached by these studies, which took into account the principle of equality of opportunity. It hopes that the proposed measures will be in conformity with the Convention and that they will be adopted in the near future. Please indicate any progress achieved in this respect.

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In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Angola, Austria, Bahrain, Belgium, Bolivia, Brazil, Cuba, Czechoslovakia, Egypt, Greece, India, Kenya, Kuwait, Panama, South Africa, Spain, Swaziland.

**Convention No. 90: Night Work of Young Persons (Industry) (Revised), 1948**Greece (ratification: 1962)

Further to its previous comments, the Committee notes with satisfaction the adoption of Act No. 1837 of 1989 concerning the protection of minors in employment and other matters, section 5 of which lays down a rest period of at least 12 consecutive hours including the period between 10 in the evening and 6 in the morning, in accordance with the Convention.

Mexico (ratification: 1956)

Article 2 of the Convention. The Committee refers to its previous comments in which it pointed out that section 60 of the Federal Labour Act, which defines night work as a period of ten consecutive hours, does not give effect to this Article of the Convention which fixes at 12 consecutive hours the night period during which the work of young persons under 18 years of age in industry is prohibited.

While noting the detailed information supplied by the Government in its report, the Committee points out that under the provisions of sections 60 and 175 of the Federal Labour Act, in their present wording, a rest period of less than 12 consecutive hours between two periods of work is possible. Thus, for example, a young person working from 12 noon to 8 p.m. and resuming work at 6 a.m. the next day would have only ten consecutive hours of rest instead of the 12 hours prescribed in this Article of the Convention.

Since, according to the report, the procedure to revise the Federal Labour Act has begun, the Committee hopes that the necessary amendments will be made in order to bring the Act into conformity with the Convention. It asks the Government to report on any progress achieved in this connection.

Philippines (ratification: 1953)

Article 2, paragraphs 1 and 3, of the Convention. The Committee refers to its previous comments, in which it had pointed out that the regulation issued by Directive No. 23 of 30 May 1977, which prohibits night work for young persons under the age of 16 in the interval between 10 p.m. and 6 a.m., was not in conformity with the provisions of the Convention under the terms of which the prohibition should cover a period of at least 12 consecutive hours.

It notes that, according to the Government's latest report, the above-mentioned Directive is at present under revision by the Department of Labour and Employment. It also notes that the Bureau for Women and Young Workers is in the process of formulating a policy recommendation concerning night work for young workers which will be based on the Convention, and that the amendments to the regulations for the application of the Labour Code which the Bureau has proposed, include the provisions concerning women and young workers. The

Committee hopes that the necessary measures will be adopted in the near future and would be grateful if the Government would indicate all progress made in this respect.

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In addition, requests regarding certain points are being addressed directly to the following States: Cuba, Greece, Saudi Arabia, Swaziland.

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

#### **Convention No. 91: Paid Vacations (Seafarers) (Revised), 1949**

Requests regarding certain points are being addressed directly to the following States: Algeria, Angola, Israel.

#### **Convention No. 92: Accommodation of Crews (Revised), 1949**

Algeria (ratification: 1962)

With reference to its previous comments, the Committee recalls that at present there appears to be no legislation setting out detailed crew accommodation requirements in accordance with Articles 6 to 17 of the Convention. While noting the indication that the Ministry of Transport is at present examining the question, the Committee hopes that the necessary measures will be adopted in the near future and that appropriate information will be supplied in the next report.

Iraq (ratification: 1977)

The Committee has noted the Government's replies to its previous comments. It notes that Instructions No. 22 of 1987 concerning safety and health at work do not seem to apply to ships, since they do not relate to the public sector. It recalls that, while there is some legislation referring in general terms to inspection in the Civil Marine Service and dealing with some specific aspects of working conditions, there appear to be no detailed laws and regulations as required by Article 3 of the Convention ensuring the application of Parts II (Planning and Control of Crew Accommodation), III (Crew Accommodation Requirements) and IV (Application of Convention to Existing Ships). The Committee fully appreciates the efforts made by the competent maritime administration, as mentioned in the report. However, it would hope that the Government will envisage taking the necessary legislative and practical measures - perhaps with the benefit of the ILO's technical advice - in order to apply the

Convention in full. It hopes the next report will include details of the steps taken or proposed to this effect.

Italy (ratification: 1981)

Further to its previous comments, the Committee recalls that there are as yet no laws or regulations in force in relation to the accommodation of crews, as required by Article 3 of the Convention, in order to give effect to Parts II, III and IV of the Convention. The Government indicates that the draft law referred to in previous reports has been abandoned, and that a new study is being framed for consideration by employers' and workers' organisations. It considers that the Convention is in the meantime adequately applied.

The Committee hopes that progress will be made in the near future in enacting the necessary legislation and thus ensuring the Convention is fully applied, and that the Government will provide full details.

Liberia (ratification: 1977)

Further to its general observation, as well as previous direct requests on the Convention, the Committee notes that, whilst certain provisions have been supplied in relation in particular to the inspection of crew accommodation, there appears still to be none of the detailed regulation of crew accommodation required by Part III of the Convention. The Committee recalls that a proposed decree was drafted earlier, which would have dealt with much of this. It hopes that the legislation necessary to ensure the application of the Convention in full will soon be enacted, and that the Government will supply a report including full details.

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In addition, requests regarding certain points are being addressed directly to the following States: Belgium, Finland, France, Federal Republic of Germany, Ghana, Greece, Netherlands, New Zealand, Norway, Panama.

**Convention No. 94: Labour Clauses (Public Contracts), 1949**

Brazil (ratification: 1965)

In its previous comments, the Committee noted the observations submitted by the National Confederation for Industry and the National Confederation of Industrial Workers which were transmitted to the Government in letters dated 23 November and 18 December 1987 respectively, so that it could make such comments as it deemed appropriate. Since the Government has not yet transmitted its comments, the Committee hopes that it will communicate them in the near future.

The Committee also noted the Government's statement that the labour legislation was in the process of being revised and that provisions to give effect to the Convention would be taken into account during the revision. Accordingly, the Committee asked the Government to indicate the measures adopted or envisaged to ensure that full effect is given to the Convention. Since the Government has not submitted a report for the fourth consecutive time, the Committee has no information on the progress achieved in this respect. The Committee recalls in this connection that merely applying the national labour legislation to all workers - as is the case in Brazil - is not sufficient to ensure the application of the Convention which provides that all public contracts (as defined in Article 1, paragraph 1(c), of the Convention) must include a clause ensuring to the workers concerned wages and other conditions of labour which are not less favourable than those established for work of the same character, by some of the means provided for in Article 2, paragraphs 1 and 2, of the Convention. The Committee recalls that this does not mean simply that there shall be a contractual obligation to pay wages and provide other conditions of labour in accordance with the minimum wage established by legislation, or by collective agreements if they are already applicable to the undertaking concerned. Rather, it means that if an undertaking performing work under public contract is not, for example, bound by a collective agreement but pays wages at the legal minimum, it would be obliged to pay wages at the established rate. This rate might be defined, inter alia, by reference to the collective agreements applicable to other workers of the same type, or by a survey of the generally prevailing wage rates in that area (Article 2, paragraphs 1 and 2).

The Committee hopes that the above-mentioned revision of the labour legislation will be able to take account of these considerations, and in view of the exchanges which have taken place concerning the provisions of the Convention during a number of years, the Committee again suggests that the Government may wish to ask the International Labour Office for assistance before finalising any draft text it may draw up in this connection. The Committee hopes that the Government will supply information on the measures taken to give effect to the Convention.

[The Government is asked to supply full particulars to the Conference at its 77th Session.]

#### Mauritania (ratification: 1963)

For a number of years, the Committee has been requesting the Government to take the necessary measures to ensure the application of the Convention, as Decree No. 75.147 of 6 May 1975 and Decree No. 80.182 on 23 July 1980 are not sufficient to ensure that full effect is given to the Convention which requires that clauses be included ensuring to the workers concerned wages (including allowances), hours of work and other conditions of labour which are not less favourable than those established for work of the same character in the trade or industry concerned in the district where the work is carried on. The Committee recalls that, under the corresponding provisions of the

above Decrees, the labour clauses to be included in public contracts should be determined by ministerial or inter-ministerial order. The Committee also recalls that in previous reports, the Government has referred to certain draft decrees and resolutions which would enable the national legislation to be brought into full conformity with this Convention.

Since the Government has not submitted a report for the third consecutive year, the Committee does not have the necessary information on the progress made with regard to the above text. It therefore hopes that the Government will submit full information on the measures adopted in this respect.

[The Government is asked to supply full particulars to the Conference at its 77th Session.]

#### Mauritius (ratification: 1969)

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:

With reference to its previous comments, the Committee noted that the amendments to the Labour Act, 1975, intended to apply the Convention have not yet been adopted and that the matter is still under consideration. It trusts that the necessary measures will be taken in the very near future to give effect to the Convention, and hopes that the Government will be able to indicate that progress has been made in this regard.

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

#### Philippines (ratification: 1953)

1. The Committee notes the Government's reply to its previous comments in which it indicates that the legislation that should have been adopted to give effect to the Convention has still not been enacted, although work is continuing for its adoption. The Government adds that under the country's existing legislation, and in particular the Civil Code and the Labour Code, workers covered by public contracts are protected. The Committee points out that in order to give effect to this Convention it is necessary to take measures that provide for the inclusion in the contracts to which this Convention refers in Article 1, of clauses which ensure to the workers concerned terms and conditions of labour which are not less favourable than those established for work of the same character in the trade or industry concerned in the same district, in accordance with Article 2, paragraphs 1 and 2. The Committee therefore hopes that the Government will take the necessary measures to adopt the above legislation in the near future and that it will indicate the progress achieved in this respect. The Committee also once again hopes that the Government will consult with the organisations of employers and workers concerned, as set out in Article 2, paragraph 3 of the Convention, when adopting the above measures.

2. The Committee also points out that in its previous observation it requested the Government to supply general information on the way in which the Convention is applied in practice and to supply information on the number of public contracts and workers covered, as required by Point V of the report form on this Convention. The Committee hopes that the Government will also supply this information.

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

### Convention No. 95: Protection of Wages, 1949

#### Côte d'Ivoire (ratification: 1960)

In the observation it made in 1989 the Committee noted the comments made by the Trade Union International of Chemical, Oil and Allied Workers (communicated in a letter dated 9 March 1988) respecting the application of Article 12, paragraph 2, of the Convention. According to these comments, workers who are members of the Union of Offshore and Onshore Workers of Côte d'Ivoire (SYNTRAOFFCI), who were recruited by intermediary companies on behalf of oil companies, did not receive certain amounts owed as a final settlement of all wages due upon termination of their contracts in 1984. In reply to the above comments, the Government indicated that an ad hoc committee had been set up to examine the complaints of the workers in question, but that the workers had refused to divulge the method used to calculate the amount that they were claiming and to submit the documents needed to check their claims. The Committee requested the Government to continue to provide information on the results of measures taken to settle the claims of the workers concerned and to transmit a copy of the judicial decisions handed down to this effect.

In its last report, the Government indicates that the technical subcommittee set up to examine the claims of the above workers has not yet commenced work and that the workers concerned still refuse to submit the documents needed to check the rights that they are claiming, despite the intervention of their central trade union organisation. It adds that the Minister of Labour has, in his possession, a list of the workers claiming wages but that this list does not indicate the basis used to determine these amounts despite repeated requests by the competent authority.

The Committee notes this information and hopes that the arrival in Côte d'Ivoire of the Secretary-General of the Trade Union International of Chemical, Oil and Allied Workers, mentioned by the Government in its report who is due to meet the administrative authorities and trade unions concerned, will contribute to finding a solution to the claims of the workers affected. The Committee once

again requests the Government to keep it informed of any developments in this matter.

Dominican Republic (ratification: 1973)

The Committee notes the discussion that took place at the Conference Committee in 1989 on the application of Conventions Nos. 95 and 105. It also refers to its observation on Convention No. 105.

A. Adoption of legislation to give effect to Convention No. 95

In comments that it has been making for a number of years, the Committee has drawn attention to the need to adopt legislative measures to give full effect to Articles 2; 3; 5; 6; 8, paragraph 2; 10; 13, paragraph 2; 14 and 15(b), of the Convention. For its part, in paragraph 543 of its report presented in 1983, the Commission of Inquiry concerning the employment of Haitian workers on sugar plantations of the Dominican Republic pointed out that legislative changes are required to ensure the observance of the Convention, particularly in order to prohibit wage payments in the form of negotiable vouchers, to require the payment of wages directly to the worker, to establish a general prohibition on employers limiting the freedom of the worker to dispose of his wages, to regulate the assignment of wages and to provide for information of workers regarding the conditions governing their wages and deductions from wages.

In a report received before the 1989 Conference, the Government indicated that the competent labour authorities were considering urgent and necessary measures which they considered adopting to give effect to the above Articles of the Convention, in particular amendments to the legislation on each of the points referred to above, as well as other points concerning the employment of sugar plantation workers.

The Committee notes that, since the 1989 Conference, the Government has provided no report on the provisions adopted, or on any other measure taken to give effect to the Convention.

B. Protection of wages in sugar plantations

1. Measures to guarantee observance of the statutory minimum wage. In its previous comments, the Committee noted that, in Resolution No. 1/88 of 10 June 1988, the National Wages Commission established, with retroactive effect to 1 April 1988, for agricultural workers engaged in any activity, a minimum wage of RD\$12.00 for a working day of eight hours. In the case of piece-work employment contracts or contracts for specific tasks, the minimum wages established "shall be reasonably guaranteed".

The Committee also noted that, according to the rates established on 4 April 1988 by Memorandum-Circular No. 18 of the State Sugar Board (CEA), cane-cutters henceforth were to earn RD\$6 per tonne, plus an incentive bonus ("incentivo") of RD\$0.60, payable at the end of the



harvest season to workers still at their jobs, plus a productivity bonus of RD\$0.50, payable to cane-cutters who have cut more than 28 metric tonnes in two weeks. It appeared from the findings of the Commission of Inquiry and the direct contacts mission which went to the Dominican Republic and Haiti in October 1988 at the request of the two Governments, that very few cane-cutters could, in an eight-hour working day, cut nearly two tonnes of sugar-cane, with the result that, for most cane-cutters, the rates established by the CEA in April 1988 were below the minimum wage established by the National Wages Commission. The rates for the cutting and transport of sugar-cane for the 1988-89 harvest had still not been communicated to the ILO at the end of the harvest.

The Committee also noted CEA Circular No. 8 of 20 October 1988 issuing instructions to the administrations of plantations regarding the conclusion of specific contracts with daily workers known as "ajusteros", who are employed by the task in other agricultural work (paid at lower rates) than sugar-cane harvesting. This Circular includes a contract form and obliges the administrator of the plantation ("mayordomo"), at the worker's request, to describe the surface of a field and give the wage rates per task and per day. According to the communication by the United Workers' Organisation (CGT) of 3 January 1989, this Circular was unknown to the workers and was not applied.

The Committee expressed the hope that the necessary measures would be taken to ensure that all workers employed in plantations were paid the statutory minimum wage. It asked the Government to supply soon full information on the wage rates established by the CEA for future harvests; on the practical implementation of CEA Circular No. 8 of 20 October 1988, with indications of the number of contracts concluded and the daily earnings of workers employed in the various tasks; on the measures adopted to ensure observance of the statutory minimum wage in plantations not belonging to the CEA; and on any review of the statutory minimum wage in agriculture.

The Committee notes that most of this information has not been supplied. With regard to the wage rates established by the CEA for future harvests, a Government representative referred, before the Conference Committee in 1989, to a Circular (No. 111) of 11 November 1988 establishing the wages for the 1988-89 harvest, the text of which has still not yet been communicated. According to the above Circular the price per tonne of sugar-cane for 1988-89 was RD\$7.50, or RD\$8.50 if the incentive bonus offered for the cutting of a specific tonnage is included. The Government representative also referred to the mechanisation of harvesting, but did not specify whether the cane harvested using mechanised or semi-mechanised methods was remunerated at the same rates. Referring to a study conducted on the state plantations, which was not communicated to the ILO, the Government representative compared the total weight of the harvest with the average monthly number of cane-cutters, which gave a daily average of 2.14 tonnes of cane per cutter. He deduced from this that cane-cutters earned much more than the minimum daily wage of RD\$12.00.

In this connection, the Committee must point out that the average wage calculations presented by the Government representative are based neither on actual records of wages effectively paid to the various

cane-cutters nor even on the total amount of all wages paid by the CEA to all the cane-cutters. Moreover, they do not take account of the number of hours worked per day in excess of eight or of the differences in output, not only between individual workers but also from one plantation to another and between different harvesting methods and harvest seasons.

The Committee recalls the recommendations in paragraphs 533 to 536 of the report of the Commission of Inquiry concerning, among other matters, observance by the administrations of sugar plantations of the statutory minimum wage which should be guaranteed to each worker, irrespective of his output, for a working day of eight hours, with a proportional increase for longer working days, without deductions for the periods during which regularly employed workers are prevented from working by factors that are not of their fault. This involves the adoption of more uniform and regular hours for cane-cutters, including the establishment of a reasonable limit to the working day.

With regard to the other information requested from the Government, the Committee notes the affirmation of the Government representative at the Conference Committee that CEA Circular No. 8 of 20 October 1988 (concerning the contracts of the daily workers known as "ajusteros") referred to by the United Workers' Organisation (CGT) in its communication of 3 January 1989 has been duly observed and widely distributed among cane workers. According to the Government representative, all necessary administrative measures have been taken to make sure that all workers employed in CEA operations receive the statutory minimum wage in accordance with the 1988-89 rates. The labour and CEA authorities planned to supply the ILO with complete information on the practical application of Circular No. 8, including the number of contracts and the daily earnings of workers employed in different tasks, and the measures taken to ensure that non-CEA plantations observe the agricultural minimum wage. The Committee notes that no information has been communicated either on these points or on any revision of the statutory minimum wage in agriculture.

Thus, the Committee is not in possession of any information enabling it to ascertain whether the statutory minimum wage is effectively paid to cane-cutters and piece workers ("ajusteros"), in either the state plantations or private plantations.

2. Weighing the sugar-cane. In its previous comments, the Committee also referred to the recommendations made by the Commission of Inquiry, in paragraph 537 of its report, that the accuracy of the weighing of the cane that has been cut should be verified by official inspection bodies outside the plantation and by the workers concerned or their representatives. The Committee noted with interest CEA Circular No. 9 of 20 October 1988 establishing a general system for weighing cane, which contains a series of rules to ensure the accuracy of weighing, without any deductions, in the presence of the transporter, cane-cutter or his representative and under the supervision of the central authorities of the CEA. In addition, a conversion table for weights and wage rates must be displayed so that the workers may consult it. According to the above-mentioned communication by the CGT, dated 3 January 1989, this Circular is unknown to cane-cutters and is not applied. The Committee expressed the hope that the necessary measures would be taken for the practical

implementation of this Circular and that the Government would supply full information thereon and on any other similar measures taken in plantations not belonging to the CEA.

The Committee notes the statement made by the Government representative before the Conference Committee, that the cane is weighed in the presence of the cane-cutter who receives two chits (showing the number of the cart, the name of the cutter, the date and the exact weight of the cut cane), as proof of the work performed (as provided for in above-mentioned CEA Circular No. 9). The Government representative gave the exact number of weighers at each mill. He also stated that in case of difficulties in the weighing process, the chief weigher intervenes to try to resolve the problems; all the same, inspectors had shown that it was difficult to cheat the cane-cutters, since they had garnered great experience over many years and knew the precise weight of the cane cut. According to the Government representative, only 12 weighers had been dismissed for committing irregularities in carrying out their duties; this indicated that the circulars issued by the CEA were being observed in practice.

The Committee hopes that the Government will provide a copy of the inspection reports mentioned, as well as full information on the measures taken in the plantations that do not belong to the CEA.

3. Articles 3 and 7, paragraph 1 of the Convention (payment of wages in cash, and enterprise stores). In paragraph 538 of its report, the Commission of Inquiry recommended that the current practice in plantations belonging to the State and those of the Casa Vicini of permitting the negotiation of wage tickets by workers in favour of third parties be discontinued and that, instead, arrangements be instituted to enable the workers to receive cash advances, as was already the case at La Romana. There would be no objection to allowing workers to cash their wage tickets at stores to be established on the state-owned plantations in collaboration with the Price Stabilisation Institute, on the understanding that this would take the form of an advanced payment of wages by the employer to the worker and would be made without any deduction or discount.

In 1989, the Committee noted the indications provided to the direct contacts mission by the representatives of the CEA to the effect that vouchers would be exchanged for cash each week, and not every fortnight as occurred previously, and that while awaiting payment workers would be able to use their vouchers to buy basic products at the official price in stores operated by the CEA in collaboration with the Price Stabilisation Institute. The Committee also noted with interest a communication of the CEA of 4 October 1988 providing for the system of non-profit-making stores to be extended, both regarding sales for cash and sales covered by advance vouchers (CEA Form No. 1) or a card for the payment of daily workers. The same communication specifies that, when cutting, gathering or transportation vouchers are presented in order to make purchases at the store, change shall be returned in cash without any deduction.

The Committee noted, however, that these efforts would be worthless if wages remained excessively low and were paid late, so that the worker was obliged to spend his vouchers in the store to cover his needs. The Committee also noted the observation made by the

direct contacts mission that a private store operating in a sugar plantation camp ("batey") was better stocked than that of the Price Stabilisation Institute and that the latter only accepted payment in cash, and asked the Government to provide detailed information on the implementation in practice of the system of non-profit-making stores envisaged by the CEA and the system for the payment of wages and advances, and on any similar measures taken in private plantations.

In its report received before the 1989 Conference, the Government refers to the following measures adopted in the CEA enterprises and plantations: in collaboration with the Price Stabilisation Institute (INESPRE) various public stores have been set up; in collaboration with the Price Control Department, a price list for essential goods has been drawn up; the CEA has substantially increased the production of groceries for sale to its workers as part of the recent agricultural diversification plan; sugar workers can validate their wage advance chitties in CEA plantation shops in collaboration with the INESPRE without any reduction or discount; the Price Control Department regularly inspects private and CEA stores to ensure prices are fixed and to avoid speculation and usury to the prejudice of the workers; the CEA has considerably increased the network of non-profit stores both for cash sales and through advance forms (CEA Form No. 1) or letter of payment for daily workers; businesses in and around CEA enterprises have to pay all the rest of the money due to sugar workers when they pay for purchases with written proof of what has been cut, collected or transported; all businesses (private or CEA) operating in or around the enterprises and plantations have to accept cash or written proof of what has been cut, collected or transported; to avoid arrears of payments of sugar workers and prevent them having to pay with chitties or written proofs of wage advances, in businesses, stores, shops or public selling points providing essentials, payment of wages is made or cancelled weekly.

In his statement to the Conference Committee in 1989, the Government representative stressed that the works stores, previously under private ownership, which had lent itself to speculation, were now owned by the State and offered prices for food and medicines which were within the reach of the workers and which were controlled by the Government Price Stabilisation Institute. He added that the labour inspectors had been asked to make a detailed report on the situation of agricultural workers on plantations with a view to improving the situation of workers of Dominican Republic and Haitian origins who were resident in the country.

The Committee takes note of this information on the main features of the CEA's system of works stores and payment of wages. It hopes that the information previously requested on the effective implementation of this system will also be supplied, including a copy of the inspection reports drawn up by the Price Control Department and the Labour Inspectorate.

Furthermore, the Committee again expresses the hope that detailed information will also be supplied on any corresponding measures taken in the Casa Vicini plantations.

4. Article 7, paragraph 2 (services intended for workers). In paragraph 539 of its report, the Commission of Inquiry asked for information not only on non-profit-making stores but also on the

implementation of the CEA's plan to grow food crops on its plantations for the benefit of the workers, and any corresponding measures on privately owned plantations. In 1989, the Committee took note of a communication prepared by the Directorate of the CEA's social development programme on a food programme involving the production of food, fish farming, the rearing of chickens, pigs and rabbits, the sale of beef at a low price, people's stores and the sale and distribution of flour and other food programmes; and programmes for drinking water and sanitary facilities, nutrition, health and education; the Committee expressed the hope that the Government would provide detailed information on the progress achieved in this respect not only by the CEA but also in private plantations, particularly with regard to the allocation of land for collective or family food growing ("conucos"), in accordance with the recommendations made by the Commission of Inquiry in paragraphs 516 and 539 of its report. It also expressed the hope that the Government would supply information on any measures taken by the public authorities to supply to camps ("bateyes") on CEA plantations as well as those on private plantations the services that should not be at the expense of the employer, such as education.

In its report which was received before the 1989 Conference, the Government referred to the Casa Romana and CEA programmes for diversifying agriculture and stock raising and to the extension of other programmes such as drinking-water, sanitary facilities, nutrition, health and education programmes. In his statement to the Conference Committee in 1989, the Government representative added that, with regard to the cane-cutters' housing, the labour inspectors had found that in plantations administered by the State, there were adequate sanitary facilities, works stores and child care centres and that labour inspectors had been asked to make a detailed report on the situation of agricultural workers on plantations. In its report which was received before the 1989 Conference, the Government also stated that it would shortly be submitting a full report to the ILO on the efforts undertaken and the results obtained not only by the CEA but also by the private enterprises, with regard to the programmes for agricultural diversification and social assistance, compulsory or otherwise, for employees.

Since this report has not been received, the Committee again expresses the hope that the detailed information awaited on the services of the CEA and private enterprises will shortly be communicated, along with copies of labour inspection reports and information on any measures that have been taken by the public authorities to supply to plantation camps ("bateyes") of the CEA as well as those of private plantations the services that should not be at the expense of the employer, such as education.

5. Deferred payment of a part of wages. In paragraph 541 of its report, the Commission of Inquiry recommended the abolition of the imposed system of deferred payment of that part of cane-cutters' remuneration designated as "incentive pay" then in operation on the plantations of the State and of the Casa Vicini, and the incorporation of "incentive pay" in the workers' wage, to be paid regularly on the days fixed for that purpose.

The Committee notes the statement made by the Government representative to the Conference Committee in 1989 that, according to CEA Circular No. 111 of 11 November 1988, incentive bonuses for cutting a specified number of tonnes are currently paid at the same time as the wage. The Government representative also referred to an incentive bonus paid, as previously, at the end of the harvest to each worker cutting more than 150 tonnes. As already pointed out under point 2 above, the text of CEA Circular No. 111 of 11 November 1988 has not yet been communicated and no information has been supplied on the Casa Vicini.

6. Article 14 (workers' information). Reference has already been made in points 2 and 3 above to the provisions of CEA Circulars Nos. 8 and 9 of 20 October 1988 concerning the provision of information to daily workers, known as "ajusteros", performing work by the task, and to sugar-cane workers presenting cane to be weighed, regarding their wage conditions. More generally, CEA Circular No. 7 of the same date, which was addressed to the administrators of plantations, issuing preliminary recommendations and specifications regarding the engagement of agricultural workers for the 1988-89 harvest provides, in point 3, that each administration has to ensure the display in an appropriate place of the contractual conditions that are to be fulfilled, both by the plantation and by the agricultural worker under contract; these contractual conditions should, among others, include wages, living conditions in sugar refineries, medical assistance, facilities for the purchase of foodstuffs, etc., and labour discipline. According to the communication of the CGT of 3 January 1989, this Circular was unknown to the workers and was not applied.

In its report which was received before the 1989 Conference, the Government indicates that it is common practice in the country to give workers appropriate and easily understandable information on their conditions of wages, a breakdown of how wages are calculated, and the time and place of payment. In the CEA, Circulars Nos. 8 and 9 of 20 October 1988 are satisfactorily applied, guaranteeing information on wage conditions to workers known as "ajusteros" who work by the day or the task, and to workers presenting cut cane by weight, in Spanish and if necessary in Creole. In each CEA enterprise the management displays in prominent places texts, in Spanish and Creole, showing the terms of employment of contracts binding on the employer and the agricultural worker covering such subjects as wages, living conditions, medical assistance, food facilities, labour discipline, etc. Every CEA enterprise also gives orally full information in Spanish and Creole when a worker is engaged or at work.

The Committee takes due note of this information. It observes that the Government has not provided particulars of the provisions that it may have taken to ensure effective implementation of the above-mentioned measures in the CEA plantations or corresponding measures in other sugar plantations.

### C. Enforcement

In paragraph 544 of its report, the Commission of Inquiry pointed out the need for effective administrative services for the enforcement



of legislation through which ratified international labour Conventions are to be applied. In relation to the employment of workers on Dominican plantations, the primary responsibility of ensuring such enforcement must rest upon the Government of the Dominican Republic. The Commission of Inquiry recommended that labour inspection services of the Ministry of Labour be developed so as to be an effective instrument for ensuring observance of labour laws and of the workers' rights on the sugar plantations.

The Committee noted in 1989, from the report of the direct contacts mission, that the supervision of all sugar production operations in its own plantations, including their labour aspects, was provided by a central State Sugar Board service. The Committee expressed the hope that the Government would supply detailed information on any activities of the inspection services of the Ministry of Labour in state and private plantations and the results obtained with regard to the observance of workers' rights, including those respecting wages.

In its report which was received before the 1989 Conference, the Government indicates that the labour authorities have strengthened inspection services in the CEA, Casa Vicini and the Central Romana, in order to guarantee sugar-workers their rights. The CEA has limited its inspection functions to plantation work: cutting and transport of cane, sugar-milling and production, the Agricultural Diversification Programme, etc. Living and working conditions in CEA enterprises and plantations are inspected by the Labour Ministry's inspectorate which also inspects the enterprises and plantations of the Casa Vicini and the Central Romana. In his statement to the 1989 Conference Committee, the Government representative added that there had been a lack of labour inspectors and a budget deficit in the Labour Ministry; 60 posts for labour inspectors had now been created in order to overcome these shortcomings. These labour inspectors were employed under sections 390 and 400 of the Labour Code in order to effectively enforce the application of the provisions of that Code, especially on the sugar plantations of the State and on the different private plantations. These inspectors were to ensure, inter alia, that the minimum wage is paid to agricultural workers, and that the measures adopted by the State Sugar Board (CEA) to improve the situation of Dominican and Haitian labourers are being applied, in particular that workers are paid the incentive bonuses before the end of the harvest.

In its report on the application of Convention No. 105, received before the 1989 Conference, the Government also indicated that, in compliance with the recommendation in paragraph 544 of the 1983 report of the Commission of Inquiry, the State Secretariat for Labour has intensified its inspection services in the sugar plantations and refineries, both state-owned and private, in order to ensure application of labour law and observance of the rights of both national and foreign workers employed in agricultural work and sugar-cane cutting, collection and transport operations. The Government added that, in due course, reports would be forwarded on the results of the plan for regular visits to both the state and private sugar plantations and refineries, in order to improve the effectiveness of these services and on the complaints received and

irregularities noted and the sanctions imposed in cases of violations of agricultural workers' rights. Furthermore, the Government representative at the Conference Committee undertook to send a detailed report on the progress achieved by the new labour inspectors, as soon as he returned to his country.

The Committee notes that this information has not been received.

The Committee expresses its deep concern over the contradiction between the stated intentions of the Government and the absence of information to enable it to ascertain any real progress in the implementation of measures to ensure observance of the Convention.

[The Government is asked to report in detail for the period ending 30 June 1990.]

#### Iraq (ratification: 1960)

The Committee takes note of the information provided by the Government at the Conference Committee in 1989 and in its report, in reply to the previous observations and direct requests concerning the procedures for the payment of Filipino workers engaged by the Government of Iraq.

Having been informed that discussions had begun on this subject and that a proposal had been submitted to the Government of the Philippines that these workers receive 40 per cent of their wages in Iraqi dinars, with the balance to be paid in dollar-denominated promissory notes payable in two years, in the above-mentioned comments the Committee pointed out to the governments concerned (both being parties to the Convention) that the proposal, if accepted, would be contrary to Article 3, paragraph 1, of the Convention, which prohibits the payment of wages in the form of promissory notes, vouchers or coupons, or in any other form alleged to represent legal tender.

The Committee therefore expressed the hope that the agreement to be reached between the two countries concerned following the discussions, would take account of the above-mentioned provision of the Convention and asked the Government, meanwhile, to provide detailed information on the existing arrangements for the effective payment of the Filipino workers in question.

In its statements to the Conference Committee and in its report, the Government of Iraq indicates that no agreement on this subject exists between the countries in question and that Filipino workers employed in Iraq receive the same treatment as Iraqi workers with regard to the payment of their wages, in accordance with the provisions of the Labour Code and the legislation in force. It adds that all foreign workers have the right to remit a part of their wages to their families.

The Committee takes due note of these statements. However, having noted from the statements made by the representative of the Government of the Philippines at the same session of the Conference Committee (in 1989), that the two governments have initiated negotiations with a view to reviewing the existing arrangements and signing a new agreement on the general conditions of employment of the Filipino workers, including the payment of their wages and the possibility of remitting part or all of their wages to their country



of origin, it requests the Government to provide information on the results of these negotiations and to indicate (a) how and under what provisions or bilateral agreements the wages of foreign workers from countries other than the Philippines are paid, and (b) the procedures for the remittance of a part or all of these wages to the country of origin of the persons concerned.

Philippines (ratification: 1953)

In its previous comments, the Committee referred to the discussions between the Governments of Iraq and the Philippines concerning the payment of Filipino workers employed in Iraq. The Committee learned of a proposal that these workers be paid 40 per cent of their wages in Iraqi dinars, with the balance to be paid in dollar-denominated promissory notes payable in two years, and accordingly pointed out to the governments concerned that such a proposal, if accepted, would be contrary to Article 3, paragraph 1, of the Convention (ratified by the two countries in question) which prohibits the payment of wages in the form of promissory notes, vouchers or coupons, or in any other form alleged to represent legal tender.

In reply to these comments, the Government had stated in the past that the proposal in question had not been accepted by the Philippines, and that as the Government of Iraq also wished to review the former arrangements concerning the general conditions of employment of Filipino workers, further discussions had been initiated and, as regards the payments of wages, arrangements were being negotiated by the Central Bank of the Philippines and the Iraqi Government for full payment of the Filipino workers in legal tender. The Committee took note of these statements and asked the Government to provide information on the former arrangements still in force, pending the conclusion of the above discussions and negotiations.

In its statements to the Conference Committee in June 1989, the Government indicated that the two governments involved in this case were still pursuing discussions on the review of existing arrangements, and that the ILO would be informed of the arrangements adopted following the discussions. However, it has still not provided information on the substance of the arrangements presently in force, in answer to the request that the Committee has been making for some years.

In a communication addressed to the Director-General of the Office, in August 1989, and in its last report, received in October 1989, the Government indicates for the first time that under the existing arrangements, the payment of Filipino workers and remittances are regulated by the employment contracts of the persons concerned, the terms of which are verified by the Labour Attaché of the Embassy of the Philippines in Iraq to ensure that these workers are paid in legal tender and that their contracts are consistent with the laws of the receiving country. The Government adds that workers who agree to be paid in a particular form, do so voluntarily. The Government also refers to a memorandum of agreement between the Philippines and Iraq, which provides that Filipino workers have the same rights, obligations

and privileges as national workers of the receiving country and adds that, since Iraq has ratified the Convention, it is assumed that Filipino workers in Iraq are paid in legal tender.

The Committee takes due note of these statements and requests the Government to keep it informed of the results of the current discussions and negotiations to review existing arrangements, and hopes that the agreement to be concluded on this subject will take into account the provisions of Article 3 of the Convention, as regards the payment of wages. (Please furnish a copy of the relevant text as soon as it is adopted.)

Portugal (ratification: 1983)

With reference to its previous observations concerning the arrears and non-payment of wages for workers in certain enterprises, the Committee notes the information supplied by the Government to the Conference Committee in June 1989 and the discussion in that Committee on that subject.

The Committee notes that, as a result of the Government's endeavours and the application of Act No. 17/86, the number of workers who have not received their wages has decreased and that, when the Government supplied this information, they numbered 15,436, and that the number of enterprises owing arrears or which had not paid wages numbered 117.

The Committee hopes that the Government will continue making every effort as necessary to rapidly resolve the problem of arrears and non-payment of wages and that the next report will contain information on further progress achieved in this respect. The Committee recalls that it also addressed a request directly to the Government on other points concerning the application of this Convention and reserves the possibility of re-examining the problem as a whole during its next session on the basis of the information supplied by the Government in its report.

Turkey (ratification: 1961)

With reference to its previous comments, the Committee notes with satisfaction the adoption of Act No. 3528, of 12 April 1989, which extends the scope of the provisions of Labour Act No. 1475, respecting the protection of wages to workers in the agricultural sector and to those in small commercial and artisanal enterprises, and prohibiting the payment of wages in taverns or other similar establishments, and in shops or stores for the retail sale of merchandise, thereby giving effect to the provisions of Articles 2 and 13, paragraph 2, of the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: Democratic Yemen, Philippines, Sierra Leone, Sri Lanka, Turkey.

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

Part II of the Convention. The Committee took note of the information supplied by the Government in its report. It also noted the information provided to the Conference Committee and the discussion on that occasion. The Committee noted in particular from the Government's report that the Provincial Governments had 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 noted 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 Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Syrian Arab Republic (ratification: 1957)

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

Part II of the Convention. With reference to its previous observation, the Committee recalled 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 regretted to note that the Government's report did 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 noted the Government's assurances that, in practice, private employment agencies did not exist and the relevant provisions of the Code were not applied. In this connection, it took particular note of certain measures taken by the Government to prevent, in effect, the setting up of such agencies. However, the Committee was 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 Committee hopes that the Government will make every effort to take the necessary action in the very near future.

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

#### **Convention No. 97: Migration for Employment (Revised), 1949**

Requests regarding certain points are being addressed directly to the following States: Ecuador, Italy, Saint Lucia.

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

Democratic Yemen (ratification: 1969)

Further to its previous comments, the Committee notes with interest that Ministerial Order No. 25 of 1989 guarantees the protection of workers against acts of anti-union discrimination during employment, in conformity with Article 1(2)(b) of the Convention.

The Committee is also addressing a direct request to the Government on the protection of workers against acts of anti-union discrimination at the time of recruitment (Article 1(2)(a) of the Convention), and on the implementation in practice of Article 4 of the Convention respecting the promotion of collective bargaining.

Dominican Republic (ratification: 1953)

The Committee notes the Government's report, the written information transmitted to the Conference Committee in 1989 and the reply to the comments of the General Confederation of Workers (CGT) which dealt, among other matters, with the trade union rights of migrant workers and acts of anti-union discrimination.

I. Haitian workers in sugar plantations

For several years, the Committee has been requesting the Government to give effect to paragraph 473 of the report of the Commission of Inquiry of 1983 concerning the need to adopt provisions for the protection of workers engaged in sugar plantations against anti-union discrimination by employers and acts of interference by employers in workers' organisations.

In its comments, the CGT alleges that acts of violence have been committed against Haitian and Dominico-Haitian workers (the violent deaths of two Dominico-Haitian trade union leaders, forceable displacement, expulsion, the destruction of houses, the separation of cane-cutters from their families, the rape of Dominico-Haitian women), that dismissals occurred in the Romana and Bani free trade zones, that State Sugar Board circulars are not transmitted to the workers concerned and are not applied, and finally that the committee set up to examine the situation of agricultural workers has not yet met the trade union organisations concerned.

In its reply, the Government indicates that the right of association is a constitutional right and that no legal text prevents the national or foreign workers who are resident in the country from working freely and from joining trade unions, in accordance with the provisions of the Constitution and the Labour Code. As regards foreign workers who are illegal residents, it adds that they can produce and work but that they cannot join a trade union. Regarding the allegations of violence, the Government states that Haitian workers engaged in the Dominican Republic in sugar plantations do not suffer any anti-trade union discrimination by employers, as witnessed by the existence of trade unions in each of the enterprises of the State Sugar Board (CEA), the Casa Vicini and the Central Romana. As regards the death of Dominico-Haitian trade unionists, the Government indicates that one died in the attack on a batey for unknown reasons and the second committed suicide in his cell in the National Police Station, also for unknown reasons. Finally, no cases of rape have been reported, which proves the unfounded nature of this allegation.

Furthermore, the Government indicates that the circulars of the State Sugar Board have been widely disseminated in order to inform workers in plantations and bateys of their rights and the services available to them. As regards the committee responsible for examining the situation of agricultural workers, its members are pursuing their mission despite the departure of the workers' representative.

In view of the above, the Committee cannot but deplore the violence in industrial relations and hopes that appropriate measures will be put into effect, including recourse to the courts, in order to ensure complete financial and occupational compensation for the harm

suffered by Haitian workers due to acts of anti-trade union discrimination. In this connection, the Committee notes the Government's statement to the effect that the authorities have the firm intention of carrying out the necessary administrative and legislative reforms, in accordance with the recommendations contained in the report of the 1983 Commission of Inquiry.

The Committee is bound once again to urge the Government to adopt in the near future the measures recommended in 1983 by the Commission of Inquiry 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

For several years, the Committee has noted that, although the legislation contains provisions in conformity with Articles 1 and 2 of the Convention (section 307 of the Code), the penalties provided by the law to enforce these provisions, which are limited to a fine of from 10 to 500 pesos (sections 678 (15) and 679 (6) of the Code) are quite insufficient and should be increased.

In its comments, the CGT alleges the dismissal of workers and trade union officers in certain enterprises (Coca Cola and Dole Dominica), and the dismissal of members of the Asociación Nacional de Trabajadores de Apoyo a la Educación, in order to prevent them from establishing trade unions.

In its reply, the Government indicates that the enterprise Coca Cola has concluded a new agreement with its workers which provides for an improvement of their terms and conditions of employment and the re-employment of the dismissed workers and trade union officers. The dismissal of the workers of Dole Dominica is not related to the establishment of a trade union. The workers and trade union officers of the Asociación Nacional de Trabajadores de Apoyo a la Educación were dismissed for abandoning their workplace without justification.

Furthermore, the Government states that it has the intention of extending the scope of section 37 and strengthening the provisions setting out penalties for violating this section. Furthermore, a Bill is currently being prepared that will guarantee the employment security of trade union officers during the exercise of their trade union functions.

While noting this information, the Committee of Experts, like the Committee on Freedom of Association (Case No. 1393, approved by the Governing Body at its February-March 1988 Session), is bound to urge once again the need to adopt appropriate measures to provide effective protection against acts of anti-union discrimination and interference, and in particular preventive measures, stronger penalties and the reinstatement of workers in their jobs.

III. Workers in agricultural undertakings employing no more than ten workers, excluded from the scope of the Labour Code

The Committee recalls that the exclusion of agricultural, agro-industrial, stock-raising and forestry enterprises from the Labour Code has the effect of enabling the employers in these small enterprises to evade the obligations laid down in section 307 of the Code. This section prohibits acts of anti-union discrimination and acts of interference by employers, and of excluding this category of workers from collective bargaining procedures.

The Committee urges the Government to take the appropriate measures to ensure workers engaged in these small enterprises the same protection against acts of anti-union discrimination and interference, accompanied by the same sufficiently dissuasive penalties as those that have been taken or will be taken in favour of workers covered by the Labour Code, and also to grant them the right to settle their terms and conditions of employment through collective bargaining with employers or employers' organisations.

The Committee once again requests the Government to indicate in its next report the measures that have been taken or are envisaged to bring its legislation into conformity with the Convention.

[The Government is requested to supply full particulars to the Conference at its 77th Session.]

Ecuador (ratification: 1959)

The Committee refers to the comments made under Convention No. 87, concerning protection against acts of anti-union discrimination at the time of contracting.

Gabon (ratification: 1961)

The Committee takes note of the Government's report and of the comments submitted by the Employers' Confederation of Gabon (CPG) on the application of the Convention.

For a number of years, the comments of the Committee have addressed the following points:

- the need to supplement the legislation so as to guarantee the protection of the workers against acts of anti-union discrimination both at the time of taking up employment and in the course of employment;
- the need to adopt a provision in order to protect workers' organisations against acts of interference on the part of employers or their organisations.

In its previous observation, the Committee took due note that the provisions of the common agreement cover the gaps identified in the law with regard to Article 1 of the Convention.

In this connection, the Committee notes the CPG's statement that all the agreements signed since February 1983, which cover the vast majority of sectors of economic activity, have incorporated the



provisions of the common agreement concerning the protection of workers against acts of anti-union discrimination.

The Committee also notes once again the assurances provided by the Government that Articles 1 and 2 of the Convention are among the questions to be examined during the current revision of the Labour Code.

The Committee again expresses the hope that the legislation will be amended in order to extend the protection guaranteed by law against any act of anti-union discrimination to the period of recruitment and that of employment (Article 1 of the Convention) and to provide protection, including penal sanctions or civil remedies, for workers' organisations against any act of interference by employers (Article 2 of the Convention).

The Committee requests the Government to indicate in its next report the measures that have been taken to bring its legislation into greater conformity with the Convention.

#### Jamaica (ratification: 1962)

The Committee notes the Government's report. It recalls that previous comments dealt with the following points:

- the broad powers of the Minister to cause a ballot to be taken to choose the bargaining agent (section 5 (1) of the Labour Relations and Industrial Disputes Act, 1975 (No. 14) and sections 3 (1) and 3 (2) of the regulations issued thereunder), without the right of appeal;
- 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 or when, if the former condition is satisfied, a single union that is engaged in the procedure of obtaining recognition does not obtain 50 per cent of the votes of the workers in a ballot that the Minister has caused to be taken (section 5 (5) of Act No. 14 of 1975, and section 3 (1)(d) of the regulations issued thereunder).

For several years, the Committee has been requesting the Government to take measures to amend the provisions concerning the procedure for designating a union as bargaining agent so as to eliminate the discretionary powers of the Minister and to enable the workers of a bargaining unit to bargain collectively, even where the conditions relating to the numbers in a trade union and the votes cast in a ballot are not satisfied.

In its previous observations, the Committee noted no change in the situation. In its last report, the Government indicates that an advisory tripartite committee is currently examining labour legislation and that the Government representative to the Conference Committee will be in a position to provide information at the 1990 Conference on the progress achieved in the context of the envisaged reforms.

While noting this statement, the Committee recalls that, where the legislation provides for the most representative trade union to have preferential rights, it is important that the determination of the trade union in question should be based on objective and



pre-established criteria, so as to avoid any opportunity for partiality or abuse. Furthermore, where conditions concerning the number of members of a trade union or the balloting of workers in a bargaining unit, in the event of a vote, are such that the workers of the unit concerned may be deprived of the right to collective bargaining, when there exist one or more legally constituted unions, the legislation should recognise the right of this or these unions to bargain at least on behalf of their own members.

The Committee hopes that the amendment to the labour legislation will be along the lines of its comments and once again, like the Committee on Freedom of Association, which examined the matter in Case No. 1158, approved by the Governing Body in May, June and November 1983, urges the Government to indicate the measures that have been taken or are envisaged to guarantee the objectivity of the recognition procedure and to ensure that the union representing the largest number of workers, even if these do not amount to 40 per cent of the workers in the bargaining unit or the majority of votes in a ballot, is granted collective bargaining rights concerning terms and conditions of employment, at least on behalf of its own members.

#### Liberia (ratification: 1962)

The Committee takes note of the Government's report and of the information communicated during the direct contacts mission conducted from 10 to 19 May 1989.

The Committee notes with regret from the above information that no measures have been taken to eliminate the discrepancies between the national legislation and the Convention and, in particular, that the revised draft of the Labour Code whose provisions were to ensure the application of the Convention has still not been adopted, despite the Government's assurances to the Conference Committee in 1987 that it was on the point of enactment.

In the circumstances, the Committee can only recall its comments of the last few years which concern the following points:

1. Article 1 of the Convention. The provisions of the national legislation are insufficient to guarantee workers adequate protection, accompanied by civil remedies and penal sanctions, at the time of recruitment and during the employment relationship.

2. Article 2. The present provisions are not sufficient to ensure adequate protection of workers' organisations, accompanied by civil remedies and penal sanctions, against acts of interference by employers and their organisations.

3. Articles 4 and 6. The possibility of collective bargaining is not offered to employees of state enterprises and other authorities, since these categories are excluded from the scope of the Labour Code, whereas under Article 6 of the Convention, only public servants engaged in the administration of the State are not covered by the Convention.

As the Committee has been repeating these comments for years, it again asks the Government to do everything in its power

to take the necessary measures to ensure that full effect is given to the Convention in the very near future.

[The Government is asked to supply full particulars to the Conference at its 77th Session.]

#### Mauritius (ratification: 1969)

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

In its previous comments, the Committee pointed out that the provisions of the Act do not give workers' organisations sufficient protection against acts of interference, as provided for by Article 2 of the Convention. It has been requesting the Government since 1977 to include an express provision in the legislation for this purpose.

The Committee noted from the observations of the Mauritius Labour Congress sent in 1984 that a committee set up to examine the replacement of the Industrial Relations Act of 1973 has submitted its report.

The Committee trusts that this step will give rise in the near future to the inclusion in the Act of an express provision covering appropriate procedures and penalties, to ensure that the guarantees set forth in Article 2 of the Convention are respected.

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

#### Papua New Guinea (ratification: 1976)

The Committee notes the Government's report and recalls that its previous comments dealt with the need to amend the provisions of the national legislation which give the authorities discretionary power to cancel arbitration awards or agreements concerning wages void when they are contrary to government policy or the national interest (section 42 of the Industrial Relations Act, covering the private sector, and section 52 of the Public Service and Teaching Conciliation and Arbitration Act, as amended in 1983).

In its previous reports, the Government indicated that over the past 21 years it had only made use of the powers conferred upon it to modify an arbitration award on three occasions, but it also indicated that measures would be taken to amend these provisions of the national legislation in accordance with Article 4 of the Convention.

In its last report, the Government limits itself to indicating that due to the material difficulties affecting the Department of Labour and Employment, the proposed amendments to which it had referred have not been completed and that examination of the matter has been postponed.

In these circumstances, the Committee once again recalls that the obligation to submit an arbitration award or a wages agreement to the approval of the authorities, which may declare clauses void because they run counter to the policy or the national interest, is incompatible with Article 4 of the Convention. A system of official

approval is acceptable only in so far as the approval can be refused on grounds of form and where the clauses of a collective agreement do not conform to the minimum standards set out in the labour law. Furthermore, rather than subject the validity of collective agreements to government approval, steps should be taken to persuade the parties to collective bargaining to have regard voluntarily in their negotiations to major economic and social policy considerations and the general interest invoked by the Government. To achieve this, the considerations should be widely discussed by all parties at the national level through a consultative body.

The Committee therefore once again requests the Government to take measures to amend the law to give effect to its comments and to supply information in its next report on the progress achieved in this respect. It also requests the Government to supply detailed information on cases in which it has used the powers conferred upon it by the legislation to modify the clauses of an arbitration award or wage agreement, and on the effect given to the Convention in practice (number of collective agreements, sectors, workers covered).

#### Poland (ratification: 1957)

The Committee notes the information supplied by the Government to the Conference Committee on the Application of Standards in 1989 contained in its last reports.

1. In its previous observation, the Committee expressed the hope that, within the framework of the discussions taking place in the Round Table committee responsible for matters relating to freedom of association, solutions could be found regarding the persons who had been prejudiced due to trade union activities.

The Committee therefore notes with satisfaction the adoption of the Amnesty Act No. 179 of 29 May 1989, which completely annuls convictions on grounds of strikes or other protest actions which occurred after 31 August 1980.

It also notes with satisfaction that, under the terms of Act No. 172 of 24 May 1989, as amended on 7 December 1989, all persons, including secondary school teachers and university professors who were dismissed for trade union activities, will be able to apply for reinstatement to their former workplace until 30 June 1990, and that in the event of the refusal of their application by their employer, they could apply to the Conciliatory Commission, which is empowered to order their reinstatement in the event of dismissal for trade union activities. In addition, they may regain the rights which attach to their status as wage earners.

The Committee notes the Government's statement to the effect that any person dismissed for trade union activities should find a job, either in their former workplace or elsewhere, and that this matter is directly related to the need to provide adequate protection against acts of anti-union discrimination, as set out in the Convention. In this respect, the Committee notes that, according to the Government's most recent report, the Act of 29 December 1989 on employment assures equality of treatment between all jobseekers whatever the political or social organisations they belong to.

The Committee requests the Government to continue supplying information on the situation of persons who were dismissed for trade union activities and on the measures that it intends to take to strengthen the legislation and protective procedures for workers against acts of anti-union discrimination, including the adoption of sufficiently dissuasive civil and penal sanctions.

2. In its previous observation, the Committee noted the adoption of Act No. 134 of 17 June 1988, under which the registration of agreements concerning wage rates concluded at the enterprise level and of enterprise agreements negotiated on the basis of a national or branch agreement is no longer obligatory. It requested information on the effect of this Act on the restrictive provisions respecting the registration of collective agreements contained in the Labour Code (section 241<sup>7</sup>).

In its report, the Government states that by virtue of Act No. 134 of 17 June 1988, the registration of agreements concluded at the enterprise level is no longer compulsory and that the agreements come into force on the date set out in the agreement. It also indicates that collective agreements are registered by the Ministry of Labour and Social Policy, which confines itself to examining whether they are in conformity with the law and the social and economic policy of the State, but that it is no longer compulsory to examine the content of the agreement with the Minister of Labour as used to be the case. Finally, it states that the Labour Code establishes machinery for the settlement of disputes when the Minister considers that the agreement prejudices the law and the social and economic policy of the State.

It appears from this information that, although agreements concluded at the enterprise level are not subject to the registration procedure, collective agreements negotiated at the national or branch levels must be registered in accordance with section 241<sup>7</sup> of the Code, and that registration may be refused in the event of divergencies with the social and economic policy of the State.

The Committee draws the Government's attention to the fact that a system of official approval is acceptable only in so far as the approval can be refused on grounds of form and where the clauses of a collective agreement do not conform to the minimum standards set out in the labour law.

It would not therefore be compatible with the Convention for the public authorities to be able, through this machinery, to modify the content of freely concluded collective agreements. However, if, for social and economic reasons, it is found necessary for conditions of employment and wages to be adapted to the Government's economic policy, it would be desirable, through tripartite consultation machinery, to associate the social partners with this policy so that they could have regard to it voluntarily in their negotiations.

The Committee therefore requests the Government to supply information on the effect given in practice to section 241<sup>7</sup> of the Code and to indicate the circumstances in which the public authorities may have refused to register collective agreements.

The Committee is addressing a request directly to the Government on another point.

United Kingdom (ratification: 1950)

The Committee notes comments concerning the application of the Convention submitted by the Trades Union Congress (TUC) on 29 January 1990. These comments relate to the extension of the Teachers' Pay and Conditions Act, 1987, to 31 March 1991.

The communication of the TUC has been transmitted to the Government for its comments. The Committee will examine the issues raised by the TUC, in the light of the Government's observations, at its next session.

Uruguay (ratification: 1954)

The Committee takes note of the communication from the Association of Secondary School Teachers (ADES) dispatched on 15 August 1989, reporting that teachers were in a difficult situation with regard to the level of their wages and that, as their remuneration is determined by the State, there is no legal framework for collective bargaining, which is contrary to Convention No. 98.

Since the Government has not yet replied to the comments of the ADES, the Committee feels that it would be more appropriate to deal with this question at its session next year when it will have examined the Government's observations.

In addition, the Committee recalls that, for a number of years, it has been drawing attention to the fact that public servants other than those engaged in the administration of the State are being deprived of their right to bargain collectively (Articles 4 and 6 of the Convention).

The Committee emphasises once again that public servants not engaged in the administration of the State should enjoy the right to negotiate their conditions of employment, including wages, collectively. However, the Committee notes that under the Constitution, Legislative Decree No. 10388 of 1943 setting the conditions of service of the public service and the Special Rules issued under section 40 of Legislative Decree No. 10388, the status of public servant applies not only to public servants in the strict sense of the term but also to employees of autonomous bodies and decentralised services, including teachers, employees in commercial and industrial establishments and bank employees, and that these employees are deprived of the right to collective bargaining.

In its previous observation, the Committee noted that a Bill to issue regulations under article 65 of the Constitution had been prepared, establishing representative committees in autonomous bodies, but that it did not deal with collective bargaining.

The Committee trusts that the Government will take the necessary measures to ensure recognition of the right of public servants who are not engaged in the administration of the State to negotiate their conditions of employment collectively, in accordance with Article 4 of the Convention and requests it to provide information in its next report on any progress made towards ensuring compliance with the Convention in this respect.

Venezuela (ratification: 1968)

Articles 1 and 3 of the Convention. In its previous observation, the Committee noted with interest the Government's intention to amend section 270 of the Labour Act to increase the amount of the fine that may be imposed on employers who dismiss a worker in violation of the statutory trade union protection set out in section 204 or who refuse to reinstate a worker.

In its last report, the Government indicates that the Committee's comments have been transmitted to the Congress of the Republic within the context of the discussion of the General Labour Bill, and that it hopes that the amount of fines for employers who infringe the provisions of the Convention will be increased significantly.

While noting this information, the Committee recalls the importance of protecting workers against acts of anti-union discrimination through sufficiently severe penalties, and particularly through heavy fines, and it hopes that practical steps will be taken in this respect. The Committee requests the Government to supply information on the progress achieved in this connection.

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In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Cape Verde, Comoros, Democratic Yemen, Ghana, Greece, Guyana, Niger, Peru, Poland, Sierra Leone, Spain, Venezuela.

**Convention No. 99: Minimum Wage Fixing Machinery (Agriculture), 1951**Mauritius (ratification: 1969)

See under Convention No. 26.

Philippines (ratification: 1968)

Article 3, paragraphs 2, 3 and 5, of the Convention. With reference to its previous comments, the Committee notes with satisfaction, from the information supplied by the Government, the adoption of the Wage Rationalization Act No. 6727 of 25 July 1988 amending a number of provisions in the Labour Code concerning wages, including section 99 which no longer allows certain enterprises situated in critical zones (including agricultural enterprises) to pay wages that are 50 per cent lower than the minimum wage.

The Committee also notes with interest that sections 120 to 125 of the new Act (which amend the corresponding sections of the Labour Code) provide for the establishment of a National Wages and Productivity Commission and regional boards of tripartite composition which will have, among its responsibilities, the formulation and implementation of Government policy relating to wages and the determination of minimum wage rates at the national, regional and

industry levels. The Committee also notes that employers' and workers' organisations will have the opportunity to be consulted on wage rationalisation and productivity during meetings specially held for this purpose.

The Committee requests the Government to supply information on the implementation of these new measures and on certain other points that are raised in a request that is being addressed directly to it.

#### Turkey (ratification: 1970)

1. The Committee notes the information supplied by the Government in reply to its previous observation and direct requests concerning the comments made by the Turkish Confederation of Employers' Associations (TISK) on the minimum wage-fixing machinery in agriculture, the machinery being a Joint Minimum-Wage Board in which, in addition to a Government representative, an employers' and a workers' representative from the agricultural sector participate. The Committee also notes the new statements by the above Confederation, which were transmitted by the Government with its report (received in October 1989) and with its communication of 4 January 1990. In these statements, the Confederation of Employers' Associations indicates that its previous comments were merely the explanation of the actual legal framework for the fixing of minimum wages in agriculture.

2. Referring to its previous comments the Committee also notes, from the information supplied by the Government, that the Agriculture and Forestry Work Bill, which had been submitted to the competent commission of the Grand National Assembly, was not approved and that it was therefore rejected. The Committee requests the Government to indicate the measures that have been taken for the formulation of a new draft text in this area which would also establish minimum wage-fixing machinery in the sense of the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: Brazil, Grenada, Ireland, Philippines, Seychelles.

### **Convention No. 100: Equal Remuneration, 1951**

#### General observation

From its review of governments' reports, the Committee concludes that most ratifying countries have serious difficulties in applying the main requirement of the Convention, i.e. to "promote or ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value".

The difficulties encountered by governments which have ratified this Convention appear to be due to a number of factors, including: lack of knowledge of the true situation due to the inavailability or

inadequacy of data and research; lack of understanding of the concept of equal value as it is used in the Convention; ignorance of the principles of job evaluation, without the application of which it is difficult to determine the relative value of jobs; and lack of the financial resources necessary to collect and analyse data, and to institute systems of job evaluation.

The Committee hopes that the governments of those countries where legislation still does not embody the principle of equal pay for work of equal value will take the necessary steps to amend their legislation accordingly. It draws attention to paragraphs 44 to 76 of its 1986 General Survey on Equal Remuneration, where it discusses the concept of equality used in the Convention and gives examples of national legislation and practices in this regard.

As for governments of those countries where the principle of equal pay for work of equal value is embodied in national legislation, the Committee would draw their attention - and the attention of employers' and workers' organisations, when salaries are fixed through collective agreements - to the usefulness of setting up systems of objective job evaluation, to compare the value of different jobs, as recommended in Article 3 of the Convention. It refers to paragraphs 138 to 152 of its General Survey, where it describes the methods of job evaluation and the results obtained through their application in various countries.

In addition, the Committee hopes that in all cases where it is not yet done, governments and employers' and workers' organisations will endeavour to collect and analyse data on earnings and related factors, in order to document fully the nature and extent of existing inequalities, and to devise measures to remedy them, as recommended in paragraph 248 of the General Survey.

In taking the above measures, governments may wish to have recourse to the advice and technical co-operation of the ILO.

#### Angola (ratification: 1976)

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

It has examined the text of the Executive Decrees adopted in 1986 and 1987 (and supplied with the Government's reports) respecting the wage-fixing systems in various sectors. The Committee notes with satisfaction that the wage rates are determined on the basis of certain inherent elements of jobs and are applicable uniformly to all workers without distinction on grounds of sex. Jobs are classified into occupational categories as a function of the nature and complexity of the work that they involve and the skills required of the persons performing them.

The Committee requests the Government to continue supplying information on this subject, and particularly on the wages applicable in sectors of productive activity (such as agriculture, fishing, industry and commerce) in which, according to the Government's statements in its reports, an increase has recently been observed in the participation of women workers.



Argentina (ratification: 1956)

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

2. With reference to its previous observation, the Committee notes with interest that the Government brought the Committee's comments on the supposedly discriminatory clauses as regards the remuneration of women to the attention of the signatories to the collective agreements in the tobacco and clothing sectors. The Committee also notes that the parties concerned considered that the agreements do not contain clauses which are discriminatory in spirit; and that in any event the fact that the Committee interpreted them in this way is due to faulty legal wording of the texts in force, and that the parties will endeavour to correct this by rewording the new collective agreements for the tobacco and clothing sectors. In this connection, the Committee refers to paragraphs 226 to 238 of its 1986 General Survey on Equal Remuneration in which it indicates the role of the authorities in supervising the legality of the clauses in collective agreements and the inclusion of the principle of equal remuneration in collective agreements. The Committee hopes that the Government will soon take adequate measures in this respect and requests it to continue supplying information on the progress achieved through the rewording of the new collective agreements in the tobacco and clothing sectors, and on any other measure that has been taken or is envisaged to guarantee the application of the principle of equal remuneration.

Australia (ratification: 1974)

1. The Committee notes with satisfaction that, following a 12-month exemption of the State of Western Australia from the provisions of the federal Sex Discrimination Act 1984, there are currently no awards operating in that State which contain unequal pay provisions. The Committee notes that the exemption was granted in order to allow a review of all state laws, regulations and industrial awards to eliminate sexually discriminatory provisions.

2. In its previous comments, the Committee noted that pursuant to section 57(2) of the Industrial Arbitration Act 1940, the New South Wales Industrial Commission was required to declare a male basic wage and a female basic wage in state wage cases. The Committee notes with interest from the Government's latest report that the removal of the provision relating to a female basic wage is being considered in the process of drafting the new State Industrial Relations Bill 1989.

Austria (ratification: 1953)

The Committee notes the information supplied in the Government's reports, and the comments received from the Austrian Federation of Chambers of Labour.

1. The Committee notes from the Government's reports that the Equal Treatment Committee has, inter alia, examined the issue of

discriminatory provisions in collective agreements, and that it endeavours to bring its influence to bear on the collective bargaining parties to remove the remaining discriminatory provisions from collective agreements. The Committee notes that only a few collective agreements still contain discriminatory provisions, as concerns social allowances. It notes that separate wage rates persist only in a few collective agreements in the food and allied industry, where an adjustment between men's and women's wages has not yet been fully completed, but where the bargaining partners have agreed to complete the staged process of abolishing the different wage rates at an early date. The Committee requests the Government to continue to supply information on the progress achieved in eliminating discriminatory provisions in collective agreements, in particular as concerns those provisions establishing separate wage rates for men and women in the food and allied industries and on the action taken by the Equal Treatment Committee in that respect.

2. In this connection, the Committee recalls that it had raised the possibility, in its previous comments, that the provisions of individual employment contracts or collective agreements which run counter to the principle of equal remuneration might be deemed null and void; it referred to paragraph 175 of its 1986 General Survey on Equal Remuneration in which it is stated that this is the practice in certain countries. The Committee notes that the Committee of Independent Experts on the European Social Charter noted, in its 1988 report, that section 879 of the Austrian Civil Code provides that a contract contrary to prohibitions contained in law or to public morality is null and void, and concluded that clauses of collective agreements or individual employment contracts contrary to the principle of equal remuneration which appears at section 2 of the Equality of Treatment Act of 23 February 1979 would be void. That Committee asked for recent jurisprudence on the matter. The present Committee asks for further information in this connection.

3. In its previous comments the Committee noted that wages relating to activities carried out exclusively or mainly by women were normally at a lower level than for jobs carried out by men and drew the Government's attention to Article 3 of the Convention concerning the objective appraisal of jobs. The Committee notes from the Government's reports that wage fixing in Austria is carried out by means of collective bargaining and is thus independent of state influence, but that the collective bargaining parties are obliged to observe the principle of equal remuneration embodied in the Equality of Treatment Act. It further notes that under the Austrian collective bargaining system agreements are concluded at a sectoral level, and that therefore, an objective evaluation system which would be valid for all sectors and allow comparison of totally dissimilar activities seems impossible to establish; but that a scientific job evaluation system can be drawn up only by the collective bargaining parties for the sector within their own jurisdiction.

The Committee notes the comments by the Austrian Federation of Chambers of Labour to the effect that statistically, the average income of women in Austria is generally well below that of men; that the Equality of Treatment Act of 1979 has been responsible for the removal of glaring sex-determined inequalities in collective

agreements; but that the Equality of Treatment Committee has so far not done enough to settle the basic question of what constitutes work of equal value. The Austrian Federation of Chambers of Labour states that with reference to Articles 2 and 3 of Convention No. 100, the parties to the collective agreement are called upon to make greater use of their opportunity to establish methods of job appraisal; the Equality of Treatment Committee has been given the task of encouraging such activities by the parties to the collective agreement and of providing expert assistance.

The Committee further notes from the Government's report that the Federal Minister of Labour and Social Affairs has submitted for approval the draft of a further amendment to the Equality of Treatment Act, with the primary objective of extending the scope of the equality of treatment principle and improving the machinery for implementation, which would include a regulation on equality of treatment in wage fixing stating clearly that in systems of job classification for the purpose of establishing wages and salaries no differentiated criteria should be applied as regards men's and women's work.

As concerns the Government's remarks concerning the difficulty of establishing a job evaluation system which would be valid across the entire economy, the Committee readily recognises this problem. It points out that job evaluation schemes which affect a sector of the economy, or even a single employer, are fully consistent with Article 3 of the Convention. It refers the Government to paragraphs 138 to 152 of its 1986 General Survey in this regard.

The Committee requests the Government to continue to supply detailed information on the measures taken or envisaged to promote the use of systems of objective appraisal of jobs on the basis of the work to be performed in the various economic sectors.

#### Barbados (ratification: 1974)

The Committee notes the Government's report and the documentation annexed thereto.

1. Wage differentials in the sugar industry. In its previous observation, the Committee noted that Appendix C to the 1984-85 collective agreement covering this industry provided in clause 1 that in 1984 and 1985 minimum rates of wages were to be 12.5 per cent higher than the rates of wages paid during the year 1983. It recalled that the Sugar Workers (Minimum Wage) Order, 1982, had established in clause 5 for 1983, minimum hourly wages of \$3.23 for general workers, male, and \$2.68 for general workers, female, in factories. It observed the corresponding differential rates, increased by 12.5 per cent, were maintained in clause 5 of Appendix C to the 1984-85 collective agreement which established minimum hourly wages of \$3.63 for general workers designated "A" class and \$3.02 for general workers designated "C" class in factories, without any description of their jobs. The Committee also noted that in 1983 hourly minimum wage rates in plantations and estates, distinguished between four categories: men, A class, men, B class, women, A class and women, B class. These differences were faithfully reflected for 1984 and 1985 in increased rates which distinguished four categories of sugar workers over 18

years of age by reference not to the work actually performed when employed on time work, but, in the case of the three higher paid categories, by reference to tasks they are required to perform when employed at piece rates. The Committee requested the Government to provide full information on the numbers of men and women in the various wage categories, and on any job descriptions, adopted for those wage categories which do not indicate the jobs actually performed.

Attached to the Government's latest report are the texts of the collective agreements in the sugar industry for the years 1984-85, 1986, 1987 and 1988, as well as the wage rates payable to sugar workers for the years 1989, 1990 and 1991. The Committee notes that, for all those years, the wage rates still distinguish between general workers "A" class, general workers "C" class, artisans "A" class, and artisans "B" class. The agreements still contain four categories of sugar workers over 18 years old, but they do not contain any descriptions of the corresponding jobs (with the sole exception of clause 4 of Appendix D to the collective agreements, "conditions of employment", which provides that a general worker employed on painting buildings shall be paid the rate applicable to a grade B artisan). The Committee notes from the Government's report that information is not available on the numbers of men and women in the various wage categories in the sugar industry.

The Committee is obliged to conclude that the discriminatory wage rates established in the Sugar Workers (Minimum Wage) Order, 1982, continue in the collective agreements in the sugar industry. It requests the Government to supply in its next report full and detailed information on the measures it has taken, either alone or in co-operation with the social partners, to ensure the application of the principle of equal remuneration for work of equal value to men and women workers in the sugar industry, including information on any job descriptions adopted for those wage categories which presently do not indicate the jobs actually performed, and on the methods used in job evaluation or classification in the sugar industry.

2. The Committee notes that the Government's report does not contain replies to points 3 and 4 of the observation made in 1989. It hopes that the Government's next report will contain detailed information on those points which read as follows:

3. General adoption of the principle of the Convention.

In earlier comments the Committee noted that there had been no further progress on the Employment and Related Provisions Bill, which was to embody the principle of equal remuneration in terms similar to those in the Convention, and that it was unlikely that the Bill would be promulgated in the form of the draft in question. It also noted that neither the text of the Bill nor the comments of the occupational organisations could be supplied to the ILO, and expressed the hope that the Government would indicate the means by which the principle of the Convention was to be applied to all workers.

The Government in its reply indicates that overall, it is satisfied that there are no forms of discrimination in remuneration in the country of which it is aware.

The Government adds that it subscribes to and applies in the public service, the principle of equal remuneration for men and women for work of equal value, and that this principle is fully endorsed by employers' and workers' organisations in collective bargaining. In those areas where workers are not organised, the Minister of Labour has the power under the Wages Councils Act to establish by order wages councils to determine wages and conditions for such workers if he considers the circumstances so demand. According to the Government's report, the principle of equal pay for equal work would naturally be applied in these circumstances as well.

The Committee takes due note of these indications. Referring to point 1 of the present observation, it recalls that openly discriminatory wage rates were adopted by order as recently as 1982 and that the same wage differentials, albeit under a different name, appear to continue in existence by collective agreement; this, combined with the absence of data on jobholders and job evaluation, repeatedly requested from the Government, tends to show that the need for government action to promote and, in so far as possible, ensure the application to all workers of the principle of the Convention, still exists. Moreover, referring again to the explanations provided in paragraphs 44 to 70 of its 1986 General Survey on Equal Remuneration, the Committee must point out that a principle under which men and women doing equal work shall be paid at the same rate, such as proclaimed in the 1984 collective agreement for the Barbados Sugar Industry Ltd., merely covers equal remuneration for persons performing the same work, but falls short of the principle of the Convention, under which men and women shall be paid equal remuneration for work of equal value, implying a comparative evaluation of work of a different nature. The Committee again expresses the hope that standard-setting action to apply the principle of the Convention to all workers, as had been contemplated before, will soon be taken through one or several of the means listed in Article 2, paragraph 2, of the Convention, and that the Government will indicate the measures adopted to this end.

4. Application in practice. Referring to its general observation of 1984 on the Convention, the Committee once more expresses the hope that the Government will provide detailed information on the application in practice of the principle of equal remuneration for work of equal value, in particular by furnishing information on the measures taken to monitor its implementation.

#### Canada (ratification: 1972)

1. The Committee notes the detailed report communicated by the Government, and the further progress achieved in the implementation of the principle of the Convention.

2. The Committee notes with satisfaction the entry into force of pay equity legislation applying to the public sector in several

provinces: in Nova Scotia on 25 May 1988, in Prince Edward Island on 1 October 1988 and in New Brunswick on 22 June 1989. It notes that the new legislation in New Brunswick and Prince Edward Island are intended to remove discrimination based on male or female-dominated classes of employment. As concerns Nova Scotia, it notes that it is intended to extend the pay equity legislation to the private sector through legislation to be introduced no later than the 1992 session of the legislature. Please provide information in the next report on the progress achieved in these and other cases in the implementation in practice of this principle.

3. Further to its previous observation, the Committee notes that the proposals made by the Canadian Human Rights Commission to reform equal pay legislation at the federal level remain at the discussion stage. The Committee asks the Government to keep it informed of the progress of these discussions.

#### Finland (ratification: 1963)

1. The Committee notes the information contained in the Government's report, which shows a slow but steady diminution of the wage differences between men and women workers, in the public sector in particular. It also notes the comments received from several workers' organisations to the effect that little or no progress has actually been achieved; and from two employers' organisations which indicate that the private sector has encountered no great difficulty in applying Act No. 609 of 1986 on Equality between Women and Men. The Committee has pursued these questions in a request addressed directly to the Government.

2. The Committee notes with interest that, in addition to a general pay rise in the public sector, the comprehensive agreement on economic and labour market policy signed on 23 August 1988 included for the first time a special "equality allowance" intended to reduce the imbalances in pay between men and women. The size of the equality allowance is determined on the basis of the predominance of female employees in each employment sector, with the decision on how it should be distributed left to each sector. The Committee notes the statement by the Central Organisation of Finnish Trade Unions (SAK) that the equality allowance is so limited in amount as to have had no significant effect on the wages imbalance between the sexes. The Committee requests the Government to indicate in its next report whether this scheme has been continued or expanded, and on the results achieved.

#### Mozambique (ratification: 1977)

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:

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.

#### New Zealand (ratification: 1983)

The Committee takes note of the Government's report and the appended documents.

The Committee notes in particular that following the equal pay study which was completed in 1987, a Working Group on Equal Employment Opportunities and Equal Pay was established to analyse the situation and submit suggestions to the Government. The Committee takes note of the Working Group's report "Toward Employment Equity" and of the recommendations contained in it. In its report, the Government indicates that it has agreed in principle to the enactment of an Employment Equity Act that covers the public and private sectors, and which would be implemented by a special committee (see the observation under Convention No. 111). The Government states that the problems encountered in applying equal remuneration in the public service for work of a different nature but of equal value should be solved by the adoption of the new legislation. The Committee also notes that the above Act would cover all individuals and collective agreements, which could also ensure observance of the principle of equal remuneration in respect of wages for jobs held mainly by women and in respect of wages paid to employees who are not covered by arbitration awards. With regard to wages that are higher than those fixed by arbitration awards, the Government indicates that no particular provision guarantees the application of the principle of equal remuneration but that any complaints would be investigated by the Labour Inspectorate. The Committee takes note of this information and of the statistics transmitted by the Government. It hopes that the remedial measures envisaged by the Government as a result of the studies conducted will ensure that the Convention is also applied in this respect. The Committee asks the Government to continue to keep it informed of developments in the situation and to provide a copy of the planned legislation as soon as it is adopted.

Furthermore, the Committee takes note of the new comments made by the New Zealand Employer's Federation on the Government's report. It notes in particular the divergencies of opinion expressed by the Federation concerning the application of the principles laid down in the Convention. In the view of the above organisation, the differences in male and female rates of pay in New Zealand are not due to distinctions on the basis of sex and that in fact the average earnings gap between men and women continues to narrow. The Committee takes note of the arguments of the New Zealand Employer's Federation, on which the Federation bases its firm opposition to the proposed pay equity legislation which, it considers, would run counter to the wage-bargaining process. The Committee points out that, pursuant to Article 2 of the Convention, the application to all workers of the principle of equal remuneration may be achieved by various means, which are set out in paragraph 2 of the above Article and, in accordance with Article 4, by co-operation with the employers' and workers' organisations concerned.

Philippines (ratification: 1953)

Further to its previous comments, the Committee notes with satisfaction the adoption of Republic Act No. 6725 of 12 May 1989 which amends section 135 of the Labor Code by making unlawful and liable to penal sanctions, *inter alia*, payment of a lesser compensation, including wage, salary or other fringe benefits, to a female employee as against a male employee, for work of equal value.

Portugal (ratification: 1967)

1. Referring to its previous comments, the Committee notes with satisfaction the adoption of Legislative Decree No. 426/88 of 18 November 1988 on the equality of men and women working in the public administration, section 6 of which guarantees equal remuneration for men and women for equal work or work of equal value, and provides that systems for post classification and job evaluation should be based on objective criteria common to men and women. The Committee requests the Government to supply with its next report information on the measures taken with regard to job evaluation systems, in pursuance of the above-mentioned section 6.

2. The Committee notes the comments submitted by the General Confederation of Portuguese Workers (CGTP) concerning the application of the Convention. The points raised are examined in a request addressed directly to the Government.

Switzerland (ratification: 1972)

Further to its previous observation, the Committee notes the information supplied by the Government in its report, and the discussion in the Conference Committee in 1988.



1. The Committee notes with interest the final report of the Working Group entitled "Equal Remuneration", established by the Federal Department of Justice and Police, which was published in October 1988. It notes that the Working Group, in preparing its report, has based itself on four studies. These studies concerned: (a) an econometrical analysis of wages paid to men and women in Switzerland, from which it appeared that the possible range of wage discrimination between men and women, after corrections based on the factors education, experience and health, amounts to 7 per cent for Swiss women and to 28.4 per cent for non-Swiss women; (b) an empirical study among eight enterprises to establish the extent to which analytical methods of job evaluation favour or exclude wage discrimination against women, and from which it emerged that analytical methods of job evaluation may contain discriminatory elements; (c) a study to shed light on the reasons why women infrequently institute legal proceedings to enforce their right to equal remuneration, and which found the most important obstacles to be insufficient protection against dismissal, the difficulties in obtaining evidence to prove wage discrimination, the fear of finding oneself isolated socially and professionally, and the lack of moral, legal and financial support; and (d) a comparative study on equal rights policies in the United States, Canada, Sweden, the Federal Republic of Germany, Great Britain and France, which led the Working Group to conclude that a policy focusing on only equality of remuneration would not be sufficient to achieve equality between men and women on the labour market.

The Committee notes with interest the 25 recommendations made by the Working Group, divided into the following four categories: (a) measures to facilitate enforcement of the right to equal remuneration by individual complaints through the courts; (b) measures aimed at improving the position of women in the labour market; (c) measures in other legal areas (such as social insurance and taxation); and (d) organisational measures.

In particular, the Working Group made the following recommendations:

- (a) that cantonal conciliation offices be established for the extrajudicial settlement of equal wage claims;
- (b) that the judicial procedure for the treatment of equal wage claims be improved;
- (c) that the burden of proof be placed on the employer as soon as the plaintiff has made a plausible allegation of wage discrimination;
- (d) open the possibility of legal representation in equal wage cases (at present excluded in certain cantons);
- (e) that organisations be given the right to institute proceedings in equal wage cases;
- (f) that plaintiffs in equal wage cases be protected against dismissal during the proceedings and for one year thereafter; and
- (g) that the possibility be opened that courts award damages for moral injury.

Referring to its 1988 observation on the inclusion of equal remuneration provisions in collective agreements, the Committee notes in particular the Working Group's recommendation, addressed to the social partners, that in concluding collective agreements, due

attention be paid to section 4(2) of the federal Constitution. It notes, in this connection, the Government's statement to the Conference Committee in 1988 that it could exercise only very limited influence over the contents of collective agreements, as this was primarily a matter of private law.

Further, the Committee notes in particular the Working Group's recommendation that the Federal Bureau on Equality between Men and Women draw up guide-lines for assessing work of equal value, and for evaluating jobs on an objective basis.

The Committee notes that the Federal Council will shortly decide which of the Working Group's recommendations will be the subject of follow-up action. The Committee requests the Government to include in its next report detailed information on the action taken in respect of the recommendations by the Working Group "Equal Remuneration", as well as on the further progress achieved in the practical application of the principle of equal remuneration for men and women workers for work of equal value.

2. The Committee notes that by Order of 24 February 1988 the Federal Bureau on Equality between Women and Men was established; that the Bureau started functioning on 1 January 1989; and that the question of equality in the field of labour, including equality of remuneration, will be one of the main activities of the bureau. Similar bureaux have been set up, or are planned to be established, in certain cantons. It requests the Government to continue to supply information on the activities of the federal and cantonal bureaux on equality between women and men with respect to the application of the principle of equal remuneration for work of equal value.

#### United Kingdom (ratification: 1971)

Further to its previous observation, the Committee notes the information supplied by the Government in its report and the comments submitted by the Trades Union Congress (TUC).

1. The Committee notes with interest that the Sex Discrimination and Equal Pay (Offshore Employment) Order 1987, brings within the scope of the Equal Pay Act 1970 employment concerned with the exploration of the sea bed or subsoil or the exploitation of their natural resources. The Committee also notes with interest that in December 1988 the Government introduced new legislation into Parliament with a view to making it unlawful for employers to discriminate directly or indirectly on grounds of sex in connection with employment-related occupational pension schemes. It requests the Government to keep it informed of further developments in this connection.

2. The Committee notes from the Government's report that the Equal Opportunities Commission, which under section 53(1)(c) of the Sex Discrimination Act 1975 is required to keep under review the working of the Equal Pay Act 1970, and which may submit to the Secretary of State proposals for amending it, has issued a consultative document on the working of the Equal Pay Act 1970, entitled "Equal pay: Making it work", putting forward a range of

options for improving the procedures for determining individual complaints in the industrial tribunal.

The Committee notes that the consultative document focuses on three broad issues: (i) the inadequacy of the Equal Pay Act to deal with discrimination against groups of workers, (ii) the procedures for determining individual complaints in the industrial tribunals, and (iii) matters arising with regard to substantive law. It makes proposals for changes with respect to multiple claims by groups of workers, individual claims, discriminatory terms in collective agreements, jurisdiction of tribunals, the role of independent experts in equal value claims, and the "material difference" defence under section 1(3) of the Equal Pay Act.

The Committee further notes the comments by the Trades Union Congress in a letter dated 29 January 1990 on the application of the Convention, and relating to the role of independent experts in equal value cases, the material difference defence under section 1(3) of the Act, the issues of class action and collective pay discrimination, discriminatory terms in collective agreements, and the question of finding male comparators for employees in totally female establishments. The TUC states that the comments and proposals put forward by the Equal Opportunities Commission in its consultative document accord very closely with the TUC's own views.

The Committee takes note of the Government's statement that it will consider carefully any firm recommendations that the Equal Opportunities Commission may make following consultations. It requests the Government to include in its next report detailed information on the results of the consultative process carried out by the Commission, on any recommendations it may make, and on the action taken or envisaged thereon by the Government.

3. The Committee recalls the earlier comments by the TUC that the Sex Discrimination Act, 1986, is deficient because it provides no collective means of challenging a discriminatory provision in a collective agreement, no enforcement machinery and no third party to decide on conflicts. It notes the Government's statement at the Conference Committee in 1988 that it sees major problems of principle and practice in providing for "class actions" such as those suggested, and believes that the traditional, established "test case" procedure is best, as employers would not refuse to apply more widely a decision taken on an individual case. This point of view is repeated in the Government's report, which notes that the Equal Opportunities Commission's report addresses the matter. In its most recent comments, the TUC points out the strong criticism by the Commission of the present legislation, noting that it has said that discriminatory terms usually affect groups, but only rarely affect individual women. It also indicates that the pressure that can be exercised by individual cases is not great, and does not provide an incentive to renegotiate discriminatory terms in collective agreements.

The Committee notes the concerns expressed by the TUC and the Equal Opportunities Commission, as well as the difficulties pointed out by the Government in changing fundamental principles of law. It hopes that the Government will be able to indicate in its next report whether, in fact, individual claims successfully brought against

provisions of collective agreements have resulted in wider changes being implemented.

4. Further to its previous comments, the Committee notes that the Government has maintained its position that it sees no way in which employees in totally female establishments can compare themselves with men, either notionally employed at the same establishment or actually employed at other non-connected establishments. It notes the comments by the TUC that this should be possible, and that the problem has been solved in other countries. Noting that the Equal Opportunities Commission has also addressed this question, the Committee looks forward to receiving further information in the Government's next report.

5. The Committee is also raising certain other points 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, Angola, Argentina, Australia, Austria, Belgium, Benin, Bolivia, Brazil, Bulgaria, Burkina Faso, Byelorussian SSR, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Chile, Colombia, Comoros, Costa Rica, Côte d'Ivoire, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, Equatorial Guinea, Finland, France, Gabon, German Democratic Republic, Ghana, Greece, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Indonesia, Islamic Republic of Iran, Ireland, Israel, Italy, Japan, Jordan, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Malawi, Mali, Mexico, Morocco, Mozambique, Nepal, New Zealand, Nicaragua, Niger, Nigeria, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Romania, Rwanda, Saint Lucia, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Sierra Leone, Spain, Sudan, Swaziland, Switzerland, Syrian Arab Republic, Togo, Tunisia, Turkey, Ukrainian SSR, USSR, United Kingdom, Venezuela, Yemen, Yugoslavia, Zambia.

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

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

Denmark (ratification: 1962)

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:

Part IV (Unemployment benefit), Article 24 of the Convention (in conjunction with Article 69(i)). In its earlier comments, the Committee noted that section 61, paragraph 3, of Act No. 114 of 24 March 1970 respecting placement and unemployment insurance (which provides that benefits shall be suspended for all members of an unemployment insurance fund or section thereof if 65 per cent or more of the members are considered to be involved in a

labour dispute) no longer applied, by virtue of the amendment made by Act No. 229 of 6 June 1979, except in cases where the labour dispute is not incompatible with a collective agreement. The Committee consequently requested the Government to confirm whether the suspension of unemployment benefits was henceforth limited to workers involved in the dispute or whose conditions of employment might be influenced by its outcome. In its report, the Government indicates that this is indeed the case. The Committee takes note of this statement with interest; it hopes that the Government will therefore have no difficulties in supplementing, in a future revision of the legislation, section 61, paragraph 3, of Act No. 114 of 24 March 1970, respecting placement and unemployment insurance as amended, so as to expressly provide that the suspension of unemployment benefit envisaged in this provision only applies where the person concerned has lost his employment as a direct result of a stoppage of work due to a trade dispute, as provided for in this provision of the Convention.

The Committee hopes that the Government will be able to keep the Office informed of any progress made.

Libyan Arab Jamahiriya (ratification: 1975)

1. In reply to the Committee's previous comments, the Government indicates that the tripartite committee responsible for examining international conventions and recommendations, established by Decision No. 72 of 1985 as amended, proposes that provisions on unemployment and family allowances be introduced into the social security system. It adds that the competent legal authorities, before taking a final decision, have submitted the recommendations of the above committee to the legal department for an opinion.

The Committee notes this information with interest. It hopes that it will be possible for provisions on unemployment and family allowances to be introduced shortly into the Libyan social security system and that they will enable full effect to be given to Part IV (Unemployment benefit) and Part VII (Family benefit) of the Convention, and asks the Government to indicate the progress made in this respect in its next report. The Committee would also be grateful if the Government would supply the text of the new provisions on unemployment and family allowances as soon as they are adopted, and to provide detailed information on the implementation of the above-mentioned Parts IV and VII of the Convention, in accordance with the report form adopted by the Governing Body.

The Committee also draws the Government's attention to a number of points raised in a request addressed directly to the Government.

[The Government is asked to report in detail for the period ending 30 June 1990.]

Niger (ratification: 1966)

The Committee notes with regret that the Government's report has not been received for the second consecutive year. It hopes that a report will be provided for examination at its next session, containing full information on the measures taken in respect of the points raised in a direct request.

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In addition, requests regarding certain points are being addressed directly to the following States: Austria, Barbados, Denmark, France, Greece, Iceland, Italy, Libyan Arab Jamahiriya, Luxembourg, Niger, United Kingdom, Venezuela, Yugoslavia.

**Convention No. 103: Maternity Protection (Revised), 1952**Brazil (ratification: 1965)

Article 6 of the Convention. The Committee takes note of the information provided by the Government in reply to its earlier comments. It notes, in particular with interest, that article 10, paragraph II(b) of the Transitional Provisions of the Federal Constitution of Brazil provides for the prohibition of dismissal of a woman worker without valid grounds during her pregnancy and the period of five months after confinement.

The Committee recalls in this connection that Article 6 of the Convention prohibits giving notice of dismissal in any circumstances to a woman during her absence on maternity leave or at such a time that the notice would expire during such absence.

The Committee hopes therefore that the Government's next report will indicate any measures taken or envisaged to bring national legislation into complete conformity with this provision of the Convention.

Ecuador (ratification: 1962)

1. (a) The Committee refers to its previous comments concerning, *inter alia*, the application of Article 3, paragraphs 2 and 3 of the Convention, in which it noted that under section 153 of the Labour Code the pre-natal maternity leave is two weeks and the post-natal leave is six weeks, a total of eight weeks, whereas according to these provisions of the Convention the duration of maternity leave shall be at least 12 weeks of which six weeks shall be taken after confinement. It also refers to the observations made in March 1989 by the Ecuador Central of Working Class Organisations (CEDOC) concerning this question.

The Committee notes with interest from the Government's report that a Draft Legislative Decree has been elaborated so as to introduce amendments to sections 153 to 156 of the Labour Code which, once

adopted, will bring the national legislation into conformity with these provisions of the Convention, as well as with its Article 3, paragraph 4 (extension of pre-natal leave until the actual date of confinement without reduction of post-natal leave) and Article 5, paragraph 2 (breaks for the purpose of nursing to be counted as working hours and remunerated accordingly). Since this matter has been the subject of comment for many years, the Committee hopes that such amendments will be adopted in the very near future so as to ensure the application of the above-mentioned provisions of the Convention.

(b) Article 4, paragraph 1. The Committee notes from the Government's report the intention of the Government to provide, in the above-mentioned legislative decree, for the extension of the period during which cash and medical benefits shall be granted, so as to coincide with the extended period of the maternity leave (12 weeks). It recalls that, according to the requirements of the Convention, the period during which cash and medical benefits are provided shall also coincide with any period of additional leave due as a result of illness arising out of pregnancy or confinement as well as error in estimating the date of confinement. The Committee hopes that the necessary legislative measures will soon be taken in order to meet these requirements of the Convention in respect of both women workers covered by the compulsory social insurance scheme, including domestic workers, and women workers covered by the peasants' social insurance scheme.

2. The Committee would be glad if the Government would supply statistics on the number of women workers covered both by the compulsory insurance scheme and by the peasants' social insurance scheme, and on their percentage in relation to all women workers of the country. It also asks the Government to continue to provide information on any further extension of the social insurance scheme so as to cover all the categories of women workers referred to in Article 1 of the Convention.

[The Government is asked to report in detail for the period ending 30 June 1990.]

#### Netherlands (ratification: 1981)

With reference to its earlier comments, the Committee notes with satisfaction that following the entry into force of the new Foreign Service Regulations, this category of public servants enjoys the same maternity protection as other public servants and, in particular, maternity leave of a duration consistent with Article 3, paragraphs 1 to 3 of the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: Greece, Libyan Arab Jamahiriya, Netherlands, Poland, Uruguay.



**Convention No. 105: Abolition of Forced Labour, 1957**Algeria (ratification: 1969)

Article 1(a) of the Convention. In the comments it has been making for many years, the Committee has referred to the provisions concerning the right of association, under which sentences of imprisonment involving compulsory labour may be imposed in circumstances covered by the Convention.

The Committee noted that by virtue of section 4 of Act No. 87-15 of 21 July 1987, any association whose objectives are contrary to the "established institutional system" or are "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 by virtue of section 7 of the Act, any person who directs, administers or is a member of an association that has been 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.

In this connection, the Committee observed 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 asked the Government to indicate the measures taken in order to ensure compliance with the Convention either by removing 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.

The Committee notes the indications communicated in the Government's report, to the effect that the development and strengthening of democracy have led to the adoption of a new Constitution which, with regard to collective freedoms, guarantees freedom of expression, association and assembly. The Government specifies that the Constitution recognises the right to establish associations of a political nature (article 40). The Government states that, in view of these provisions, there can be no political prisoners.

The Committee notes the promulgation of Act No. 89-11 of 5 July 1989 respecting associations of a political nature. Section 3 of the Act stipulates that all associations of a political nature must, in pursuance of their aims, contribute "... to the protection of the republican form of the State and of the fundamental freedoms of citizens (subsection 3); to the protection and consolidation of the social and cultural development of the nation in the framework of national Arab and Islamic values (subsection 4); to ensuring respect for the democratic form of organisation (subsection 5)". Section 5 provides that the establishment and activities of associations of a



political nature may not be founded on a basis and/or objectives involving "... conduct which is contrary to Islamic morals and to the values of the revolution of 1 November 1954". Under section 6 "the establishment, action and activities of all associations of a political nature must be fully in keeping with the Constitution and the laws in force." Under section 36, any person who, in violation of the provisions of the law, funds, directs or administers an association of a political nature, whatever its form or denomination, is liable to a sentence of imprisonment of from one to five years involving, by virtue of the above-mentioned provisions, the obligation to work.

The Committee recalls once again that the Convention prohibits the use of any form of forced or compulsory labour as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system.

The Committee also recalls that the protection afforded by the Convention is not confined to activities expressing or manifesting divergent opinions in the framework of established principles. Consequently, if certain activities are aimed at making fundamental changes in the institutions of the State, this does not constitute a reason for considering that such activities are outside the protection afforded by the Convention, provided that they do not involve the use of, or incitement to, violent methods to bring about that result.

The Committee asks the Government to indicate the measures taken or envisaged to ensure that the persons protected by the Convention may not be punished by penalties involving, by virtue of sections 2 and 3 of the Inter-Ministerial Order of 26 June 1983, the obligation to work. Furthermore, the Committee asks the Government to provide information on the practical application of the above provisions of Acts Nos. 87-15 of 21 July 1987 and 89-11 of 5 July 1989, particularly with regard to convictions under these provisions, and to provide copies of the relevant judgements.

#### Angola (ratification: 1976)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

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.

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

#### Bangladesh (ratification: 1972)

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 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) and (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 requested 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. The Committee notes the Government's renewed statement in its report that the Government is examining the suggestion of the Committee. The Committee again expresses the hope that the Government will soon be in a position to indicate that the necessary action has been taken to bring the Ordinance 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.

#### Belgium (ratification: 1961)

Article 1(c) of the Convention. In comments it has been making for many years, the Committee has noted that under sections 10, 22 and 25 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 concerning draft amendments to these provisions.

The Committee notes the Government's reiterated statement that the new Bill has not yet been brought before Parliament. The Government adds that the provisions in question are no longer applied, as ratified Conventions take precedence over domestic laws.

The Committee again expresses the hope that the Bill will be submitted to Parliament in the near future and that the Government will very shortly be able to report the adoption of an Act to bring the Disciplinary and Penal Code for the Mercantile Marine and the Fishing Fleet into conformity with the Convention and the practice described.

[The Government is asked to report in detail for the period ending 30 June 1990.]

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 the use 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.

While noting the Government's indication in its report that consultations to examine the possibility of bringing the prison legislation into conformity with the provisions of the Convention are being pursued, the Committee trusts that measures will be adopted in the near future to ensure observance of the Convention and that the Government will indicate the provisions adopted. It hopes that during these consultations, other texts which are also relevant to the Convention and on which the Committee addresses a request directly to the Government, will also 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 penalties of imprisonment, involving the obligation to work, even where these breaches have not endangered the safety of the vessel or of persons. The Government indicated that it would take the Committee's observations into account when the revision of the Merchant Shipping Code was undertaken.

The Committee notes the Government's indication in its latest report that no new legislative or regulatory provisions have been adopted, but that studies are being conducted with a view to harmonising national legislation and practice with the provisions of the Convention. In view of the fact that the Government has been referring to the envisaged repeal of the provisions in question since its report for 1972-73, the Committee trusts that the necessary measures will be taken rapidly to ensure that, in accordance with the Convention, no penalty involving compulsory labour can be inflicted on a seaman for breaches of discipline or participation in a strike, except for offences which 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 with respect to sections 243(1), 244(2) and (4), 245(1) and 246(2) of the Canada Shipping Act, which provide for the forcible return on board ship of deserters or those absent without leave, the Committee notes with interest the Government's statement in its report that the next miscellaneous Statutes Amendment Act is planned for mid-1990, and the appropriate deletions to these sections will then be made. The Committee hopes that the Government will soon be able to indicate that this has been done and that it will provide a copy of the amending legislation.

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 it has not yet been possible to discuss amendments to these provisions with the shipping industry, employers and unions, however Transport Canada will be discussing the parts of the Act which contain these sections with the industry with a view to conforming with the observations of the Committee.

The Committee hopes that, following the proposed consultations, the Government will be in a position to indicate in its next report measures taken or contemplated to ensure that no penalties involving any form of compulsory labour may be imposed for breaches that do not endanger the safety of the ship or the life or health of persons.

The Committee notes with interest from the Government's report that the Government Vessels Discipline Act (which contained provisions similar to those referred to in the Canada Shipping Act) has been revoked, and that the Public Service Staff Relations Act (which applies to seamen employed on vessels in the federal public service) does not contain provisions similar to those commented on above by the

Committee. The Committee requests the Government to send a copy of the revoking legislation with its next report.

Central African Republic (ratification: 1964)

Article 1(a) of the Convention. In the comments that 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. 60/199 of 12 December 1960 (dissemination of publications that are banned on the grounds that they are likely to prejudice the edification of the Central African nation);
- Order No. 3-M1 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 has noted the repeated indications of the Government that draft amendments to these texts have been submitted to the competent national authorities with a view to their adoption and that, furthermore, the provisions of Act No. 63/411 of 17 May 1963 have fallen into abeyance following the automatic dissolution of the MESAN.

The Committee noted, however, that, by virtue of article 3 of the new Constitution, adopted in 1986, the Central African Democratic Assembly is the sole party and it also noted that penalties of imprisonment are laid down in section 4 of the above-mentioned Act No. 63/411 of 17 May 1963 for any person "who establishes or attempts to establish a party, movement, group, association or organisation of a political nature".

The Committee notes the Government's repeated statement that draft texts are before the competent national authorities with a view to their adoption. It expresses once again the hope that, in the near future, the Government will report on the measures adopted to ensure that sentences of imprisonment involving compulsory labour may not be imposed on persons who establish or attempt to establish a party, movement, group, association or organisation of a political nature outside the sole party (Central African Democratic Assembly), including measures taken to repeal the provisions of Act No. 63/411 and the other texts referred to in its comments, in order to ensure observance of the Convention, and that the Government will provide the relevant texts.

Chad (ratification: 1961)

In its previous comments, the Committee noted that Act No. 35 of 8 January 1960 respecting subversive publications is in the process of being repealed and that the Government also proposed 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 notes the information supplied by the Government in its report, that these matters have recently been discussed in a number of meetings between the Ministries concerned and that it has been agreed that each department involved is to be responsible for amending or repealing the texts concerning forced labour falling within its competence.

The Committee expresses the hope that the Government will shortly be able to report that the provisions amending or repealing the texts have been adopted.

#### Cuba (ratification: 1958)

With reference to its previous comments on section 220 of the Labour Code (formerly section 262) under which a sentence of imprisonment of from six months to two years may be imposed on a person who, by breach of the duties placed on him by his office, employment, occupation or profession in a state economic unit (particularly of his duties relating to the observance of the standards or standard-setting instructions and other rules and instructions concerning technological discipline) causes harm or substantial prejudice to the production output or to the rendering of services by the unit or to its equipment, machines, machinery, tools or other technical devices, the Committee notes the information provided by the Government in its report (including the documents annexed to the report), to the effect that any sentences of correctional labour imposed for violations of this provision are subject to the person sentenced being willing to perform such labour.

#### Cyprus (ratification: 1960)

In comments made for a number of years, the Committee noted that section 3, subsection 1, of the Supplies and Services (Transitional Powers) (Continuation) Law (Cap. 175A) authorises recourse to the provisions of Defence Regulations 79A and 79B for the purpose of maintaining, controlling and regulating supplies and services and, in particular, to secure their equitable distribution or their availability at fair prices, to promote the productivity of industry, commerce and agriculture, to foster and direct exports and reduce imports, to redress the balance of trade, and to ensure that the whole resources of the community are available for use, and are used, in a manner best calculated to serve the interests of the community. Defence Regulation 79A gives authority to direct any person to perform services for any of these purposes and to require persons employed in undertakings engaged in work essential for any such purpose, not to terminate their employment or absent themselves from work or to arrive persistently late for work, on pain of imprisonment (involving, under the Prison Regulations, the obligation to perform labour), and Regulation 79B authorises the Government to issue regulations to prohibit strikes and lock-outs on pain of imprisonment, by virtue of the provisions of Regulation 94.

The Committee had noted from a communication dated 9 February 1989 by the Democratic Labour Federation of Cyprus that on 7 February 1989 and as a reaction to a decision of the employees of the Cyprus Ports Authority to strike, the Minister of Communication and Public Works issued an order under the Supplies and Services (Transitional Powers) (Continuation) Law (Cap 175A) and Defence Regulations 79A by which all the above-mentioned employees were ordered to continue to offer their services to the Ports Authority.

In reply to this communication the Government refers to its report for the period 1985-87 where it had indicated that the provisions in question are only applied for the extent that they are not in conflict or inconsistent with the Constitution, in particular with article 10 (which provides that forced or compulsory labour is prohibited except in certain cases, amongst which is service exacted in case of an emergency or calamity threatening the life or well-being of the inhabitants) and article 27 (which guarantees the right to strike subject to certain conditions); any person or organisation which feels aggrieved by the provisions of any order under Regulations 79A and 79B may have recourse to the Supreme Court under article 146 of the Constitution to challenge the validity of the order. The Government adds that the afore-mentioned directions of 7 February 1989 were repealed on 1 March 1989 without having been enforced.

The Committee points out once more that, under Article 1(c) and (d) of the Convention, a ratifying State undertakes to suppress and not to make use of any form of forced or compulsory labour as a means of labour discipline or as a punishment for having participated in strikes. As the Committee has indicated in paragraphs 110 to 132 of its 1979 General Survey on the Abolition of Forced Labour, any sanctions involving compulsory labour, for breaches of labour discipline or participation in strikes, must be limited 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. Furthermore, the workers concerned must remain free to terminate their employment by reasonable notice. Noting the Government's reiterated indication as to the constitutional guarantees and the limited application in practice of the above provisions, the Committee expresses once more the hope that there will be no difficulty in bringing the law into conformity with the Convention as well as with practice and that, pending the adoption of the necessary legislative amendments in this regard, the Government will give due consideration to these principles in the application of the Regulations in question.

#### Dominican Republic (ratification: 1958)

##### A. Employment in sugar-cane plantations

In comments made since 1984, the Committee has drawn attention to the need to take measures to ensure the observance of the Convention in sugar-cane plantations and to end the abuses committed against workers of Haitian origin, in accordance with the recommendations made

in 1983 by the Commission of Inquiry set up to examine the observance of the Convention.

In October 1988, during a direct contacts mission to the Dominican Republic and Haiti undertaken at the request of the governments of the two countries, the Government of the Dominican Republic reaffirmed its will to take every measure to ensure that the situation of agricultural workers in general, and of those of foreign nationality in particular, responds increasingly to the Conventions it has ratified.

In the observation that it made in 1989, the Committee hoped that this undertaking by the Government would make possible real progress in the implementation of the necessary measures to resolve the problems noted. The problems linked to the fact that workers of Haitian origin are not granted a legal status were particularly brought to light by the round-ups of persons living in the Dominican Republic, made with the assistance of police officers and military personnel in order to remedy the shortage of labour for the cane harvest. The problems were aggravated by renewed immigration that was both illegal and managed by the State Sugar Board (CEA). The persistence of the problems noted emphasised the urgent need for the Government to adopt the measures recommended by the Commission of Inquiry in 1983 and recalled since then by this Committee. Three groups of measures appear of priority importance:

1. The regularisation of the status of Haitians who have lived and worked in the country for a given period of time and the issue of identity papers to persons born in the Dominican Republic (paragraph 527 of the report of the Commission of Inquiry). At the same time, economic promotion measures should make it possible to stabilise the labour force employed on plantations (paragraph 516).

2. The regularisation of the hiring procedure and residence in the country of workers entering the country to work on the sugar-cane harvest (paragraphs 521 and 522). In so far as the entry of new workers into the country is recognised as being necessary to the operation of the economy, measures should be taken by the Dominican Government, either within the framework of an inter-governmental agreement or outside it, so that the process operates in an orderly manner and the workers concerned enjoy the necessary safeguards concerning their free choice of employment and their terms and conditions of employment and so that the role played by the armed forces in this context may be ended. These measures should include the following:

- (a) the determination of the number of workers whose engagement by the various employers would be authorised;
- (b) the establishment of placement offices at appropriate locations where such workers seeking employment in the Dominican Republic could be hired for the sugar-cane harvest, and be given a medical examination and issued with the necessary documents (residence and employment permits);
- (c) the provision of clear information to the workers concerned on their terms and conditions of employment, by means of individual contracts of employment or a written statement (which should also be available in Creole);



- (d) the transportation of the workers engaged to their places of employment.

3. Protection by the competent authorities of the rights and freedoms of workers. In this connection, the Government should take the necessary measures to:

- (a) prevent by all the means at its disposal the recurrence of round-ups of persons for work in plantations and enforce the application of appropriate sanctions to those responsible for such cases;
- (b) ensure that labour legislation is applied to sugar-cane workers, in accordance with Basic Principle III of the Labour Code, under which labour legislation is of a territorial nature and applies to citizens of the Dominican Republic and aliens without distinction; the Committee refers to its comments regarding the labour inspection services under Convention No. 95;
- (c) in addition, to set up in "bateyes" of the CEA and in private plantations, civil administration structures such as exist in other population centres. This presence of the public authorities should ensure in a more permanent manner than is possible in real terms through the labour inspectorate the protection of the rights of workers and their families in plantations, since they will no longer be dependent in all the areas of their lives exclusively on the employer's administrators, assisted by the rural police force.

The Committee hoped that the Government would supply detailed information on the measures that it had taken to this effect.

In a report received before the Conference in 1989, the Government indicated that the national authorities were examining possible measures to be adopted in the near future to regularise the recruitment, employment and labour of aliens residing in the country, and particularly to restrict as much as possible the illegal trafficking of Haitian workers and their subsequent exploitation in inadequate living and working conditions. The Government also indicated that it had not been possible to achieve full "Dominicanisation" of the harvesting operations in sugar plantations, despite the great efforts made to attract Dominican and resident Haitian agricultural workers and the measures taken to grant to the latter a legal and social status similar to that enjoyed by Dominicans. No further details have been provided regarding the measures stated to have been taken to grant to resident Haitian workers a legal status and even a status similar to that of Dominicans.

The Committee also notes the discussion held in the Conference Committee in 1989 concerning the application of Conventions Nos. 95 and 105 by the Dominican Republic. The Conference Committee, taking note of the direct contacts which took place in October 1988, expressed its extreme concern over the situation of Haitian workers in the Dominican Republic. It stressed that there had been no progress, either in terms of legislation or practice, on essential points raised over a number of years by the Commission of Inquiry, the Committee of Experts and the Conference Committee. The Dominican Republic had requested ILO assistance in order to ensure the application of the

Conventions in both its legislation and in practice. In this regard, the Conference Committee considered that special efforts were called for so that the ILO could, as from the 1989-90 harvest, verify the situation and ascertain on the spot the improvements that had been promised but were still awaited. The Conference Committee insisted upon the need for the Government to take the necessary measures, whose implementation should be verified in practice. The Conference Committee also noted that the Government had requested ILO assistance in drawing up an agreement with Haiti concerning the migration of workers. The Conference Committee trusted that any agreement drawn up with ILO assistance would particularly heed the comments of the supervisory bodies. The Conference Committee also trusted that, whether or not such an agreement were concluded, the Government of the Dominican Republic would without delay take the measures necessary to give full effect to the comments made by the ILO supervisory bodies.

A mission of representatives of the Director-General of the ILO was due to visit the Dominican Republic and Haiti in August 1989 to give effect to the request for assistance, as noted by the Conference Committee. This mission, whose mandate was to include the implementation of the measures requested by the supervisory bodies, was cancelled after the Government of the Dominican Republic expressed its disagreement with the orientation of the mission. The Committee notes that since then, and during the whole of the 1989-90 harvest, the Government has failed to take the measures requested by the Conference Committee for the ILO to be able to verify the situation and ascertain on the spot the improvements that have been promised but are still awaited. As regards the measures that, according to the Government's report that was received before the Conference in 1989, were to have been taken in the near future to regularise the recruitment, employment and labour of foreigners resident in the country, the Government has supplied no report since the 1989 Conference on the provisions adopted.

The Committee expresses its extreme concern at the contradiction between the stated intentions of the Government and the absence of any information indicating that real progress has been achieved as regards the implementation of measures to ensure the observance of the Convention.

#### B. Matters not related to plantations

Article 1(c) of the Convention. The Committee referred in its previous comments to Act No. 3143 of 11 December 1951, as amended by Act No. 5225 of 1959, under which workers who have not completed their work on the agreed day or within the established time-limits, when they have been paid in advance for such work, are punishable by prison sentences involving compulsory labour.

The Committee notes the information supplied by the Government in its report received before the Conference in 1989 to the effect that Act No. 3143 has fallen into abeyance and that the authorities have envisaged repealing it. The Committee hopes that the Government will soon be able to report that this Act has been repealed.

Article 1(d). With reference to sections 370, 373, 374, 378, paragraph 16, and 679, paragraph 3, of the Labour Code, under which

sentences of imprisonment involving compulsory labour may be imposed for participation in strikes, to which the Committee has referred in previous comments, the Government indicated in its report received before the Conference in 1989 that the necessary steps had been taken to amend or repeal these sections. The Committee hopes that the provisions referred to will soon be amended or repealed so as to ensure the observance of the Convention on this point.

[The Government is asked to report in detail for the period ending 30 June 1990.]

Ecuador (ratification: 1962)

The Committee has taken note of the Government's report and of the discussion which took place at the Conference Committee in 1989.

In its previous comments, 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 cessation of activity ("paro"). The sentence laid down by the Decree for a person who participates in a cessation of activity ("paro") 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 cessation of activity ("paro") 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 has also referred to 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.

The Committee had expressed the hope that measures would be taken as concerns these provisions in order to ensure the observance of Article 1 (c) and (d) of the Convention. Moreover, the Committee has requested the Government to supply information on the practical application of sections 130, 133, 134, 148, 153, 155 and 367 of the Penal Code, so that it would be able to assess the scope of these provisions in light of Article 1 (a) and (c) of the Convention.

The Committee notes with interest that the Government has referred, in its report, to several draft decrees elaborated with the assistance of representatives of the ILO Director-General in November 1989. Under these draft decrees, Legislative Decree No. 105 is mandatorily interpreted as inapplicable to strikes or collective work conflicts, section 165 of the Maritime Police Code is repealed, and sections 53, 54, 55 and 66 of the Penal Code and section 22 of the Code on the execution of sentences and social rehabilitation are mandatorily interpreted so that the work of convicted persons in detention and re-education centres shall be voluntary and the profits from this work shall accrue exclusively to the convicted persons.

The Committee notes the Government's indication that these texts will be presented to the Congress immediately, with the support of the Executive Branch, and that it will continue to provide information on the progress made in this regard.

Noting also with interest the indication made by the Government in its report that there have been no judicial decisions under the above-mentioned sections of the Penal Code, the Committee hopes that the Government will soon be in a position to report the adoption of the decrees it has drafted.

#### Egypt (ratification: 1958)

1. In its previous comments, the Committee referred to a number of provisions of the Penal Code, Act No. 156 of 1960 concerning the reorganisation of the press, Act No. 430 of 31 August 1955 respecting film censorship, etc., Act No. 32 of 12 February 1964 concerning associations and private foundations, the Public Meetings Act, 1923, the Meetings Act, 1914 and Act No. 40 of 1977 respecting political parties. It pointed out that the application of those provisions could have a bearing on the application of Article 1(a) of the Convention, which prohibits recourse to penalties involving compulsory labour as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system.

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 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, and that the aim of the penalty is not forced labour, but the re-education of the prisoner. In 1988, the Government stated that there were no longer any political prisoners.

In its last report, the Government refers to its previous statements that there are no longer any political prisoners, freedom of expression is guaranteed by article 47 of the Constitution and freedom of the press is applied, in practice, as evidenced by the publication of a large number of opposition newspapers. The Government adds that the purpose of prison labour is to reintegrate the prisoner into society through the acquisition of various trades and vocational training and cannot be compared to forced labour.

The Committee takes due note of these indications. With regard to prison labour, the Committee refers to paragraphs 102 to 109 of its 1979 General Survey on the Abolition of Forced Labour in which it indicated that while prison labour exacted from common offenders is intended to reform or rehabilitate them, the same need does not arise in the case of persons convicted for their opinions or for having taken part in a strike. Furthermore, in the case of persons convicted for expressing certain political views, an intention to reform or educate them through labour would in itself be covered by the express terms of the Convention, which applies *inter alia* to any form of compulsory labour as a means of political education. For all these

reasons, the Committee has considered that compulsory labour in any form, including compulsory prison labour, is covered by the Convention in so far as it is exacted in the five cases specified by the Convention.

Regarding the Government's indications that there are no longer any political prisoners and that freedom of the press has been reinstituted, the Commission hopes that the necessary measures will be taken to bring the legislation into conformity with the practice described by the Government. In this connection, the Committee notes with interest that, in its last report, the Government again refers to the proposed amendments to the legislation. The Committee recalls that, in order to bring penal legislation falling within the scope of Article 1(a) into conformity with the Convention, measures may be taken either to redefine the punishable offences so that no person may be punished for holding or expressing political views or views ideologically opposed to the established political, social or economic system, 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 asks the Government to indicate any measures taken in this respect.

2. Article 1(d). In its previous comments, the Committee referred to sections 124, 124A, 124C and 374 of the Penal Code, under which strikes by any public employee may be punished with imprisonment which may involve compulsory labour. The Committee noted the Government's indications in its previous report to the effect 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. In this connection, the Government cited the judgement of the Supreme Court of State Security (Cairo) of 16 April 1987 which, by virtue of Article 8 of the International Covenant on Economic, Social and Cultural Rights, acquitted the persons prosecuted in relation to strike action of railway workers. The Committee again asks the Government to indicate whether the above judgement has been made enforceable. Noting also the Government's statement in its report that international instruments will take precedence over the national legislation, the Committee asks the Government to indicate the measures taken or under consideration to amend the above-mentioned provisions of the Penal Code in order to bring them into conformity with the judgement of the Court and the provisions of the Convention.

3. The Committee previously expressed the hope that measures would be taken to ensure observance of the Convention with regard to 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 recalled 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, and authorises such punishment only 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 repeated indication of the Government in its report that the Act is applied in cases where the safety of persons is endangered, and is therefore outside the scope of the Convention. The Committee notes, however, that while subsections 1 to 4 of section 13 of the Act appear to deal with such cases, defined with the necessary precision, subsection 5 of section 13, as well as section 14, can be applied to cases in which participation in a strike has not endangered the safety of the ship. Since the Government indicated in its report communicated in 1985 that the Committee's comments had been submitted to the competent authorities with a view to all the provisions in question being amended and brought into harmony with the provisions of the Convention, it again expresses the hope that the necessary measures will shortly be taken and that the Government will indicate any progress made in this respect.

El Salvador (ratification: 1958)

1. Article 1(a) of the Convention. In previous comments the Committee has referred to a series of provisions in the Penal Code that allow the imposition of penalties 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, 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) for use in 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 that exist for the purpose of committing an offence.

The Committee took note of the promulgation of Decree No. 50 of 24 February 1984 issuing the Act on the criminal procedure applicable on the suspension of constitutional guarantees. It noted 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 373-380), if constitutional guarantees are suspended. The offences laid down in the Code of Military Justice also come within the competence of these courts. The Committee took note of the information supplied by the Government to the effect that forced labour is not imposed on political offenders coming under military jurisdiction. The Committee pointed 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 requested the Government to provide 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.

The Committee notes that, in its report, the Government states that the penal legislation does not provide for the imposition of sentences of imprisonment with forced labour.

The Committee observes once again that, when prison sentences imposed for violation of the above sections, all of which concern the expression of political opinions or of opposition to the established system, involve compulsory prison labour (section 49 of the Act concerning the organisation of prisons and rehabilitation centres) they are contrary to the Convention (Article 1(a)) which provides protection against any form of forced labour imposed as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system.

The Committee hopes that the necessary measures will shortly be taken to ensure observance of the Convention in this respect, and requests the Government to report on progress made towards this end.

2. Article 1(c) and (d). In previous comments the Committee has 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 asked the Government to take the necessary measures to ensure that penalties involving the obligation to work cannot be imposed as a punishment for having participated in strikes or for breaches of labour discipline.

The Committee notes that the Government's report contains no information on this matter. The Committee again recalls 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 hopes that the Government will take the necessary measures to bring the national legislation into conformity with the Convention and that it will report on progress towards this end.

3. The Committee takes note of the provisions of the Code of Military Justice communicated by the Government.

France (ratification: 1969)

Article 1(c) and (d) of the Convention. The Committee previously noted that, under section 39, subsection 4, and section 59, subsection 1, of the Disciplinary and Penal Code of the Merchant Navy, a sentence of imprisonment involving compulsory prison labour may be imposed on a seafarer for absence from his vessel or refusal to obey an order concerning the service, even in the absence of circumstances where the safety of the vessel or the life and health of persons on board are endangered.

The Committee had noted that the working party set up to study the comprehensive review of the whole Disciplinary and Penal Code of the Merchant Navy had given special attention to the repeal of sections 39, subsection 4, and 59, subsection 1, of this Code. It also had noted the statement by the Government that these provisions have not been applied for very many years and that section 59, subsection 1, cannot stand in the way of constitutional provisions recognising the right to strike.

Recalling that the provisions in question have been the subject of comments for a number of years, the Committee trusts that the necessary measures will be taken to bring the law into conformity with practice and with the Convention on this point.

Gabon (ratification: 1961)

Article 1(c) and (d) of the Convention. In the comments it has been making for many years, the Committee noted that under section 153, subsection 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 of persons, and that the Government will soon report that the legislation has been thus amended.

[The Government is asked to report in detail for the period ending 30 June 1990.]

Ghana (ratification: 1958)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

In comments made for a number of years, the Committee referred to various provisions of the Penal Code, the Newspaper Licensing Decree, 1973, the Merchant Shipping Act 1963, the



Protection of Property (Trade Disputes) Ordinance and the Industrial Relations Act 1965, under which imprisonment (involving an obligation to perform labour) may be imposed as a punishment for non-observance of restrictions imposed by discretionary decision of the executive on the publication of newspapers and the carrying on of associations, for various breaches of discipline in the merchant marine and for participation in certain forms of strikes. The Committee had requested the Government to adopt the necessary measures in regard to these provisions to ensure that no form of forced or compulsory labour (including compulsory prison labour) might be exacted in circumstances falling within Article 1(a), (c) or (d) of the Convention. The Committee has also repeatedly requested the Government to supply information on the practical application of a number of legislative provisions.

For many years the Government has indicated in its reports that these matters were under consideration. In its report for 1983-85, the Government stated that the Tripartite National Advisory Committee on Labour was reconstituted on 23 July 1985 and would give serious consideration to the Committee's observations. According to the Government's latest report, received in November 1988, the same body was still being reconstituted and comments would be promptly dealt with as soon as it resumed sitting. In a report received in June 1988, the Government also indicated that information had been requested from various public authorities.

The Committee is aware that not only the supply of information requested on the application of certain legislative provisions, but also many of the amendments required to bring national legislation into conformity with the Convention call for the co-operation of a number of national authorities not normally concerned with labour matters. As, however, the Committee's comments on most of the points at issue have been known to the Government for many years, the Committee trusts that the necessary concrete action will at last be taken, and that the Government will soon provide detailed information both on the measures taken to bring national legislation into conformity with the Convention and on the application in practice of provisions again listed in a request addressed directly to the Government.

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

#### Greece (ratification: 1962)

The Committee takes note of the Government's report.

Article 1(c) and (d). 1. In the comments it has been making for many years, the Committee has noted that the provisions of sections 205, 207, subsection 1, 208, 210, subsection 1, and 222 of the Code of Public Maritime Law allow sentences of imprisonment (involving under section 55 of the Prison Code, compulsory labour) to 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 repeats its previous statements that it does not consider that the provisions in question are contrary to the Convention or the Greek Constitution.

The Committee again draws attention to the explanations contained in paragraphs 104 to 109 of its 1979 General Survey on the Abolition of Forced or Compulsory Labour, in which it indicates that prison labour is covered by the Convention in so far as it is exacted in the five cases specified in Article 1. The Committee hopes that the necessary measures will be taken in the near future in order to bring the provisions of sections 205, 207, subsection 1, 208, 210, subsection 1, and 222 of the Code of Public Maritime Law into conformity with the Convention and that the Government will report on action undertaken to this effect.

2. In its previous comments, the Committee also referred to 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, under which violations of a clause of a collective agreement or of an executory decision concerning pay are punishable by sentences of imprisonment with compulsory labour. In its report, the Government indicates that the provisions in question are not inconsistent with the Convention or the Constitution. The Committee notes that, according to the Government's previous statement, these texts are never applied although they have not been repealed.

The Committee again expresses the hope that the Government will take the necessary measures to ensure that the provisions of section 4, subsection 1, of Act No. 3276 of 26 June 1944 and section 15 of Act No. 299 of 25 October 1936 are brought into conformity with the Convention and the practice indicated, and that it will provide information on the measures taken to this end.

3. The Committee refers to its observation under Convention No. 29 concerning the situation of the pilots and flight engineers who were dismissed or imprisoned as a result of a notice of strike action, in June 1986.

#### Guatemala (ratification: 1959)

1. Article 1(a), (c) and (d) of the Convention. For several years the Committee has been referring to the provisions of Legislative Decree No. 9 of 10 April 1963, and sections 390, subsection 2, 396, 419 and 430 of the Penal Code, under which sentences of imprisonment involving, by virtue of section 47 of the Penal Code, the obligation to work, can be imposed as a punishment for expressing certain political opinions, as a measure of labour discipline or for participation in strikes.

The Committee noted that as a result of direct contacts in October 1988 between the Government and representatives of the Director-General of the International Labour Office, drafts were prepared to repeal the above provisions.

The Committee notes that, in its last report, the Government states that a draft text to repeal the above provisions is currently under study.

The Committee trusts that the necessary steps will shortly be taken to bring the national legislation into line with the Convention and that the Government will report progress made to that end.

Guinea (ratification: 1961)

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 had fallen into abeyance because of the change of political regime in Guinea, are to be revised or repealed as part of 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 respecting the disclosure of professional secrets and the unlawful communication of State and Party documents;
- Act No. 64/AN/1966 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 notes that the Government's report contains no information on the foregoing, and again expresses the hope that the Government will shortly be able to report on the progress made in bringing the texts that have been the subject of its comments, including sections 71, subsection 4, 110, 111, 176 and 177 of the Penal Code into conformity with the Convention.

2. The Committee also referred to 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 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 takes note of the information supplied by the Government in its last report, to the effect that military service for university students has become optional. The Committee asks the Government to provide information on the provisions adopted to this

end and to supply a copy of the relevant texts, particularly any texts amending or repealing Ordinance No. 52 of 1959.

Haiti (ratification: 1958)

In its previous observation, the Committee referred to Recommendations formulated in 1983 by the Commission of Inquiry set up to examine the application, by the Dominican Republic and Haiti, of certain international labour Conventions concerning the employment of Haitian workers in the sugar-cane plantations in the Dominican Republic. The Committee noted that the Government of Haiti had not renewed the previous arrangements in view of the irregularities that they involved but that it was aware that the migration of workers continued, whether voluntary or not, with the complicity of Dominican and Haitian intermediaries, both public servants and private individuals.

The Committee notes with interest the Government's statement in its report that surveillance measures on the border between Haiti and the Dominican Republic have been stepped up to prevent the illegal trafficking of Haitian workers to the sugar-cane plantations in the Dominican Republic, and other measures are being prepared to severely punish any trafficking of workers in violation of the forced labour Conventions.

The Committee hopes that the Government will soon be in a position to report concrete results on the measures adopted, including all legal procedures initiated against those responsible for the illegal trafficking of workers, with a view to punishing the use of force or fraud, and that it will continue to supply information on all developments in this respect.

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, No. 35 of 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.

The Committee had noted the Government's indication that section 81 of the Seamen's Act, which is primarily intended to ensure that the captain can bring the ship to safe harbour or shelter in times of danger or in other ways save the ship and crew, had never been applied, and 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. The Committee referred to the explanations provided in paragraphs

117 and 125 of its 1979 General Survey 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.

The Committee notes with interest from the Government's latest report that the Ministry of Transport is preparing a Bill for submission to Parliament in autumn 1989 proposing, among other things, the repeal of section 81 of the Seamen's Act. The Committee hopes that the Government will soon be able to report on the amendment of the Seamen's Act so as to bring national law on this point into conformity with the Convention.

#### Ireland (ratification: 1958)

The Committee again notes with regret that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

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 report for the period 1984-85, the Government expressed 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 reiterated 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 pointed 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 took 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 with regard to the scope of application of the Convention, the Committee observed 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.

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

#### Jamaica (ratification: 1962)

Article 1(c) and (d) of the Convention. In comments made for many years, the Committee referred to sections 221-224 and 225(1)(b), (c) and (e) of the 1894 United Kingdom Merchant Shipping Act which provide for the punishment of various disciplinary offences with

imprisonment (involving an obligation to perform labour) and for the forcible conveyance of seamen on board ship to perform their duties.

In reports since 1970, the Government has indicated that the questions raised in relation to the Merchant Shipping Act were being studied; in its report for the period 1 July 1985 to 30 June 1987, the Government indicated that the final draft of the Jamaican Bill on Merchant Shipping was still under review. In its most recent report, the Government indicates that the legislation has not yet been submitted to Parliament and that progress in this regard will be reported from time to time.

The Committee hopes that the progress towards appropriate amendment of the legislation which has been reported over the years will continue and looks forward to the early enactment of the necessary amendments; it hopes that the Government will supply a copy of the new merchant shipping legislation when enacted.

#### 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 renewed statements in its report for the period ending 30 June 1989 that there is no forced labour being practised in Kenya today and that serious discussions are under way between the Office of the President, the Attorney-General's Chamber, the Law Reform Commission and the Ministry of Labour regarding the proposals that the Government intends to introduce in order to bring national legislation (and especially the Chief's Authority Act) into conformity with the provisions of both Conventions Nos. 29 and 105 on the abolition of forced labour.

The Committee notes the Government's statement but continues to look forward to learning of the amendments introduced in the Chief's Authority Act as called for under Convention No. 29 as well as of other necessary amendments to the Penal Code, the Public Order Act, the Prohibited Publications Order, 1968, the Merchant Shipping Act, 1967 and the Trade Disputes Act. It must point out that the Government has supplied no indication of measures taken with regard to the above-mentioned legislative provisions under Convention No. 105, nor information in reply to direct requests repeatedly made under this Convention. Recalling the Government's earlier assurances that 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.



Liberia (ratification: 1962)

The Committee notes the Government's statement in its report for the period 30 June 1988 to 30 June 1989 that the Liberian Constitution, Chapter III, article 12, and also article 2.2, paragraph 1 and Chapter 7, article 7.3, paragraph 4 of the proposed new Labour Law as well as section 2(1) of a proposed decree will give effect to the Convention when enacted. In the absence of further information on measures taken to give effect to the Convention on a number of specific points previously raised, the Committee must repeat the substance of its earlier comments and expresses the hope that the necessary action will soon be taken.

1. Article 1(a) of the Convention. The Committee noted 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 noted 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.

3. In its previous comments concerning Decree No. 12 of 30 June 1980 prohibiting strikes, the Committee noted the Government's statement in its report for 1982-83 that no penalty had been imposed for violation of the Decree and the statement by a Government representative to the Conference Committee in 1984 during the discussion of Convention No. 87 that the ban on strikes was due to be lifted on 26 July 1984.

The Committee observes that the Government's report contains no information in this regard. The Committee notes however from the conclusions adopted by the Committee on Freedom of Association concerning Case No. 1219 (in particular the 241st Report of that Committee) that the ban on strikes has not yet been lifted. The Committee requests the Government to provide information on any measures adopted or envisaged in this matter.

[The Government is asked to report in detail for the period ending 30 June 1990.]

Libyan Arab Jamahiriya (ratification: 1961)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

The Committee notes the information provided by the Government in its report received in 1988 and in its statement to the Conference Committee in 1987, as well as the discussion which took place in the Conference Committee.

1. Article 1(a), (c) and (d) of the Convention. In comments made for a number of years, the Committee has referred to various provisions of the Publications Act of 1972, under which persons expressing certain political views or views ideologically opposed to the established political, social or economic system may be punished with penalties of imprisonment (involving, under section 24(1) of the Penal Code, an obligation to perform labour). The Committee has likewise referred to sections 237 and 238 of the Penal Code, under which penalties of imprisonment involving compulsory labour may be imposed on public servants or employees of public institutions as a punishment for breaches of labour discipline or for participation in strikes even in services whose interruption would not endanger the life, personal safety or health of the whole or part of the population. The Committee has asked the Government to indicate the measures taken to bring these provisions into conformity with the Convention. It also has asked for information on the practical application of a number of other provisions of the Penal Code, in order to ascertain the observance of the Convention.

The Committee noted with interest from the Government's report received in 1988 that the tripartite Committee established at the national level to examine its comments, although of the opinion that the work performed by prisoners permitted the learning of a trade which might be useful upon release from prison, nevertheless has recognised obligations under the Convention and has recommended, therefore, that national legislation be harmonised with the Convention so as to assure the freedom of prisoners with regard to work.

The Committee has pointed out in paragraphs 102 to 109 of its 1979 General Survey on the Abolition of Forced Labour that the Convention does not prohibit the exaction from common offenders of compulsory labour intended to reform or rehabilitate

them, but protects a limited range of persons where the same need does not arise. In the case of persons punished for expressing certain political views an intention to reform or educate them through labour would in itself be covered by the express terms of the Convention, which applies, inter alia, to any form of compulsory labour as a means of political education. In many countries, the law has traditionally accorded to prisoners convicted of certain political offences a special status under which they are free from prison labour imposed on common offenders, although they may work on request. The Committee looks forward to learning of the legislative amendments announced by the Government to ensure the observance of Article 1(a), (c) and (d) of the Convention with regard to persons convicted under the relevant provisions of the Publications Act and the Penal Code. Pending amendment of the legislation, the Committee requests the Government to supply information on the practical application (including court decisions defining their scope) of sections 237 and 238 of the Penal Code, as well as sections 175, 195, 206, 207, 220, 221, 245 and 291 of the same code.

2. Supply of legislative texts. For a number of years the Committee has asked the Government (a) to furnish the text of the Orders of the Higher Council of the Revolution of 11 December 1969 respecting the defence of the revolution and of 26 October 1969 respecting the judgement of those responsible for political and administrative corruption, which are referred to in section 5(A)(8) of the Publications Act; and (b) to furnish all legislative texts concerning the establishment, operation and dissolution of associations and political parties. The Committee hopes that these texts will soon be supplied, so as to enable it to ascertain the observance of the Convention.

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

#### Malaysia (ratification: 1958)

The Committee has noted the Government's report on the application of the Convention for the period 1987-89 and the comments made by the Malaysian Trades Union Congress in a communication dated 8 November 1989. The Committee also notes that by letters dated 26 December 1989 and 5 and 8 January 1990, the Government has informed the Director-General of the ILO that, following consultations with the representatives of employers' and workers' organisations at the National Labour Advisory Council, the Government has decided to denounce the Convention. This denunciation is to become effective on 10 January 1991.

The Committee notes the Government's indication in its report that its stand on the various issues raised by the Committee of Experts in previous observations remains the same. It notes however with interest from the Government's report that the Sabah Undesirable Publications Act (Cap. 151) and the Sabah Printing Presses Ordinance (Cap. 107) were repealed in 1983.

The Committee notes that in its comments on the application of the Convention dated 8 November 1989, the Malaysian Trades Union Congress referred to observations made by the Committee for a number of years drawing attention to the need to amend legislation under which persons expressing views opposed to the established political, social or economic order or taking part in strikes may be punished with penalties involving the compulsory prison labour imposed on common criminals. The Malaysian Trades Union Congress pointed out that the Government had still not made any amendment to the Acts/Ordinances concerned so far with regard to the obligation to perform labour when a person is imprisoned. According to the Malaysian Trades Union Congress, the restrictive provisions with regard to publication and printing of materials provided under these Acts/Ordinances should be done away with and be replaced by a Freedom of Information Act; information should be made freely available so that there will be meaningful discussion and understanding of issues especially issues of national interest; the Internal Security Act should be abolished; it was one of the most obnoxious pieces of legislation, as it provided for detention without trial; it gave unlimited powers to the authorities and this could be easily abused; the October 1987 detention of more than 100 people of all walks of life was a clear example of how the ISA could be abused.

The Malaysian Trades Union Congress furthermore referred to 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 illegal (section 44(b) and (d)) and punishable with imprisonment involving an obligation to work (sections 46 and 47). The Malaysian Trades Union Congress pointed out that the Government had not taken any action to amend section 44(b) as yet; it had however in early 1989 amended section 26 by adding the words "or upon receiving the notification of the Director-General under section 18(5)"; thus now the Minister could either refer any trade dispute to the Industrial Court on his own or upon receiving such notification.

The Committee has taken due note of these comments. It also notes that in 1989, the Government has, through the Internal Security (Amendment) Act, 1989, abolished judicial review of government decisions under the Internal Security Act which fall within the scope of the Convention. The Committee notes that, rather than making effective the protection which is to be granted under the Abolition of Forced Labour Convention, the Government has denounced the Convention.

#### Mauritius (ratification: 1969)

1. Article 1(c) and (d) of the Convention. In earlier comments, the Committee has referred to sections 221 to 224 and 225(a), (b), (c) and (e) of the United Kingdom Merchant Shipping Act, 1894, applicable in Mauritius by virtue of section 3(10) of the Merchant Shipping Ordinance, 1911 (Cap. 346), under which seamen may be forcibly conveyed on board ship to perform their duties and punished with a sentence of imprisonment (involving the obligation to

work) for breaches of discipline, even where the offence has not endangered the safety of persons or the ship. The Committee notes with interest the Government's indication in its latest report that the Merchant Shipping Act, 1986, has been enacted but has not yet been proclaimed and that provision has been made in the new Act to comply with the Convention and to repeal the Merchant Shipping Act, 1894. The Committee trusts that the Merchant Shipping Act, 1986, will ensure the observance of the Convention in maritime disciplinary law and hopes that the Government will soon be in a position to report its entry into force and to supply a copy of the Act as well as of the proclamation bringing it into force.

2. Article 1(d). In comments made for many years, the Committee has referred to sections 82 and 83 of the Industrial Relations Act, 1973, which empower the minister to refer any industrial dispute to compulsory arbitration, enforceable by penalties involving compulsory labour. The Committee has pointed out that these provisions are incompatible with Article 1(d) of the Convention. It notes that the Government gives no information in its most recent report with regard to measures taken or under consideration to bring this legislation into conformity with the Convention. It recalls the statement by the Government in its report for the period 1 July 1983 to 30 June 1985 that consideration was being given to measures to be taken and the statement in its report for the period 1979-82 that the procedure for the repeal of the Industrial Relations Act, 1973, had been set in motion and that a parliamentary committee was to draft completely new legislation on industrial relations after hearing the proposals of the employers' and workers' organisations.

The Committee hopes that previously reported steps taken to bring the industrial relations legislation into conformity with the Convention will proceed and that action will soon be completed to ensure that compulsory arbitration enforceable with penalties involving compulsory labour is limited to services whose interruption is likely to endanger the life, personal safety or health of the whole or part of the population.

[The Government is asked to report in detail for the period ending 30 June 1990.]

#### 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. The Committee noted with regret that the Shipping and Seamen Amendment Act, 1987, which became law on 1 August 1987, had introduced no changes in the provisions contrary to the Convention. The Committee had noted however the Government's indication that amendments addressing the issues of concern were 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 would follow close behind passage of the 1987 amendments.

The Committee notes from the Government's report that the revision of those parts of the Shipping and Seamen Act, 1952 which include penal provisions is currently under way. Employer and union organisations are being consulted; however, the proposed Amendment Act does not have a high priority on the Government's legislative programme.

The Committee notes that the provisions in question have been the subject of comments for nearly 20 years. The Committee hopes once more that the Government will soon be able to report that the necessary measures have been taken to ensure observance of the Convention.

[The Government is requested to report in detail for the period ending 30 June 1990.]

#### Nicaragua (ratification: 1967)

The Committee notes with interest that the constitutional rights and guarantees that had been suspended by Decree No. 245 concerning the state of emergency have been restored since August 1987.

1. Article 1(a) and (d) of the Convention. In previous comments, the Committee has referred to section 523 of the Penal Code, under which an incommutable penalty of from six months to two years of imprisonment is inflicted on any person who organises or belongs to communist parties, parties with another name that support the same or similar ideas or any other internationally organised party, and on any person who assists or participates in the activities of the parties referred to, with assemblies, meetings and the preparation, printing, introduction and distribution of any kind of propaganda in the country. Under subsection 3 of section 523 the same penalty can be imposed on any person who co-operates or in any way encourages the continuation of a strike that has been declared illegal. The Committee has also referred to sections 224, 225(3), 314 and 320 of the Labour Code that impose restrictions on the peaceful exercise of the right to strike, restrictions that are enforceable, under section 523 of the Penal Code, with penalties of imprisonment.

The Committee has also referred to sections 227 and 228 of the Labour Code relating to the prohibition of strikes in the public service and the essential services.

The penalty of imprisonment involves the obligation to work by virtue of section 61(2) of the Penal Code.

The Committee takes note of the Government's statement that since the triumph of the Sandinist people's revolution, actions constituting a violation of section 523 are no longer offences and that even the Council of State includes representatives of communist or Marxist parties.

The Government adds that there are proposals to reform the Penal Code, which include the repeal of provisions such as section 523.

The Committee hopes that section 523 of the Penal Code will be repealed shortly so as to dispel any uncertainty as to its application and thus to bring national legislation into conformity with the Convention, so that positive law reflects the existing practice described by the Government.

2. In earlier comments, the Committee referred to section 4(b) of the Act on the maintenance of public order and security (Decree No. 1074), which provides for penalties of imprisonment and public works to be imposed on those who disseminate, by speech or by writing, proclamations or manifestos against security and national integrity, public safety and the national economy, the defence of public order and the prevention of crime, and the legitimately established authorities.

The Committee noted that the penalty of public works provided for in this section had been abolished by a Decree of 3 November 1983. The Committee notes the less observed that if the sentence of imprisonment involves compulsory labour, as stated by the Government in one of its reports, section 4 of Decree No. 1074 was still incompatible with the Convention.

The Committee notes that in its last report, the Government indicates that since the penalty of public works has been abolished, the means of imposing compulsory labour has now been eliminated from the penal legislation.

The Committee recalls that, under Convention No. 29, forced or compulsory labour means all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily; and that States that have ratified Convention No. 105 are under the obligation not to make use of any form of forced or compulsory labour as a punishment for holding or expressing political views.

The Committee observes that the penalty of imprisonment provided for in section 4(b) of Decree No. 1074, which involves compulsory labour, is compatible with the Convention if applied to persons expressing certain political opinions or views. The Committee therefore asks the Government to re-examine the above provision in the light of the Convention, to take the necessary measures to ensure compliance with the Convention and to report on the progress made in this connection.

#### Nigeria (ratification: 1960)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following points:

In comments made for a certain number of years, the Committee has referred to various statutory instruments calling for action and information on the measures taken to ensure the observance of Article 1(a), (c) and (d) of the Convention. The Committee notes with regret that in its latest report the Government merely indicates that the comments have been noted, that the situation on the application of the Convention has not changed and that consideration will be given to the matter in due course. The Government also states that forced or compulsory labour does not exist in Nigeria. The Committee therefore must repeat its observation on the following matters.

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 has noted the information provided by the Government in reply in 1987 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 was 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 has 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 the measures taken or contemplated to amend the legislative provisions referred to.

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

#### Pakistan (ratification: 1960)

The Committee notes the information provided by the Government in its report. The Committee has also taken note of the discussion that took place in the Conference Committee in 1989.

#### 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 with interest from the Government's report that the West Pakistan Press and Publications Ordinance, 1963 is being replaced by the Registration of Printing Presses and Publications Ordinance which is at present before the National Assembly and which will contain no provisions corresponding to sections 23, 24, 27, 28 and 30 of the West Pakistan Press and Publications Ordinance, 1963. The Committee requests the Government to provide a copy of the new Ordinance when adopted.

In relation to the Security of Pakistan Act and the Political Parties Act, the Government reiterates in its report its earlier indications that for offences under these Acts, rigorous imprisonment (involving an obligation to perform hard labour) is not a must and that offenders may be sentenced to detention or simple imprisonment, both of which do not entail any compulsory labour. The punishment can only be awarded after a regular trial before a court of law, giving the accused the right of defence and facility to prove his innocence. The courts judge the cases according to their merit and award sentences keeping in view the nature and gravity of the offence. The

Government expresses the view that this does not involve any violation of the Convention.

The Committee takes due note of these indications concerning due process of law. It recalls the Government's indication in an earlier report that, by virtue of section 3(26) of the General Clauses Act, 1897, offences for which a penalty of "imprisonment" is laid down by law may be punished by the courts either by rigorous imprisonment (involving an obligation to perform hard labour) or by simple imprisonment. As pointed out by the Government, in awarding one form of imprisonment or the other, the courts keep in view the nature and gravity of the offence, but not necessarily its bearing on Article 1(a) of the Convention.

The Committee refers again to the explanations provided in paragraphs 102 to 109 of its 1979 General Survey on the Abolition of Forced Labour, where it 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.

The Committee also requests the Government to supply an updated copy of the provisions of the Jail Code governing prison labour.

#### 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 expressed the hope that the Government would 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.

The Committee notes with interest the statement by the Government in its report that the Government has presented a Bill to the National Assembly to amend the Industrial Relations Ordinance and that it is proposed to remove from the provisions of sections 54 and 55 the element of compulsory labour by replacing imprisonment with "simple imprisonment". The Committee hopes that the Government will soon be in a position to indicate that the Industrial Relations Ordinance has been brought into conformity with the Convention.

Article 1(c) and (d).

3. The Committee previously noted the Governments's statement that a Bill had been introduced in the National Assembly to amend sections 100 to 103 of the Merchant Shipping Act, under which various breaches of labour discipline by seamen may be punished with compulsory labour. The Committee notes with interest the Government's statement in its report that amendments are being made so as to remove the element of compulsory labour from the provisions of the Merchant Shipping Act. The Committee hopes that the amendments will soon be adopted so as to remove the penalties involving compulsory labour from sections 100 and 100(ii), (iii) and (v) of the Merchant Shipping Act (or limit their scope to offences committed in circumstances endangering the safety of the ship or the life, personal safety or health of persons) and to repeal the provisions of sections 101 and 102 of the Act under which seamen may be forcibly returned on board ship to perform their duties. The Committee looks forward to learning of 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 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 Propet 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 persons of the same groups "who by words, either spoken or written, or by visible representation, refers to the mode or 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 Government previously stated that religious discrimination does not exist and is forbidden under the Constitution and the laws of

Pakistan and 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 the inconsistency.

The Committee notes the statement by the Government representative to the Conference Committee in 1989 that religious freedom exists as long as the feelings of another religious community are not injured and that anyone, regardless of his religious conviction, will be punished for professing his religion in a way that injures the feelings of another community. According to the Government the provisions of the Penal Code referred to were drafted so as to resolve the differences between the Muslim and Ahmadi practices of faith with a view to ensuring peace and tranquility, particularly in public places of worship. The Committee also notes that in its report the Government reiterates its earlier stand that forced labour as a result of religious discrimination does not exist in Pakistan, that all minorities enjoy all fundamental rights and that courts are free to uphold and safeguard the rights of minorities.

The Committee has taken note of the report presented to the United Nations Human Rights Commission by the Special Rapporteur on the application of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Conviction (document E/CN.4/1990/46 of 12 January 1990). In his report the Special Rapporteur refers to allegations according to which proceedings were engaged, on the basis of sections 298B and C of the Penal Code, in the districts of Guranwala, Shekhupura, Tharparkar and Attock against a number of persons having used specific greetings. The Committee again requests the Government to provide detailed information on the practical application of the provisions of sections 298B and C, including the number of persons convicted thereunder and copies of court decisions made thereunder in particular in the proceedings mentioned by the Special Rapporteur. The Government is also requested to supply copies of any court ruling that sections 298B and C are incompatible with constitutional requirements.

[The Government is asked to supply full particulars to the Conference at its 77th Session and to report in detail for the period ending 30 June 1990.]

#### Paraguay (ratification: 1968)

1. The Committee notes with satisfaction that Act No. 09/89 of 4 September 1989 repeals Act No. 294 on the defence of democracy and Act No. 209 on the defence of public peace and the freedom of persons, which have been the subject of comments by the Committee.

2. The Committee notes that the Bill to exempt from the obligation to work those sentenced for political offences who have not been concerned in acts of violence, to which the Government has been referring for some years, has not yet been adopted.

The Committee requests the Government to provide a copy of the Bill once it has been enacted.

Peru (ratification: 1960)

In the comments that it has been making for more than ten years, the Committee has referred to section 44 of the Penal Code, under which, where offences are committed by "savages", the judge may replace sentences of imprisonment by assignment to a penal agricultural colony for an 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".

The Committee noted section 21 of the draft Penal Code published in the Official Journal of 31 March 1986 under which the judge may declare inapplicable or reduce the sentence below the minimum set out in the law for a person who, as a result of his culture or customs, commits an act that is punishable without being able to duly understand the offensive nature of the act or being responsible for his behaviour in view of such understanding.

The Committee also notes that Act No. 24911 of 25 October 1988 extended the time-limit for the enactment of the new Penal Code.

The Committee notes, from the information supplied by the Government in its report, that the new Penal Code will be adopted in April 1990.

The Committee requests the Government to supply a copy of the new Penal Code once it has been adopted.

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 (absence without leave from the vessel, refusal to obey after formal order) with sentences of imprisonment involving compulsory labour under section 40 of the Penal Code.

The Committee notes with interest the information provided in the Government's report, to the effect that the authorities have decided to bring the provisions in question into conformity with the Convention during the current revision of the Merchant Navy Code. The Committee also notes the Government's reiterated statement that, in practice, no sentence of imprisonment involving compulsory labour has been passed by judges on a seafarer committing a breach of labour discipline and that such sentences are applied by judges only in cases of mutiny or where the safety of the vessel is in danger.

The Committee expresses the hope that the Government will shortly be able to report the adoption of the necessary amendments to bring the Merchant Navy Code into conformity with the Convention.

Sierra Leone (ratification: 1961)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:



Article 1(a) of the Convention. 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. The Committee notes from the Government's most recent report that correspondence has been reopened requesting the Law Officers Department to state whether there had been convictions under sections 24, 32 and 33 of the Public Order Act during the period 1986-87. The Committee hopes that the information requested will soon be supplied.

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, and noting that no additional information has been provided on this subject in the Government's most recent report, the Committee hopes that copies of the statutory provisions will soon be supplied.

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

#### Sudan (ratification: 1970)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

1. The Committee notes from the Government's report received in 1988 that in Sudan a state of emergency was declared on 25 July 1987 for one year, restricting the right to demonstrate and organising the practising 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 received in 1988 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.

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

#### Syrian Arab Republic (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 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 noted that the Government's report received in 1988 contained 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.

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

United Republic of Tanzania (ratification: 1962)

Tanganyika

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

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 earlier 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 expressed its desire to bring the above-mentioned provisions into conformity with the Convention, but stated 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.

In its latest report, the Government points out that the labour laws of the country are under revision, that a first draft of a consolidated labour code was submitted in September, 1988 and discussions centred on the draft were held with people from different institutions, and that it was hoped that a second and final draft would be submitted in December, 1988 and would do away with all the existing statutory provisions which are not in line with international labour standards.

The Committee takes due note of these indications. Recalling that these matters have been under consideration for a number of years and that the statutory provisions conflicting with the Convention are to a large extent contained in legislation outside the normal purview of a labour code, the Committee hopes that the draft legislation now referred to by the Government will indeed provide for the repeal of all provisions which are incompatible with the Convention, and that the Government will soon indicate that the necessary action has been 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 still 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 notes from the text of the constitution of Chama cha Mapinduzi (CCM) supplied by the Government that a joint national conference of the Tanganyika African National Union (TANU) and the Afro-Shirazi Party (ASP) assembled in Dar es Salaam on 21 January 1977 resolved and proclaimed the dissolution of these two parties and the simultaneous establishment of CCM as a new and sole political Party for the whole of Tanzania. Under section 1 of its constitution, this Party shall exercise final authority in respect of all public affairs; under section 5(4), the Party is to maintain and carry forward the ideological line of the founding fathers of TANU and ASP bequeathed to it in the various documents of those parties; under section 6, every member of TANU and ASP shall, unless he wishes otherwise, become a founder-member of Chama cha Mapinduzi. The Committee also notes that the Constitution of Zanzibar of 1984, the Swahili text of which has been communicated by the Government, pays tribute to the standard-setting work of the ASP and provides in section 5 that CCM is the single Party in Tanzania and that all institutions are under the authority and responsibility of this Party.

In view of the organic links between CCM as the present sole political Party and the Afro-Shirazi Party as one of its two parent organisations, the Committee hopes that on an appropriate occasion, the Afro-Shirazi Party Decree, 1965 and in particular all penal provisions punishing membership in political organisations other than the sole political Party with penalties involving compulsory labour will be formally repealed.

3. In its previous comments, the Committee also had referred to a number of other statutory provisions having a bearing on Article 1(a), (c) and (d) of the Convention. The Committee notes with interest the Government's statement in its report that measures are being taken with a view to re-examining the situation, and to ensure that prisoners covered by the Convention should be exempted from prison labour. The Committee is addressing a direct request to the Government on these matters.

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

#### Thailand (ratification: 1969)

The Committee notes the information provided by the Government in its report for the period ending June 1988.

Article 1(a) of the Convention. 1. The Committee noted previously 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 the Government's statement in its report that the above-mentioned provisions concern illicit actions and penalties enforced in respect of any person who acts or co-ordinates or supports or joins as a member the communist organisation and that these provisions are designed to maintain the security and safety of the country and people.

The Committee observes 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. The Committee hopes that the necessary measures will be adopted in this regard to ensure the observance of the Convention. The Committee examines certain other provisions in relation to Article 1(a) in a direct request.

Article 1(c). 2. The Committee previously 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.

Noting the Government's indication in its report that a committee to review seamen's legislation has been established, the Committee hopes that the repeal of these provisions will be included in the review process and that the Government will report on the action taken.

3. The Committee noted previously that under sections 131 and 133 of the Labour Relations Act, B.E. 2518 (1975), penalties of imprisonment (involving compulsory labour) may be imposed on any employee who, even individually, violates or fails to comply with an agreement on terms of employment or a decision on a labour dispute under sections 18, paragraph (2), 22, paragraph (2), 23 to 25, 29, paragraph (4) or 35(4) of the Labour Relations Act. Referring to the explanations provided in paragraphs 110 to 116 of its 1979 General Survey on the Abolition of Forced Labour, the Committee noted that sections 131 to 133 of the Labour Relations Act are incompatible with the Convention in so far as the scope of sanctions involving compulsory prison labour is not limited to acts and omissions that impair or are liable to endanger the operation of essential services, that is, services whose interruption would endanger the life, the personal safety or the health of the whole or part of the population, or which are committed either in the exercise of functions that are essential to safety or in circumstances where life or health are in danger. The Committee again expresses the hope that the Government will indicate the action taken or contemplated in this regard to ensure the observance of the Convention.

Article 1(d). 4. The Committee has taken note with interest of the text provided by the Government of the Ministry of Interior Announcement of 27 January 1981 for lifting the ban on strikes imposed in October 1976 by Decree No. 3 adopted under sections 25 and 36 of the Labour Relations Act of 1975 and which banned all strikes under the menace of penalties including imprisonment.

5. In its previous comments, the Committee noted that penalties of imprisonment may be imposed for participation in strikes under the following provisions of the Labour Relations Act:

- (a) section 140 read together with section 35(2), if the Minister orders the strikers to return to work as usual, being of the opinion that the strike may cause serious damage to the national economy or may cause hardship to the public or may affect national security or may be contrary to public order;
- (b) section 139 read together with section 34(4), (5) and (6), if the party required to comply with an arbitrator's award under section 25 has complied therewith, if the matter is awaiting the decision of the Labour Relations Committee or a decision has been given by the Minister under section 23(1), (2), (6) or (8) or by the Committee under section 24, or if the matter is awaiting the award of labour disputes arbitrators appointed under section 25.

The Committee noted that the provisions referred to provide for binding awards or ministerial decisions not only where these have been freely accepted by the parties, or where they concern essential services whose interruption would endanger the life, the personal safety or the health of the whole or part of the population, or in cases of force majeure likewise endangering the life, the personal safety or the health of the whole or part of the population, but in a wider range of circumstances where their enforcement with penalties involving compulsory prison labour is contrary to Article 1(d) of the Convention. The Committee requested the Government to indicate the measures taken or envisaged to ensure the observance of the Convention in this regard.

The Committee notes the Government's indication in its report that the powers conferred under section 35 have been seldom used; referring also to the explanations provided in paragraphs 129 to 132 of its above-mentioned General Survey, the Committee hopes that the Government will indicate measures taken or envisaged to bring legislation in this regard into conformity with the Convention.

6. The Committee previously noted that under section 117 of the Criminal Code participation in any strike with the purpose of changing the laws of the State, coercing the Government or intimidating the people is punishable with imprisonment. While noting the Government's indications on constitutional and procedural guarantees provided for, the Committee, referring to the explanations provided in paragraph 128 of its aforementioned General Survey, again requests the Government to supply information on the practical application of this provision, including the number of sentences to penalties of imprisonment and particulars of relevant court decisions, and on any measures taken or contemplated in this connection to ensure the observance of the Convention.

Trinidad and Tobago (ratification: 1963)

Article 1(c) and (d) of the Convention. 1. In previous comments, the Committee noted that the provisions of section 157(1)(a), (b) and (e) of the Shipping Act, 1987 provide for penalties of imprisonment (involving, under rules 255 and 269(3) of the Prisons Rules, compulsory labour) for disobeying lawful commands and are substantially identical to provisions of the Merchant Shipping Act, 1894, which have been the source of comment by the Committee for many years. While subsection (2) of section 157 of the Shipping Act, 1987 excludes the application of subsection (1) to a lawful strike after the ship has been secured in good safety to the satisfaction of the master and the port authority at a port in Trinidad and Tobago, subsection (1) may still be applied to strikes outside Trinidad and Tobago as well as to breaches of labour discipline which do not endanger the safety of the ship or the life or limb of persons (endangering life or ship is the subject of a specific provision in section 156, which has no bearing on the Convention). Similarly, section 158 of the Shipping Act, 1987 follows section 221 of the 1894 Act in punishing desertion and absence without leave with penalties of imprisonment involving compulsory labour. Finally, section 162 of the 1987 Act still provides for the apprehending and forcible conveyance of deserters on board ship upon the request of the master of the ship, regarding both seamen deserting in Trinidad and Tobago a ship registered abroad and, by way of reciprocity, seamen deserting in a foreign State from a ship registered in Trinidad and Tobago.

The Committee notes the indication in the Government's report that its observations have been noted and are receiving active consideration. The Committee asks the Government to specify in its next report what type of consideration the matter is receiving, particularly, what bodies are giving consideration and within what context. The Committee hopes that the necessary measures will soon be taken to bring sections 157(1)(a), (b) and (e), 158 and 162 of the Shipping Act, 1987 into conformity with the Convention, and that the Government will indicate the action taken. In addition, the Committee asks the Government to provide information, including statistical data concerning the practical application of sections 157(1)(a), (b) and (e), 158, and 162 of the Shipping Act, 1987.

2. For several years the Committee has commented upon section 8(1) of the Trade Disputes and Protection of Property Ordinance, under which penalties involving compulsory labour may be imposed for breach of contract by persons employed in certain public services where the probable consequences would be to deprive the inhabitants, wholly or to a great extent, of such services. The Committee observed that certain of the services mentioned in section 8(1) of the Ordinance (electricity, water, health, sanitary or medical services) are strictly essential because their interruption could endanger the life, personal safety or health of the whole or part of the population, while in others (namely, railway, tramway, ship or other transport services) only a few posts essential to security might fall under the same category. In its latest report the Government indicates that no penalties involving compulsory labour have been imposed in the country for the purposes enumerated.

The Committee takes due note of this indication. It hopes that accordingly, the necessary action will soon be taken to bring law as well as practice into conformity with the Convention on this point, by ensuring that no penalties involving compulsory labour may be imposed for breaches of contract which are not likely to endanger the life, personal safety or health of the whole or part of the population, and that the Government will indicate the measures taken to this end.

Article 1(d). 3. The Committee has noted in previous comments that under section 69(1)(d) and (2) of the Industrial Relations Act, 1972, teachers in the public service are prohibited from taking part in a strike, subject to penalties of imprisonment involving the obligation to work. The Government indicates in its latest report that the work of the Committee which has been appointed under the chairmanship of the Permanent Secretary to the Prime Minister and Head of the Civil Service to undertake a review of all the Service Acts and their relevant regulations is still continuing and it is hoped that the exercise will be concluded in the not too distant future. The Committee hopes that the Government will soon be able to report that the necessary measures have been taken to bring section 69(1)(d) and (2) of the Industrial Relations Act into conformity with the Convention.

#### Turkey (ratification: 1961)

The Committee notes the Government's report and the observations made by the Turkish Confederation of Employers' Associations.

Article 1(c) of the Convention. In 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, with a view to ensuring the proper running of the vessel and the maintenance of discipline to bring deserting seafarers back on board to perform their duties.

In its most recent report, supplied in 1989, the Government states that during studies undertaken together with the staff of the competent ministry it has been realised that the authority granted to masters to use force to bring deserting seafarers back on board is restricted to the case of necessity and that this application is in conformity with paragraph (d) of Article 2 of the Forced Labour Convention, 1930 (No. 29) which exempts from the scope of that Convention work exacted in any circumstances that would endanger the existence or well-being of the whole or part of the population. Consequently, the Government considers that such an application falls outside the definition of labour discipline in paragraph (c) of Article 1 of Convention No. 105.

The Government also expresses its view that the relations between the master and crew of a vessel cannot be considered an ordinary employer-employee relationship and that one of the important characteristics of such a relation is the fact that it is closely connected with the safety and security of the vessel and the persons and goods on board. According to the Government, the expression "the case of necessity" indicates that such a measure as contemplated in section 1467 would be compulsory only in the event of emergencies (i.e. in cases of danger to the security of the vessel, passengers and

the goods on board). Thus, according to the Government's report, when there is not an exceptional situation representing immediate danger, then it is only natural that such a measure shall not be resorted to or, if such measures are taken, then after the completion of the vessel's journey they shall be immediately lifted. Furthermore, the Government states that introduction of an amendment to the section in question would also be quite inappropriate because bringing back deserting seafarers on board by using force by the master of the vessel is closely connected with the purpose of the proper running of the vessel, and without their services, it would be impossible to run it. The Government points out that in the case of a master illegally exercising this authority given to him by law, there are penal provisions in the Commercial Code (article 1470) and, if the exercise constitutes a criminal offence, related remedial provisions in the Penal Code may be applied. The Government concludes that the authority in section 1467 of the Commercial Code is restricted to only "the case of necessity" and an adequate legal guarantee has been provided; therefore, it is considered that there is no non-conformity between the provisions of the paragraph of Article 1 of the Convention and the provisions of the Commercial Code.

The Committee takes due note of the Government's views, which are shared by the Turkish Confederation of Employers' Associations. Several of the points raised by the Government have been made previously and commented upon by the Committee. The Committee must observe, as it has in earlier comments, that Article 1(c) of the Convention prohibits without exception the use of any form of forced or compulsory labour as a means of labour discipline, and that in order to remain outside the scope of the Convention, any sanction involving compulsory labour must be limited to acts endangering the safety of the ship or the life or health of persons which need to be strictly defined. Neither these criteria nor those of Article 2(2)(d) of Convention No. 29 are met by the wording of section 1467 of the Commercial Code, which empowers the master to use force for ensuring the proper running of the vessel and the maintenance of discipline.

The existence of legal remedies is inadequate where the criteria laid down in national law do not meet the standard of the Convention.

Accordingly, the Committee trusts that the Government will re-examine its position in the light of the requirements of the Convention and will initiate action to clearly establish in law that the powers under section 1467 of the Commercial Code are limited to circumstances where the safety of the ship or the life or health of persons are in danger. The Committee looks forward to learning of the measures taken to this effect.

#### Uganda (ratification: 1963)

The Committee notes the information provided in the Government's report for the period ending 30 June 1988 that the Committee's observations were brought to the attention of the ILO expert mission on labour legislation and that the Government will take into account the mission's recommendations. This information does not, however, address the request for information made by the Committee in its



previous comments. The Committee is obliged to point out that its earlier comments reproduced in paragraphs 1, 2 and 3 below do not relate to labour legislation and therefore were outside the scope of review of an ILO mission on labour legislation. Accordingly, the Committee again asks the Government to indicate the measures which have been taken or are under consideration to address the following points:

1. In its previous comments, the Committee noted 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.

#### Uruguay (ratification: 1968)

The Committee notes with satisfaction that Legislative Decree No. 15672 has repealed Act No. 9480 of 1935, under which imprisonment involving compulsory labour could be imposed for the public display or the distribution of foreign publications prohibited by the competent administrative authorities.

#### Zambia (ratification: 1965)

The Committee notes the discussion on the application of the Convention by Zambia which took place at the Conference Committee in 1989. It notes that no report has been supplied by the Government on this Convention. The Committee has, however, noted the report on the direct contacts mission to Zambia which took place in November 1989 following a request by the Government that the ILO provide assistance to enable Zambia to bring its legislation into conformity with the requirements of the Convention.

#### Article 1(a) of the Convention

1. In comments made for a number of years, the Committee has referred to article 4 of the Constitution of Zambia which, read together with sections 8 and 9 of the Societies Act, provides that the pursuit of political activities by any group or association outside the constitutionally recognised party is prohibited. Any expression of opinion, meeting or activity by any such group or association would

be punishable under sections 24 and 25 of the Societies Act with imprisonment (involving, by virtue of section 75 of the Prisons Act, an obligation to perform labour).

The Committee also noted that under regulation 4 of the Preservation of Public Security Regulations, the police enjoy wide discretionary powers to prohibit meetings, whether held in public or in private premises, and may also prohibit any person or class of persons from addressing any meeting or any gathering of three or more people, whether in public or private; under regulation 16(4), the authorities may impose such terms or conditions as they consider expedient in connection with the relaxation of restriction orders, and under regulation 33(3) and (4), restrictions may similarly be imposed in connection with conditional suspension of a detention order, for example, as regards association or communication with other persons; according to regulation 47, persons contravening any of the above-mentioned prohibitions, conditions or restrictions are liable to be punished by imprisonment, involving, by virtue of the Prisons Act, an obligation to perform labour.

The Committee notes with interest that under a draft amendment to section 75 of the Prisons Act prepared by the Government on the occasion of the above-mentioned direct contacts mission, a prisoner serving a sentence on conviction of an offence which does not involve the use or advocacy of violence and which relates to unlawful activities of a political, ideological or religious nature, shall have the same privileges as a civil prisoner or an unconvicted prisoner.

The Committee also notes that the operation of the Public Security Regulations is dependent upon the existence of a formal "state of emergency", which has been in existence since shortly after independence in 1964, so that the problems posed by the Public Security Regulations could be resolved by the lifting of the state of emergency.

The Committee hopes that action to ensure the compliance of national law with Article 1(a) of the Convention will soon be completed and that the Government will supply full information on the measures taken.

#### Article 1(c) and (d)

2. In its previous comments the Committee has expressed its hope that the Government would review a number of legislative provisions under which imprisonment (involving compulsory labour) may be imposed as a means of labour discipline or as a punishment for having participated in strikes. These included: (i) section 124 of the Penal Code, under which employees in the public service who wilfully neglect any duty imposed on them by common law, statute or ordinance are liable to imprisonment involving an obligation to work; and (ii) sections 221 to 224 and 225(1)(b), (c) and (e) of the United Kingdom Merchant Shipping Act, 1894, as applied to Zambia by the Merchant Shipping (Temporary Provisions) Act, under which breaches of discipline not involving a danger to the ship or to the life or health of persons may be punished with sanctions involving compulsory labour and seafarers deserting their employment may be forcibly conveyed on board ship. The Committee notes with interest from the report on the

above-mentioned direct contacts missions that a draft Merchant Shipping Bill prepared by the Government in 1987 omits the forcible return on board ship of deserting seafarers, and that on the occasion of the mission, a number of suggestions were formulated to bring the clauses of the 1987 Merchant Shipping Bill dealing with disciplinary offences into conformity with the Convention. Noting the Government's view that these changes could be made without undue difficulty and that it was anticipated that the Bill would be adopted in the near future, the Committee looks forward to learning of the repeal of the 1894 United Kingdom Merchant Shipping Act, as applied to Zambia. Recalling also the Government's earlier statement that section 124 of the Penal Code was under active review, the Committee hopes that the necessary legislative changes will soon be made to ensure the observance of the Convention on this point too, and that the Government will indicate the action taken.

3. In previous comments, the Committee noted that under section 117 of the Industrial Relations Act, 1971, any person employed in an essential service who is guilty of any act or omission which is likely to hinder or interfere with the carrying on of that service or who takes part in a strike may be punished with imprisonment (involving, by virtue of the Prisons Act, an obligation to perform labour). The Committee observed that the definition of "essential services" in section 3 of the Act of 1971, in addition to services falling within the strict meaning of the expression, also covers services whose interruption would not necessarily endanger the life, personal safety or health of the whole or part of the population. The same applies to the provisions prohibiting strikes in "necessary services" contained in regulations 31 DD of the Preservation of Public Security Regulations (inserted by S.I. No. 239 of 1970).

The Committee noted the statement by the Government representative to the Conference Committee in 1987 that the employers' and workers' organisations had met with the Government in late 1985 to examine a draft Industrial Relations Bill. One of the matters considered was the redefinition of essential services with a view to narrowing as required by the Convention.

The Committee notes with interest that on the occasion of the above-mentioned direct contacts mission, proposals were formulated to amend the draft Bill so as to restrict the definition of "essential services" to those whose interruption would pose an immediate and real danger to the life, personal safety or the health of the whole or part of the population, and that there was a reasonable prospect that these proposals would be accepted. As concerns the regulation 31 DD of the Preservation of Public Security Regulations, corresponding amendments were suggested in case the Preservation of Public Security Regulations are to be retained. The Committee hopes that the Government will soon be able to indicate progress in bringing national legislation on essential services and necessary services into conformity with the requirements of Article 1(c) and (d) of the Convention.

#### Article 1(d)

4. The Committee previously noted that under section 95 of the Industrial Relations Act, 1971, any collective dispute not settled by

conciliation shall be referred to the Industrial Relations Court which shall consider the issues involved and pronounce a decision thereon. Since the Court's decision shall be final and binding upon the parties to the dispute for such period as the Court may specify, this provision makes it possible in practice to render all strikes illegal and, under sections 116 and 122, punishable by imprisonment (involving compulsory prison labour).

The Committee notes from the report on the direct contacts mission that a draft Industrial Relations Bill has been prepared. The Committee understands that this draft represents an improvement upon the existing legislation but still provides for restrictions on the right to strike, several of which appear incompatible with the Convention when enforceable with penalties involving compulsory labour. In the absence of a copy of the draft Bill, the Committee is not in a position to comment on its provisions, but draws attention to the explanations provided in paragraphs 120 to 132 of its 1979 General Survey on the Abolition of Forced Labour.

Noting also from the report on the direct contacts mission that, in practice, illegal strikes are a regular occurrence but criminal proceedings are apparently never instituted in respect of such strikes, the Committee hopes that action will be taken to bring the legislation on strikes into conformity with the Convention as well as actual practice, and that the Government will soon be in a position to report the provisions adopted to this end.

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In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Angola, Argentina, Bahamas, Bangladesh, Barbados, Belize, Benin, Brazil, Burundi, Cameroon, Cape Verde, Central African Republic, Colombia, Comoros, Costa Rica, Cuba, Djibouti, Dominica, Egypt, El Salvador, Gabon, Ghana, Greece, Grenada, Guinea Bissau, Islamic Republic of Iran, Israel, Jordan, Kenya, Kuwait, Liberia, Morocco, Mozambique, Nicaragua, Nigeria, Pakistan, Panama, Papua New Guinea, Peru, Poland, Rwanda, Somalia, Spain, Sudan, Suriname, United Republic of Tanzania, Thailand, United Kingdom, Uruguay.

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

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

#### Colombia (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 8, paragraph 3, of the Convention. In the direct requests that it has been making for many years, the Committee has been drawing the Government's attention to the fact that section 180 of the Labour Code, under which persons working

exceptionally on the weekly rest-day may choose between compensatory rest and compensation payment, is not in conformity with this provision of the Convention. In reply, the Government states that section 180 is only applied occasionally, and that, in these circumstances, it would be inappropriate to deprive workers of the freedom of choice between compensatory rest and additional remuneration.

The Committee wishes to point out that all the persons covered by the Convention, even if they only work quite exceptionally on the weekly rest-day, must in practice benefit from compensatory rest irrespective of any compensatory payment. It therefore requests the Government to re-examine its position and to take the necessary measures to bring the national legislation into conformity with the Convention on this point.

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

### **Convention No. 107: Indigenous and Tribal Populations, 1957**

#### **Bangladesh (ratification: 1972)**

1. The Committee notes the Government's most recent report, for the period ending 30 June 1989, and the detailed information which it supplied to the Conference Committee at its 1989 Session. It notes further that it has now received copies of the 1989 legislation on the Hill District Local Government Councils, of which it was informed before its last session.

2. The Committee notes with interest that the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities decided, during its 1989 Session, to thank the Government of Bangladesh for its co-operation and express its satisfaction with the progress made in respect of its treatment of tribal populations.

3. The Committee points out that it is aware of a continuing problem of inter-ethnic conflict in the Chittagong Hill Tracts. It also continues to receive allegations from various sources, including information submitted to various United Nations human rights organs, of abuses of human rights in this region. While it treats such reports with caution, it remains concerned over the practical application of the Convention and hopes that the Government will be able to provide detailed information in this regard in its next report.

4. In its 1989 observation the Committee raised a series of questions, concerning each of which the Government provided information to the Conference. It therefore follows the same format for its present comments.

5. Special laws and regulations in force in the Chittagong Hill Tracts. The Committee notes that it has now received copies of the Hill Districts Local Government Council Acts, 1989, for the districts of Bandarban, Khagrachari and Rangamati, as well as of the Hill Districts (Repeal and Enforcement of Law and Special Provision) Act, 1989. It notes with interest that the Government representative informed the Conference Committee that each of the named districts is

to have its own elected council with a built-in majority of tribal members and a tribal chairman. He stated that the councils are to be responsible for civil administration, including the appointment of police up to the assistant superintendent level; and to have control over land transfers and the power to levy taxes. The Government has indicated in its report that the elections for these councils took place on 25 June 1989, and that the district councils have started functioning.

6. The Committee notes that it has also received information from other sources, including a number of non-governmental organisations, to the effect that the new legislation was adopted without consultation of representatives of the tribal people, and that therefore the level of participation of the tribal people in the elections was very low. This information also states that the area under the control of the new local government structures is less than 10 per cent of the total area of the Chittagong Hill Tracts. It states in addition that by adopting the Hill Districts (Repeal and Enforcement of Law and Special Provision) Act, 1989, which repealed the Chittagong Hill Tracts Regulation (No. 1 of 1900), the Government has removed existing legal protections for tribal people in these areas and thereby given legitimacy to the settlement of non-tribal people in these areas, which until now was illegal. The Committee is not in a position to judge the accuracy of these statements on the basis of the information available to it. It therefore requests the Government to provide any comments it may have on this information, in particular on the geographic area covered by the new councils, and on the termination of the prior rights of the tribal people.

7. Recommendations of the National Committee on the Chittagong Hill Tracts. In its previous comments the Committee asked the Government to indicate what recommendations this Committee had made, and how they were being implemented. The Government representative informed the Conference Committee in 1989 that the National Committee continues to function, and that it makes recommendations which may form the basis of administrative or legislative arrangements. The Committee recalls that the National Committee was formed to make recommendations on how to resolve a severe crisis in the Chittagong Hill Tracts, and that its recommendations formed the basis for the new legislation mentioned above. It hopes that the Government will provide information on the present functioning of this National Committee, on its recent activities, and on the action that may have been taken as a result.

8. The Committee notes also from reports in Bangladesh newspapers that a Special Committee on Hill Tracts Districts was established in August 1989, chaired by the Prime Minister. Please indicate the relation between this Special Committee and the National Committee, and in particular whether the latter continues to function. Please also indicate what activities the Special Committee has undertaken and the results achieved.

9. The situation of land ownership. In its previous comments, the Committee has noted that one of the principal causes for unrest in these areas has been migration of non-tribals into areas previously occupied exclusively by tribals, and their acquisition of land rights. It notes from the information supplied by the Government that



transfer of land ownership in these areas is now, under section 64 of each of the Council Acts, under the exclusive control of tribal-run local government authorities. It notes further the statement that the cadastral survey of land ownership and use which had been mentioned in earlier reports, was suspended at the request of the tribal leaders but was to resume after the council (Parishad) elections in June 1989. Please indicate whether this survey has now been carried out, and what are the results. As concerns the transfer of land rights under the control of the councils, the Committee refers to its question above concerning the area under the effective control of the councils; it asks the Government to indicate whether there are areas in the Chittagong Hill Tracts in which the transfer of land rights is not controlled by the councils, and what measures govern the transfer of land rights in such cases.

10. Progress made in settling landless tribals. In its previous comments the Committee requested information on the progress made in settling landless tribals, as recommended by the National Committee. The Government representative indicated to the Conference Committee that the Government had adopted programmes for settling landless tribals on government-owned land, and that a few hundred families had been settled under this programme. It was hoped that the process would be accelerated once the councils were established. The Committee therefore requests the Government to provide information on the present situation in this regard, indicating in particular the numbers of landless tribals and the amount of land allocated to them.

11. In this connection, the Committee notes the provisions of the Hill Districts (Repeal and Enforcement of Law and Special Provision) Act, 1989, concerning jhum cultivation (i.e., traditional shifting agriculture by tribals). It notes that under section 7 of the Act, the Deputy Commissioner has the power to control jhum cultivation and to issue and enforce the necessary orders for this purpose, and to prohibit jhum cultivation in any area. Under section 15 there are provisions for the occupation of rural lands for homesteads, under the control of the headman or of the Deputy Commissioner. The Committee would be grateful if the Government would indicate the relationship between the control granted under this Act over the disposition of land rights of tribal people, and the control granted under the Council Acts to the councils themselves over land rights. Please indicate what rules the Deputy Commissioner may have issued in this respect.

12. The Committee notes further that under section 11 of the same Act, each headman is to establish a jhum touzi, or rent roll of jhum cultivators. This should facilitate the provision of the information requested above on the number of landless tribals and on land ownership.

13. Procedures for consultations with tribals in the planning and implementation of development programmes. The Conference Committee was informed that the councils would be able to decide on the priority and type of projects which would best help to improve the socio-economic conditions of the population of the area. The Committee notes from the Acts that under the First Schedule of each Act (Functions of the Council), the council is responsible for the co-ordination of development activities of the local authorities and



review of the implementation of their development projects (section 2); and the implementation of the development programmes entrusted to the council by the Government (section 17). It notes that while the authority exists to carry out their own development projects, there is no procedure provided for in these Acts for consultations on development projects implemented by the national Government in these areas. It notes further from newspaper reports from Bangladesh that the Special Committee on Hill Tracts Districts created in August 1989 (see paragraph 8 above) reviews the overall development activities of the three local government bodies and that it has discussed the framing of rules and regulations for their functioning. The Committee would therefore be glad to receive detailed information on this matter in the next report, with particular reference to any procedures which may have been implemented.

14. Independent investigations into alleged human rights abuses. The Committee had previously requested information on measures taken in this respect, and on tribal participation in such investigations. The Government representative informed the Conference Committee that joint investigation committees were formed immediately after any alleged incident, and that this procedure had been in operation since August 1988. The Committee notes that it has continued to receive from non-governmental sources, allegations of abuses in the Chittagong Hill Tracts, arising mostly from the effects of settlement of non-tribals in these areas. It therefore requests the Government to communicate information on the practical working of this procedure, the number of such committees formed, and the results obtained.

15. Progress in achieving a negotiated settlement of the conflict and the return of tribal refugees. The Committee had previously noted the continuation of conflicts, sometimes violent ones, in the Chittagong Hill Tracts, and that many thousands of tribal refugees had fled to India. The Government representative informed the Conference that the Government was continuing to facilitate the repatriation of tribal people, and had declared an amnesty for terrorists in order to facilitate this process. The Committee notes that no additional information was contained in the Government's report. It notes however from newspaper reports in Bangladesh that further amnesties have been declared, and that there were plans to hold talks concerning the return of tribal refugees between the Governments of Bangladesh and India. It notes further, from these newspaper reports, that rehabilitation programmes have been established for those tribals who do return. The Committee therefore requests the Government to provide information on: (a) the number of tribals who have not yet returned to their homes; (b) talks between the two Governments concerned and other measures taken to facilitate the return of the tribals; and (c) generally, on the security situation in the Hill Tracts and on measures to create a situation in which the tribals will wish to return. Please also indicate what measures have been taken for the resettlement and rehabilitation of tribals who have returned to Bangladesh.

16. Situation of other tribal populations of Bangladesh. The Committee recalls that it has paid particular attention in recent years to the situation of the tribal people in the Chittagong Hill

Tracts, but that there are a number of other tribal people in the country. It therefore hopes that the Government will provide information in its next report on these groups, and on any measures which may have been taken in regard to their situation.

Brazil (ratification: 1965)

1. The Committee notes with concern the information it has received about the situation of the Yanomami Indians, and hopes that the Government will shortly be in a position to indicate that it has taken effective measures for their protection.

2. The Committee notes the detailed information provided by the Government to the Conference Committee on the Application of Standards at its 1989 Session, and the discussion which took place there. During that discussion, the Government asked that a specialist on indigenous populations and legislation accompany the Regional Adviser on International Labour Standards when he next visited the country. This visit took place in September 1989.

3. The Committee notes with regret that the Government's report has not been received. As the situation of the Yanomami in particular appears to be extremely vulnerable, the Committee is obliged to analyse the situation on the basis of the information available to it.

4. Invasion of Yanomami lands by gold miners. The Committee recalls that it noted in its previous comments that the lands of the Yanomami had been invaded by "wildcat" gold miners (garimpeiros). It notes from information provided to the representative of the Director-General during his visit to these regions, that some 45,000 garimpeiros were illegally in Indian lands. The Committee notes that the presence of these miners has caused severe damage to the Indians with whom they have come into contact, through the spread of disease and environmental pollution, as well as armed conflicts resulting in death or injury for many Indians and the disruption of their cultures.

5. The Committee notes that in January 1990 the Government ordered the expulsion of these miners from Indian areas, and the creation of an emergency health programme for the Yanomami. It notes that the Government at first planned to relocate the miners into the region surrounding the 19 areas designated for the use of the Yanomami (see previous comments); but that a federal court ruling of 20 October 1989 had declared that the areas into which the garimpeiros were to be moved should have been designated Indian Areas (see below). It appears that subsequently, the Government has decided to relocate the miners to other areas. The Committee notes in this connection the creation of the prospecting reservation of Uraricaa Santa Rosa by Decree No. 98,890 of 25 January 1990, outside the Yanomami territory, but near to it, and requests the Government to forward a copy of this Decree. It also notes, however, creation of the Catrimani-Couto Magalhaes prospecting reservation by Decree No. 98,960 of 15 February 1990, and of the Uraricoeira prospecting reservation by Decree No. 98,961 of the same date, which appear to be within Yanomami territory. Please provide detailed information in this connection.

6. It appears that substantial progress has been achieved in evacuating the garimpeiros from Yanomami areas; but the Committee has

also received reports of resistance to expulsion, and of returns to Indian Areas by expelled miners. It also notes reports that some miners are moving to other regions inhabited by Indians. It hopes that the Government will be able to indicate in the very near future that all the persons illegally in Indian Areas have left, and that their access to these areas is effectively prevented unless authorised.

7. Health emergency for the Yanomami. The Committee notes that an emergency health plan for the Yanomami was approved by Congress in January 1990 at the request of the President. The Committee hopes that the Government will do everything in its power to offset the damage to the health of these groups resulting from the presence of the garimpeiros, and that it will soon be in a position to indicate that adequate health-care services are being provided in accordance with Article 20 of the Convention.

8. Reservation of lands for the Yanomami. The Committee has noted in its previous comments that, after consideration of a plan to create the Yanomami Reserve covering an area of several million hectares, the Government decided to designate 19 non-contiguous regions as those where the Yanomami had rights. It notes from the information assembled by the representative of the Director-General when he visited these areas in September 1989, and from other sources, that this decision has been criticised as being damaging to the interests of the Yanomami in removing much of their traditional territory from the regions designated for their use, and by allowing the presence of garimpeiros in closely adjacent areas. It notes also, as indicated above, a federal court ruling on 20 October 1989 that an area of 9.4 million hectares previously delimited for Indian use, should have been allocated to the Yanomami, and requiring the situation to be re-examined. The Committee hopes that it will be possible to designate an appropriate area for the exclusive use of the Yanomami, and that the Government will shortly be able to provide detailed information on the results of this court action.

9. Exploitation of resources in Indian Areas. The Committee recalls that in its previous comments it noted that Decree No. 88,985 of 10 November 1983 allows the Government to grant authorisation to exploit mineral resources in Indian Areas; but that article 231(3) of the Constitution adopted in 1988 provides that authorisation for resources exploitation on Indian lands can take place only with the agreement of the national Congress. It asked for information on the legislation adopted to implement this provision of the new Constitution.

10. The Committee notes that at least two pieces of legislation have been adopted since the discussion in the Conference Committee in 1989. A law on prospecting (Act No. 7,805) was enacted in July 1989, and was subsequently amended by Decree No. 98,812 of 9 January 1990. The Committee has received the text of neither law, though it understands that provisions protective of Indian lands have been included, and it hopes that the Government will be able to provide detailed information in this regard in the very near future.

11. Responsibility for administration of Indian affairs (Articles 2 and 27 of the Convention). The Committee recalls that the National Indian Foundation (FUNAI) is responsible for Indian affairs, and that it has been located within the Ministry of the Interior. The

Committee notes from recent information that FUNAI will be transferred to the Ministry of Justice; it also notes that responsibility for designating land rights in Indian Areas will be transferred to the Federal Public Ministry. The Committee would be grateful if the Government would forward detailed information on the new administrative arrangements for the protection of the Indians, and on the relationship between the bodies concerned.

12. Possible technical assistance. The Committee notes from the report of the visit of the representative of the Director-General that he held preliminary discussions with FUNAI on the possibility that the ILO might provide technical assistance for the application of the Convention, and that further discussions were held in this connection with other ILO officials subsequently. The Committee notes the size of the task facing the Government in implementing the Convention and in protecting the Indian populations of the country. It refers in particular to the resolution on ILO action concerning indigenous and tribal peoples, adopted by the International Labour Conference at its 76th (1989) Session which, among other things, calls upon the ILO to develop technical co-operation programmes and projects that will benefit indigenous and tribal populations. The Committee urges the Government to consider whether international assistance might be helpful to it, especially in the light of the considerations outlined above, and to discuss the matter further with the International Labour Office.

13. In this connection the Committee notes with interest the adoption of the Declaration of San Francisco de Quito on 7 March 1989, in the context of the Amazon Co-operation Treaty. It notes the creation of Special Commissions on the Environment and on Indigenous Populations, providing for co-operation among Amazon States in these regards. The Committee notes further, in connection with its comments above, reports that the garimpeiros expelled from the Yanomami areas in Brazil may have gone to neighbouring countries which have Indian populations but which have not ratified the Convention. The Committee requests the Government to keep it informed of any arrangements it may make for co-operative programmes for the benefit of Indians in the context of the Amazon Co-operation Treaty.

14. As noted above, no report on the application of the Convention has been received from the Government. The Committee notes that the situation of the Yanomami is only one of the severe problems affecting the indigenous populations in the country, and that it had addressed a number of requests in this respect directly to the Government. It is therefore obliged to repeat these comments, and hopes that the Government will provide detailed information in reply, in time for an examination at the Committee's next session.

#### India (ratification: 1958)

1. The Committee recalls that in its previous comments over several years - most recently at its 1988 session - it has examined the planned displacement of some 60,000 tribals from the lands they occupy because of the construction of the Sardar Sarovar Dam and Power Project (SSP). This is the first stage of a much larger project which

will, it is said, involve the eventual displacement of over 1 million tribals. The Project is financed by the World Bank. The Committee has had before it on several occasions observations from the International Federation of Plantation, Agricultural and Allied Workers (IFPAAW), forwarding material received from the non-governmental human rights organisation Survival International for the Rights of Threatened Tribal Peoples.

2. The Committee notes with interest the detailed information provided by the Government to the Conference Committee in 1988. It has received from IFPAAW and forwarded to the Government further communications dated 27 February, 23 October and 20 December 1989; and has received the Government's observations on them in a letter dated 24 January 1990. The Committee has also received information from the World Bank, in a letter dated 2 February 1990.

3. The Committee takes special note of a statement in the IFPAAW communication of 31 October 1989, according to which there is a series of development projects already undertaken or planned in India which would involve the displacement of between 2 and 3 million tribal people altogether; and that inadequate provision has been made for their relocation and rehabilitation. The Committee requests the Government to provide any comments it may wish to make on this statement in its next report.

4. The Committee recalls that the SSP will displace tribal people in three Indian states: Gujarat, Maharashtra and Madhya Pradesh. Each state has made separate arrangements, under agreements with the World Bank, for dealing with the displaced tribals and for the other consequences of the Project.

5. The Committee thanks the Government for the comprehensive information it has provided at each stage of the examination of this question.

6. Article 6 of the Convention. IFPAAW has stated that the arrangements in place do not satisfy this Article of the Convention, 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 overall development of areas inhabited by these populations. Special projects for economic development of the areas in question shall also be so designed as to promote such improvement.

7. In its 1988 observation the Committee stated 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." In its January 1989 comments, IFPAAW stated that the Project is "designed to provide power and water for more settled populations; its benefits are not oriented at all towards the tribal people being displaced, which appears in itself to violate ... Article 6". IFPAAW refers also to the experience of tribal populations displaced by similar projects (e.g., the Tawa and Bargi dams) and the limited resources made available for compensation. It also states that the kind of forced development likely to result from the tribal peoples' displacement is of a kind least likely to lead to an improvement in their conditions of life and work.



8. The Government states in its comments that when completed, the SSP will benefit tribal and non-tribal persons equally, and that the central and state governments are fully committed to the overall socio-economic development of the tribal people. The Government states that this Article does not preclude economic development efforts affecting both tribals and non-tribals, and outlines the benefits expected to result, including relief of drought-prone areas, irrigation, water supply to industries, electricity supply, and employment through new industrial and agricultural undertakings.

9. The Committee notes the points made, and agrees that this Article does not preclude economic development efforts which assist both tribals and non-tribals. It appears in this case, however, that while both tribals and non-tribals are likely to enjoy some of the benefits of the SSP, the costs of the project are falling particularly heavily on the tribal people of these three States. Whether these costs can be reduced or compensated depends on how the other Articles concerned are applied.

10. Article 11. In its previous comments, the Committee noted the contention of IFPAAW that the arrangements made for compensation for displaced tribals did not fully apply this Article, which reads:

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.

11. IFPAAW stated that compensation was being paid only for lands to which the displaced tribals had title, or another recognised right, and not for all those which they occupied. It recalled that many of the tribals use - for cultivation, grazing or gathering of forest products - lands to which they have no recognised title. The Government indicated that the State of Gujarat had decided to grant title to those tribals who "encroached" on government-owned land for cultivation, so that they would be compensated for this land when they are displaced (with this compensation in turn to be applied to paying for the acquisition of land in their place of settlement). IFPAAW stated in turn that 80 per cent of the affected tribals live in the other two States covered by the projects, and that no such arrangements had been made there; that the kind of *ex gratia* payments made by the Government of Gujarat avoided recognising that the tribals had any prior rights; and that no provision had been made for the hunter/gatherer elements of the tribals' economic life, but only for settled cultivation. The Government indicated in turn that a distinction had to be made between the traditional occupation covered by this Article, and unauthorised occupation of government lands; to require such special measures for encroaching persons would be to misconstrue Article 11.

12. The Committee noted in its 1988 observation that traditional occupation conferred land rights under the Convention, whether or not title had been recognised; and that even if occupation was recent, this did not mean that no land rights existed, especially in view of Articles 12 and 14 of the Convention. It also did not mean that the tribals affected should be excluded from the protections offered to those being displaced by the SSP. It asked for additional information on the measures being taken in Maharashtra and Madhya Pradesh, and

expressed the hope that all those being displaced could be provided for.

13. The Government informed the Conference Committee in 1988 that it did not agree that recent occupation of government-owned lands conferred any land rights at all on tribals. Encroachment could not be considered as "traditional occupation" in the sense of Article 11, or as "habitual occupation" in the sense of Article 12. The Governments of Maharashtra and Madhya Pradesh had recently updated their rehabilitation policies along lines similar to those of Gujarat, and the Government of Gujarat had decided that all those who wished to resettle in that state would be given equal treatment, with full land titles.

14. In its communication of 24 January 1989, IFPAAW stated that the distinction between traditional occupation and encroachment on state-owned lands is arbitrary, since even when the tribals came under British rule in the nineteenth century, some of the lands they occupied were titled and some were not. Many of the tribals had been occupying these lands for a very long time without recognition, and this applied especially to the Reserved Forest in the Narmada Valley. In addition, most of the tribals have a mixed economy that extends well beyond any lands to which they might have title. IFPAAW states that Article 11 therefore applies to forest and waste lands as well as to settled lands.

15. In its communication of 24 January 1990, the Government states that the allegation concerning those who occupied land even before British rule is too general to warrant comment. The Government repeats its understanding that Article 11 of the Convention "in no way permits unauthorised occupation of Government lands, as such occupation cannot ... be deemed to be traditional occupation." The Government refers to its commitment to recognising title to lands traditionally held by tribals, and to legislation enacted to control alienation of tribal lands and to restore alienated tribal lands. The National Forest Policy of 1988 recognises that a primary task of all responsible for forest management should be to associate the tribal people closely in the protection, regeneration and development of forests as well as to provide gainful employment to people living in and around them, and the customary rights and interests of such people are to be fully safeguarded. Finally, the Rehabilitation and Resettlement policies of all three State governments provide for allotment of land to families which have been cultivating Government waste and forest lands without authorisation, and Maharashtra has regularised all unauthorised occupation occurring before 31 March 1978. Both Maharashtra and Madhya Pradesh now provide that encroachers and families having legal title will be treated on the same footing for the purpose of entitlement to compensation and for rehabilitation. As concerns Maharashtra, the Committee notes Resolution No. RPA-3188/CR-130/88/R-5 of 29 June 1989, containing the Policy concerning Rehabilitation and Resettlement of Oustees. The Policy lays down rules for compensating oustees for their land holdings, their resettlement and the acquisition of alternative lands in Maharashtra or Gujarat, compensation of "encroachers" for the lands they occupied, and other elements of compensation and rehabilitation. It also provides for the financing of the scheme. The Government has forwarded

a similar document, dated November 1987, adopted by the Government of Madhya Pradesh (which however includes no provisions on financing the arrangements specified).

16. The Committee notes with interest the detailed information provided by IFPAAW and by the Government. It cannot fully accept the distinction drawn by the Government between traditional occupation and encroachment. Traditional occupation, whether or not it has been recognised as authorised, does create rights under the Convention. In addition, use of forest or waste lands, title of which is held by the Government for hunting and gathering - again, whether or not this has been authorised - satisfies the use of the term "occupation", and if it is traditional it meets the requirement of this Article. The term "traditional occupation" is imprecise, but it clearly conveys that the lands over which these groups' land rights should be recognised are those whose use has become part of their way of life. The Committee is not prepared to judge, in the context of the present discussion, how much time would have to elapse before occupation would become "traditional"; nor does the Committee have available to it information which would allow it to decide that traditional use has not been recognised in any particular situations. However, to the extent that the indications provided by IFPAAW are accurate, they would create a presumption of land rights under the Convention. The Committee notes that, as IFPAAW has indicated, no compensation has been allocated for tribals who carry out hunting and gathering, as opposed to settled cultivation. The Committee hopes that, in deciding on the land rights giving rise to compensation, the Government will ensure that the cost of the project does not fall heavily on these helpless and already impoverished tribals, and that they are not deprived of the means of subsistence which they have had for many years. The Committee hopes that the Government will adopt an interpretation consistent with the spirit of this Article of the Convention as well as with its letter.

17. Article 12. The issue here relates to Article 12, paragraph 2:

When in such cases removal of these populations is necessary as an exceptional measure, they shall be provided with lands of quality at least equal to that of the lands previously occupied by them, suitable to provide for their present needs and future development. In cases where chances of alternative employment exist and where the populations concerned prefer to have compensation in money or in kind, they shall be so compensated under appropriate guarantees.

18. The issue of the land rights which these groups already have, is important because under arrangements concluded with the World Bank by each of the State governments concerned, this will determine what lands or other compensation displaced tribals receive when resettled. The Committee has already considered the question, raised by IFPAAW in earlier comments, of whether there is sufficient land available of acceptable quality to allow the resettlement of all 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 with the World Bank. The Committee noted in its previous comments that the



Government was making real and considerable efforts in this connection, but that problems persisted. It noted in particular that, while Gujarat State had made lands available and provided for rehabilitation efforts, the other two states had done much less although 80 per cent of the tribals to be displaced live in Madhya Pradesh and Maharashtra. The Government informed the Conference Committee in 1988 that all the displaced tribals who were willing to settle in Gujarat would be treated equally. Efforts were being made by the three states to buy large tracts of land of acceptable quality so that resettlement of the "oustees" would not be fragmentary and their communities would not be dispersed. Relocation to Gujarat had been proposed as it was there that new lands were to be brought under irrigation, but oustees would be settled in their own states if they preferred.

19. In its comments of 24 January 1989, IFPAAW stated that the lands provided in compensation should be similar to those from which the tribals are being displaced, so the tribals should have proximity and access to forest lands. However, IFPAAW points out, a policy statement of 8 September 1987 issued by the Ministry of Environment and Forests states that "No forest land will be used for the rehabilitation of oustees," while the World Bank has stated in a letter of 28 June 1988 that "forest for forest" compensation is not always appropriate or realistic. In addition, says IFPAAW, there is already a problem finding enough agricultural land to compensate the oustees, and forest land is in even shorter supply. It indicates further that pressure is being put on oustees in Madhya Pradesh to accept compensation in money rather than in land if they do not choose to be resettled in Gujarat.

20. As concerns the situation in each state, IFPAAW notes that under the December 1987 Resolution, each oustee family from Gujarat is to be granted land and other rehabilitation benefits; and in June 1988 these provisions were extended to oustees from Maharashtra and Madhya Pradesh who choose to settle in Gujarat. (IFPAAW also states that most of the tribal oustees do not wish to settle in Gujarat, and have the right not to do so under the Narmada Water Disputes Tribunal Award of 1979.) However, it states that the Gujarat Government has acquired only 20 per cent of the land needed to resettle the oustees from Gujarat itself; prices are rising; and acquisition of further lands will in itself cause more evictions. In Maharashtra, planning for resettlement is underdeveloped; finding land has proven difficult, and the Government has decided not to release Forest Department land. On the other hand, an August 1987 resolution followed the example of Gujarat in deciding to make *ex gratia* payments to "encroachers". In Madhya Pradesh, where the majority of the displaced tribals live, IFPAAW states that arrangements are very rudimentary and almost no action has been taken.

21. The Government has indicated in its comments that all the oustees are entitled to compensation for land owned or "encroached" by them for agricultural or non-agricultural purposes. It is the policy of the Government not to allot forest land for rehabilitation, but when oustees insist on resettlement in forest areas such requests are considered sympathetically. The tribals are being provided special facilities for rehabilitation not made available to other oustees.

Availability of land in Gujarat is not a problem, and a good deal of land is already being acquired. As for Maharashtra, 269 families of oustees are willing to accept settlement in Gujarat, and 179 already have their land. It is not correct to say that planning for resettlement is undeveloped in this state; as 1,358 families have decided to remain in Maharashtra the Government is "duty bound" to provide them with alternative lands. In Madhya Pradesh, where the majority of those to be displaced live, an initial policy was adopted in 1986; and after consultations with the central Government and the World Bank a detailed policy was issued on 18 May 1989. Of the 193 villages in this state which will be affected in varying degrees by submergence, oustees from 92 of them will be resettled in Madhya Pradesh close to their present lands. In 77 villages, oustees are willing to go to Gujarat provided they are given appropriate land. Some land has already been approved by the oustees, and the Government of Gujarat is making every effort to find additional suitable land.

22. The letter of 2 February 1990 from the World Bank indicates that the situation with respect to resettlement and rehabilitation is improving, as a Bank mission found in December 1989. More than 1,000 oustees have been allotted land in Gujarat, the planning and implementation mechanisms seem to be working very well and additional land for resettlement, including relatively large quantities of irrigable land, is coming on to the market. In Madhya Pradesh, the Bank indicates that the situation is also improving, though much remains to be done. Although the "initial submergence date" has been set back to 1994-1995, detailed planning has taken place in the first villages to be affected, village leaders have visited Gujarat and some villages have decided to move there. The situation in Maharashtra is troublesome in that forest land is needed for the initial resettlement. Government clearance is being sought for this. The Bank indicates that progress is being made, and that it continues to work closely with state and project authorities to try to ensure that it continues.

23. The Committee has examined the detailed information supplied by IFPAAW and by the Government on the compensation being offered to the displaced tribals, as well as the information supplied by the World Bank. It is evident that the Government has made considerable efforts to resolve an extremely difficult situation; it is not evident from the information available whether it has fully succeeded in providing appropriate compensation in accordance with Article 12 of the Convention, for all the families and villages which are losing their lands as a consequence of this project. The Committee would affirm that the words "lands of quality at least equal to that of the lands previously occupied by them, suitable to provide for their present needs and future development" would create a presumption that displaced tribals should receive agricultural lands for lost agricultural lands, and forest lands for lost forest lands. The Committee recalls that this provision goes on to provide for alternatives if the groups concerned prefer, so that there is room for discussion of the appropriate form of compensation.

24. The Committee therefore requests the Government to continue to communicate detailed information on the further progress achieved in providing land and other compensation to the displaced tribals. It

notes the Government's statement, in its January 1990 communication, that "It is expected that by March 1991 the entire rehabilitation of total project-affected 3,322 families would be completed as per liberalised norms. The Government of India firmly believes that there has been no violation of Convention No. 107 and that the Project, when complete, would help the tribals to improve their standard of living." It is not apparent from the information available how much land is required for resettlement as compared with the amount already available, and the Committee would be grateful for information in this respect.

25. The Committee feels bound to repeat the concern which it expressed in its previous comments as to whether it will prove possible to provide the same kind of compensation in the future as is planned in the present case, when many times more tribals - up to 1 million according to the information it has received - are scheduled to be displaced from their homes. Given the problems encountered in this relatively small-scale project, the Committee considers that it may be very difficult to provide protection to the tribal populations in conformity with the Convention if the full-scale project is undertaken in the same conditions.

26. Mortality of displaced tribals. IFPAAW has stated in its communication of 23 October 1989 that "Studies in the few communities of tribals who have already been resettled show a four-fold increase in mortalities." The Government has stated in its communication of January 1990 that this report has been studied by the Government of Maharashtra, and that the mortality rate is normal for poor tribals though higher than the national average. The Government has stated that the Government of Gujarat has taken steps to provide health care to resettled oustees. The Committee requests the Government to keep it informed of the progress achieved in this respect, and in particular of the action taken by the Government of Madhya Pradesh and Maharashtra.

27. Environmental questions. The Government has stated that minimising the adverse effect on the ecosystem due to the implementation of the Project has been one of the main objectives of the planning process; and that, among other things, afforestation projects have been planned. Please provide copies of any environmental arrangement studies which may have been carried out in this respect.

28. The Committee recalls that it had also raised a number of questions on the application of the Convention generally, in a request addressed directly to the Government in 1988. As the Government has communicated information only on the effects of the Sardar Sarovar Project in its most recent report, the Committee is repeating its previous direct request, and hopes that the Government will provide detailed information in this respect for its next session.

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

**Convention No. 108: Seafarers' Identity Documents, 1958**Honduras (ratification: 1960)

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

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.

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

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In addition, requests regarding certain points are being addressed directly to the following States: Angola, Cameroon, Cuba, Djibouti, Guinea-Bissau, Iraq, Liberia, Portugal, Romania, Uruguay.

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

**Convention No. 110: Plantations, 1958**

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

**Convention No. 111: Discrimination (Employment and Occupation), 1958**Afghanistan (ratification: 1969)

Article 1(a) of the Convention. With reference to its previous comments, the Committee notes with satisfaction that the new Constitution adopted in November 1987 establishes, in article 38, equal rights for all citizens of Afghanistan, both men and women, irrespective of their national, racial, linguistic, tribal, educational and social status, religion, creed, political conviction, occupation, kinship, wealth and residence, and that it forbids all discrimination.

The Committee also notes with interest from the Government's reply to its previous comments concerning the omission of "political opinion" from the grounds of discrimination mentioned in section 8 of the new Labour Code (adopted in June 1987), that all discrimination in the field of employment has been abolished by the provisions of the Constitution and the Labour Code. The Committee hopes that, when the national legislation is next revised, "political opinion" will be set out formally among the grounds listed in section 8 of the Labour Code on which all discrimination is forbidden in employment and occupation and in working conditions, in accordance with the Convention.

Algeria (ratification: 1969)

1. The Committee notes the new Constitution adopted in 1989 and notes with interest that under article 28 all citizens are equal before the law "without any distinction as to birth, race, sex, opinion or any other personal or social conditions or circumstances" and that, under article 30, "the purpose of the institutions is to ensure equal rights and duties for all citizens, both men and women", and that article 35 also establishes freedom of conscience and opinion. However, the Committee observes that, although freedom of opinion is set forth in the Constitution, religion is not included among the grounds on which discrimination is prohibited.

In this connection, the Committee also refers to its previous observations in which it pointed out that sections 8 and 25 of Act No. 82-06 of 1982 respecting individual employment relationships (which set out the grounds on which discrimination is prohibited) do not mention "religion" and "political opinion" which are explicitly referred to in Article 1, paragraph 1(a), of the Convention, and that under certain other provisions of the national legislation (Decree No. 85-59 of 1985 to establish model conditions of service of workers in public institutions and administrations and Act No. 78-12 of 1978 to establish the general conditions of employment of workers) workers must undertake to serve the Party and State and must lend their assistance to actions undertaken by the country's political leadership or bear in mind its guide-lines or directives. The Committee noted the Government's statements that, in practice, religion or political opinion were not in practice grounds of discrimination in employment and expressed the hope that measures would be taken to ensure that this practice was reflected in the legislation.

In its most recent report, the Government repeats these statements and also indicates that the Committee's comments have been submitted to the national services responsible for drafting labour laws and regulations so that they may refer to them when drafting the new texts which will be called for by the constitutional, political and social reforms proposed by the country's political leadership. The Committee notes this information with interest and hopes that, in view of the provisions of the Constitution, positive steps will be taken to ensure that all the grounds of discrimination set out in the Convention are fully covered in the new laws and regulations on employment to be drawn up as part of these reforms. The Committee asks the Government to indicate any progress made to this end.

2. With reference to its comments on the right of women to education and vocational training, recognised by the National Charter of 9 February 1986 and confirmed in the new Constitution, the Committee notes with interest from the information contained in the Government's report that new women's training centres have been established and that training is gradually being extended to new specialisations and careers geared to economic development. The Committee asks the Government to continue to provide information on any developments in this respect, particularly on the practical measures taken to implement the above-mentioned provisions of the Constitution.

Angola (ratification: 1976)

The Committee notes with satisfaction the adoption by Act No. 1/88 of 20 February 1988 of the Family Code which provides that men and women are equal within the family, enjoy the same rights (including the right to exercise the profession of his or her choice) and have the same duties, and that the State and the family ensure the equality of rights, in particular in the fields of education, work and social security.

It also notes with interest that by People's Assembly Resolution No. 15/84 of 19 September 1984 and by People's Assembly Resolution No. 4/85 of 27 July 1985 Angola adhered to the Convention on the Elimination of All Forms of Discrimination against Women and to the Convention on the Political Rights of Women, respectively.

It further notes with interest the resolutions adopted by the Second Congress of the Organisation of Angolan Women, held in Luanda from 2 to 8 March 1988, and in particular the resolutions on women and employment and on women and society. It requests the Government to supply with its next report information on the practical results obtained following the adoption of these resolutions.

Belgium (ratification: 1977)

With reference to its previous comments, the Committee notes with satisfaction that the Royal Order of 18 December 1987, modifying the Royal Order of 20 August 1969 establishing the conditions of service of civilian employees of the Military Security Service, has repealed the provision whereby this profession was open only to men.

The Committee is addressing a request directly to the Government concerning other aspects of the application of the Convention.

Bulgaria (ratification: 1961)

The Committee has noted the information provided by the Government in its last report, as well as the comments received in 1989 from the Confederation of Turkish Labour Real Trade Unions, the International Confederation of Free Trade Unions and the International Organisation of Employers.



1. Constitutional and legislative provisions against discrimination in employment and occupation. The Committee notes that a new Labour Code came into force on 1 January 1987. By virtue of section 8(3) of this Code, no discrimination, privilege or restriction in respect of labour rights is permitted on the basis of nationality, origin, religion, sex, race, or social or material status. The Committee notes that article 35(2) of the Constitution similarly excludes any privilege or restriction of rights on those grounds. The Committee observes that the Constitution and the Labour Code do not specifically mention "political opinion" and "national extraction" among the grounds on which no discrimination, privilege or restriction is allowed. It refers to paragraph 58 of its 1988 General Survey concerning Equality in Employment and Occupation, in which it pointed out that where provisions are adopted to give effect to the principles contained in Convention No. 111 they should include all the grounds mentioned in Article 1, paragraph 1(a), of the Convention. The Committee accordingly expresses the urgent hope that measures will be taken to amplify the relevant provisions of the Constitution and the Labour Code to refer specifically also to political opinion and national extraction.

2. The position of the Turkish minority. The Committee has noted the information contained in the comments communicated by the employers' and workers' organisations mentioned above. These comments referred to a campaign to suppress the cultural identity of the Turkish minority in Bulgaria, particularly by the compulsory change of names and the prohibition of use of the Turkish language. Among the documents appended to the comments were instructions issued in 1985 which provided that workers should report for work with their new Bulgarian names and, if they failed to submit the documents evidencing their change of name, were to be refused admission to the place of work, as well as texts prohibiting the use of the Turkish language. Particulars were provided of individual cases in which workers such as doctors, dentists, teachers, lawyers, nurses, journalists and engineers had been dismissed from employment for refusing to renounce their Turkish culture and been obliged to do unskilled manual work in agriculture, construction, factories, garbage collection, etc. It was also alleged that equal opportunities for access to public positions were practically non-existent for ethnic Turks, that the entire Turkish language press had been closed down to the prejudice of persons who had worked for it, and that a large number of Turks living in the regions of Kircaali and Hasky, including many farmers, had been forced to abandon their work, homes and farms.

By a communication of February 1990, the Government transmitted the texts of a decision adopted by the Council of State and the Council of Ministers on 29 December 1989 and of a statement adopted by the National Assembly on 16 January 1990 to put an end to the derogation from the principle of equal rights of all citizens laid down in article 35 of the Constitution and to reaffirm the right of all citizens to freedom of conscience, belief and religion, to free choice of name and, subject to recognition and use of Bulgarian as the official language, to freedom to speak other languages. The statement adopted by the National Assembly provided further that:

- in view of the importance of enjoyment of the right to free choice of name, that question should be regulated by a specific law to be adopted by the end of February 1990;
- the additional judicial and administrative guarantees necessary for the protection of the rights, freedom, security and interests of ethnic minorities should be provided for by legislation;
- a special commission was to be established under the direction of the President of the Council of State to prepare a comprehensive programme defining national policy, including changes in the Constitution and legislation, for adoption by the National Assembly.

The Committee has taken note of the above-mentioned texts. It requests the Government to provide information on the further measures taken in pursuance of the statement of the National Assembly, including copies of legislative texts and particulars of the steps taken to enable persons who had suffered discrimination as a result of the earlier policy to obtain redress, including measures to enable them to resume previous employments and occupations, to recognise rights arising out of their previous employment or activity and to compensate them for losses incurred by reason of the violation of their constitutionally guaranteed rights.

#### Chile (ratification: 1971)

1. Article 8 of the national Constitution. In its previous observations the Committee requested the Government to provide information on any measure taken or envisaged to amend or repeal article 8 of the Constitution in order to ensure observance of the policy of non-discrimination on grounds of political opinion set forth in the Convention. Under this article any organisations or political movements or parties that, by their aims or by the activities of their followers were 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" were unconstitutional. Persons who had committed these offences were barred for ten years from access to any public post or position, automatically lost any such employment or office they might hold, and might not during the same period be directors or principals of educational establishments, teachers or trade union leaders, nor could they exercise any function in the mass media relating to the publication or dissemination of opinions or information.

The Committee notes with satisfaction that, by virtue of the constitutional reform, enacted by Act No. 18825 of 16 August 1989, article 8 of the Constitution was repealed. By virtue of the amendments to article 19(15) of the Constitution, under the same Act, it is still possible for parties and organisations to be declared unconstitutional by the Constitutional Court if their objectives or activities do not respect the basic principles of the democratic and constitutional order. However, persons who have participated in activities that have been declared unconstitutional are only disqualified from a limited number of high positions in the Government and in a number of public institutions.



2. Act No. 18662 of 27 October 1987. The Committee also notes the Government's statement that it will be necessary to refer to the courts the question of whether this Act remains in force and is constitutional, since it refers to former article 8 of the Constitution. Information will be supplied to the Committee of Experts on this point in due course. The Committee hopes that the Government will take the necessary measures to clarify the situation and that the next report will indicate the outcome of this re-examination.

3. Labour Code. In its previous comments, the Committee noted that, under section 157(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 of 1958 on State security, as amended by Act No. 18256 of 26 October 1983, which defines as offences, inter alia, the unauthorised calling of collective public acts in public places, and incitement to any other kind of public demonstration permitting or facilitating the disturbance of public tranquillity. The Government states once again that the grounds for revoking an employment contract are that an offence that is punishable under the law has been committed, which has a direct bearing on work, and that the above legal provisions never sanction the expression of political opinion. It states that action has not been taken in application of section 157(6) of the Labour Code. The Committee refers to its previous comments on this matter and trusts that in the near future the Government will take the appropriate measures to repeal section 157(6) of the Labour Code.

4. Decrees relating to universities. In its previous observation, the Committee once again requested the Government to explicitly repeal Decrees Nos. 112 and 139 of 1973, Decrees Nos. 473 and 762 of 1974 and Decrees Nos. 1321 and 1412 of 1976, which grant broad discretionary powers to university rectors (whom, in most cases, are directly appointed by the Government) to dismiss teaching and administrative staff. The Government repeats its statement that these Decrees are no longer in force nor applied since the universities in the country, under their own statutes, have independently issued their own rules which have been duly published. It adds, nevertheless, that the Committee's request has been transmitted to the authorities of the Ministry of Education. The Committee therefore trusts that the Government will take the necessary measures to formally repeal the above Decrees so that no ambiguity may persist in this connection.

The Committee had also requested the Government to take the necessary measures to repeal or amend section 55 of Legislative Decree No. 153 (Statute of the University of Chile) and section 35 of Legislative Decree No. 149 (Statute of the University of Santiago de Chile) in order to ensure that, in conformity with the Convention, no one is refused admission to universities and other educational institutions, nor expelled from such establishments, whether as students, or as teaching or administrative staff, for expressing a political opinion. The Committee notes the Government's statement that no one can be expelled from an educational institution on the grounds of their political ideas or of having demonstrated or expressed these ideas. A situation of this type is incompatible with

the provisions of the Constitution and the laws in force. The freedom to express opinions is laid down as a constitutional guarantee, and recourse known as a protective appeal may be made to the competent Court of Appeal. This channel of appeal re-establishes the rule of the law and guarantees due protection to the persons concerned. The Committee notes, nevertheless, that under section 55 of Legislative Decree No. 153, 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 higher education institution for having breached the legal order. It also notes that section 35 of Legislative Decree No. 149 provides that 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. The Committee therefore once again requests the Government to take the necessary measures to repeal or amend section 55 of Legislative Decree No. 153 and section 35 of Legislative Decree No. 149 to bring national law and practice into full conformity with the Convention.

#### Czechoslovakia (ratification: 1964)

The Committee has taken note of the information provided by the Government to the Conference Committee in 1988 and in the last report, received in March 1989 (including comments on information presented to the ILO by the International Confederation of Free Trade Unions in 1988).

1. Amendment of the Labour Code. In its previous observations, the Committee had noted that, under section 72 of the Labour Code, socialist labour discipline had as its corollary (inter alia) an improvement in ideological and occupational standards, and that, under section 74(f) of the Code, managerial staff were required to create favourable conditions for improving workers' ideological and occupational standards. The Committee had observed that the reference to ideological standards among the criteria for evaluating compliance with labour discipline involved the danger of discrimination on the basis of political opinion.

The Committee notes with satisfaction that Act No. 188 of 14 December 1988, amending the Labour Code, deleted the references to ideological standards in the above-mentioned sections of the Code.

2. Political requirements as qualifications for employment. In its previous observations, the Committee had referred to the Resolution of the Presidium of the Central Committee of the Communist Party of Czechoslovakia of 6 November 1970 on cadres and personnel work. According to that Resolution, the Communist Party was to found its work concerning cadres on class and political criteria and to assess the professional qualifications, skill and moral qualities of the people; this system was mandatory for supervisory employees in all spheres of life, and employees might be placed in such functions or withdrawn from them only after approval by the competent Party organ. The Committee had noted, further, that according to a Government proclamation of 25 June 1986 the Government's programme was

conceived so as to ensure the fulfilment of the resolutions of the Communist Party. Documentation provided by the ICFTU with its comments of 1988, based on an analysis of offers of employment published in the press, showed that cadre requirements (involving the application of the conditions and procedural requirements prescribed by the above-mentioned Resolution) had been applied to a wide range of employments, in education at all levels, in technical and administrative jobs, and also in various kinds of manual work.

In its last report, received in March 1989, the Government recognised that the use of the words "cadre requirements" had indeed been widespread in offers of employment, but indicated that steps were being taken with a view to changing previous practice. The Government observed that neither Act No. 39 of 1980 concerning universities nor Notification No. 111 of 1980 concerning the appointment of professors and other teaching personnel contained provisions which would lead to use of the general wording "cadre requirements". It also indicated that, in the framework of economic reform measures, further changes in legislation and practice were to be expected, of which the ILO would be kept informed. During that process the Government would be guided by its obligations ensuing from Convention No. 111.

The Committee has noted the above indications with interest. It has also noted, however, that, according to the preamble of Act No. 88 of 14 June 1988 on state enterprises, the organisations of the Communist Party were to implement the right of the Party's control of the enterprise management and of the organs of socialist self-management and to ensure the implementation of the Party's cadre policy. Sections 27(2) and 64 of the Act provided not only that candidates for positions of directors of state enterprises must satisfy the high political requirements for that function, but also that the choice, allocation and evaluation of workers was to be carried out in such a manner as to ensure (inter alia) the necessary political requirements for fulfilment of the respective functions. The Committee also notes that, by virtue of sections 74(2) and 75(2) of the Act concerning universities, candidates for appointment as professors and assistant professors were to base themselves, in their pedagogical, scientific or artistic activities, on the principle of "the scientific vision of the world". According to the comments of the ICFTU, these words referred to Marxism-Leninism, and had the effect of making appointment to the positions in question subject to a condition relating to political opinion.

The Committee accordingly hopes that the Government will further review the legislation and practice with regard to the qualifications required for employment, and will take appropriate measures to ensure that conditions relating to political opinion may not be imposed except in the limited and special circumstances where such conditions may properly be regarded as inherent requirements of a particular job within the meaning of Article 1, paragraph 2, of Convention No. 111.

The Committee also requests the Government to provide further information on cases in which employment relationships have been terminated under sections 46 or 53 of the Labour Code on account of a worker's failure to meet job requirements of a political nature.

[The Government is asked to supply full particulars to the Conference at its 77th Session.]

Dominican Republic (ratification: 1962)

In its previous observation, the Committee referred to the comments that it has been making for a number of years in connection with the Abolition of Forced Labour Convention, 1957 (No. 105) concerning the situation of Dominican workers of Haitian origin employed in the sugar plantations and the enterprises of the State Council for Sugar (CEA) who are the subject of discriminatory practices, particularly with regard to their working conditions and the regular payment of their wages. It requested the Government to provide information on any measures taken or under consideration to abolish such practices and to guarantee effective equality of opportunity and treatment, in accordance with Convention No. 111, in employment and occupation for all Dominican nationals of Haitian origin.

In reply to that observation, the Government referred the Committee to its report on Convention No. 105 containing general information on all Haitian workers engaged in the sugar industry. The Committee has examined this information and the discussions that took place in the Conference Committee in June 1989 on Convention No. 105 and notes, in particular, the measures taken to increase the number of labour inspectors and to step up the work of the labour inspection services in the plantations and the various agricultural undertakings. It also notes that a committee has been set up to examine the possibility of finding humane and legal solutions to the problem of Haitian agricultural workers or agricultural workers of Haitian origin, in general. The Committee asks the Government: (a) to provide details of the results of the work of the inspection services, particularly with regard to Dominican workers of Haitian origin who are engaged not only in the agricultural sector but also in construction or other private sector enterprises; and (b) to provide information on the work of the above-mentioned committee, its recommendations and their implementation. In addition, it again expresses the hope that the revision of the Labour Code, to which the Government has been referring for a number of years, will be completed very shortly, and that the new Code will contain provisions formally prohibiting all discrimination in employment and occupation (particularly in respect of working conditions and wages) on grounds of race, colour, sex, religion, political opinion, national extraction or social origin, in accordance with Article 1, paragraph 1(a), of the Convention.

The Committee also asks the Government to refer to its comments on Convention No. 105, as well as to a request concerning certain points which is being addressed directly to the Government on Convention No. 111.

Egypt (ratification: 1960)

1. In its previous comments, the Committee referred, amongst other matters, to Presidential Decision No. 214 of 1978 respecting the principles of the protection of the home front and social peace, and noted the Government's statement that the first of the principles laid down in this Decision is not applied in practice. According to this

principle, any person who is convicted of maintaining principles contrary to, or conflicting with, the divine laws may not occupy a senior post in the public administration or the public sector, publish articles in the newspapers or perform work in any organ of information or perform any other work that may influence public opinion. The Committee also noted the Government's statement that Act No. 33 of 1978 respecting the defence of the home front and social peace and Act No. 95 of 1980 respecting the protection of values were adopted under the above-mentioned Decision. It therefore asked the Government to provide copies of these laws and to indicate the measures taken or under consideration to repeal or amend the provisions of the first principle laid down in Presidential Decision No. 214 in order to ensure that practical effect is given to article 40 of the national Constitution. Under this article all citizens are equal before the law and have the same rights and obligations without distinction as to race, origin, language, religion or belief. This action would ensure, in accordance with the Convention, that no discrimination on the basis of religion is exercised in respect of access to employment and occupation.

In reply, the Government states in its last report that the first principle of Decision No. 214 does not conflict with the above-mentioned provision of the Constitution, that freedom of religion is guaranteed to all persons belonging to one of the three "divine religions" practised in the country and that no discrimination or preference is exercised by reason of a person's belonging to any of these three religions. The Government adds that the provision concerning the principle in question must be maintained in order to guarantee state security. The Government communicated the text of the above legislation.

The Committee has examined this legislation, i.e. Acts Nos. 33 of 1978 and 95 of 1980. It notes, however, that under section 2 of Act No. 33, any person convicted, following an investigation by the Socialist Public Prosecutor, of advocating, or of complicity in advocating, doctrines which involve the rejection of the divine laws or which are contrary to their teachings, may not occupy a senior post in the State or the public sector whose attributions include the issuing of directions or orders or a post which has a bearing on public opinion, or any post of delegate members on executive boards of state bodies and enterprises or press establishments. Similarly, under section 4 of Act No. 95 of 1980, any person proved guilty of violating the fundamental values of the people (including the principles whereby the rights and religious values of the people are safeguarded), is prohibited, for a period of from six months to five years, from occupying posts or performing functions which may influence public opinion or which are related to the education of future generations. Under the same section, the persons in question are transferred to another post, retaining their wages and seniority rights unless they are deprived thereof on legal grounds.

In view of the above provisions of the national legislation and of the fact that, under Article 1(a) of the Convention, any decision, exclusion or preference on the basis of religion which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation, constitutes discrimination, the Committee



asks the Government to indicate how the Convention is applied in this regard, both to persons who belong to any of the three religions referred to by the Government and to persons who do not belong to these religions. The Committee also asks the Government to state how equality of treatment as provided in the Convention is ensured in practice between the persons who belong to the three religions in question. The Committee would also like to receive copies of the decisions taken by the Socialist Public Prosecutor under the provisions of Acts Nos. 33 of 1978 and 95 of 1980 and of any appeals against such decisions by the persons concerned. (With regard to the scope of the Convention on this point, the Committee asks the Government to refer to paragraphs 47 to 49 of its 1988 General Survey on Equality in Employment and Occupation.)

With regard to state security, which the Government invokes to justify the maintenance of the above-mentioned provisions of the national legislation, the Committee recalls - as it did in paragraph 135 of its General Survey - that the expression of opinions or religious, philosophical or political beliefs does not in itself justify the application of the exception provided for in Article 4 of the Convention in respect of activities prejudicial to the security of the State, provided that this expression of opinions or beliefs does not involve the use of violent methods to bring about fundamental changes to state institutions. The Committee therefore hopes that the Government will be able to re-examine this question and make every effort to amend the above legislation in order to ensure that the principle of non-discrimination in access to employment and occupation laid down in the Convention is applied to all persons, regardless of their religious beliefs. The Committee asks the Government to indicate any progress achieved in this regard.

2. The Committee also referred to section 18 of Act No. 148 of 1980 respecting the power of the press, which provides that the publication, participation in the publication or the ownership of newspapers is prohibited to certain classes of persons. It noted the Government's statement that this section is not applied in practice and expressed the hope that the provision could be repealed on the occasion of a forthcoming revision of the press law. In its last report, the Government states that the prohibition laid down in section 18 of Act No. 148 is limited to the production and ownership of newspapers and does not affect the publication of articles, the expression of opinions or the exercise of the profession of journalist.

The Committee takes note of this statement. Noting that Act No. 33 of 1978 also contains prohibitions on the freedom to publish or disseminate, through the press or any other information media, articles prejudicial to the democratic socialist regime of the State or to the socialist achievements of the workers and the peasants, which affect, inter alia, under section 8 of this Act, the members of journalists' trade unions, the Committee again expresses the hope that the Government will be able to reconsider the possibility of repealing or amending the above-mentioned provisions in so far as they constitute discrimination based on political opinions and by nullifying or impairing equality of opportunity and treatment in employment and occupation in respect of the persons concerned, in

contradiction to Article 1(a) of the Convention. The Committee asks the Government to indicate any progress made in this respect.

Finland (ratification: 1970)

The Committee notes the comments made by various employers' and workers' organisations which were forwarded with the Government's report.

The Committee notes the wish stressed by the Finnish Employers' Confederation (STK) and the Employers' Confederation of Service Industries (IKK) to respect tripartite co-operation in the future also in the field of discrimination. These organisations also note that discriminatory action by employees is still excluded from punishment in Finnish legislation.

The Committee notes that the Central Organisation of Finnish Trade Unions (SAK) has stated that in discrimination cases, employers should have the burden of proving that their action was based on a factor other than sex. SAK also considers the clear division between women's and men's occupations prevailing in the labour market to be a problem. In its opinion, training paid for by the employers seems to focus on men.

The Committee notes the statement of the Confederation of Salaried Employees (TVK) that Finnish legislation probably corresponds to the provisions of the Convention but that in practice equality between the sexes is not implemented, as shown by the fact that wages of women are still only 75 per cent those of men. The TVK says that investigation of wage discrimination based on sex has not been carried out, making it difficult to remedy this de facto discrimination.

The Committee notes these comments and asks the Government to continue to furnish information in its reports on measures taken to give effect to the Convention. Additional points have been raised in a request addressed directly to the Government.

German Democratic Republic (ratification: 1975)

In previous observations, the Committee had referred to a number of legislative texts concerning advanced education and training which appeared to permit discrimination on the basis of political opinion or social origin in decisions concerning access to, and success in, such education and training. It had also noted that the resolution of the Central Committee of the Socialist Unity Party of 7 June 1977 concerning work with cadres and several related legislative provisions prescribed political qualifications for various types of employment in circumstances not consistent with the requirements of the Convention. It had called for appropriate measures to ensure the full compliance of legislation and administrative practice with the Convention.

The Government informed the Conference Committee in 1989 that the above-mentioned comments had been examined by the relevant state bodies, that there had been unanimous recognition that some of the legislation contained ambiguous terminology which could give rise to differing interpretations, and that discussions were continuing on the

measures to be taken to ensure access to employment according to professional qualifications and access to studies according to ability.

In a supplementary report covering the period 1 July 1989 to 31 January 1990, the Government has stated that intensive consultations with the competent authorities had continued. The process of democratic renewal had created favourable conditions for taking account of observations relating to specific legal provisions. The provisions mentioned by the Committee had either already been repealed or were no longer applied. The Government indicated, more particularly, that:

- an Act of 1 December 1989 deleted from article 1 of the Constitution the provisions assigning a leading role to a specific party (the Socialist Unity Party, which in the meantime had ceased to exist);
- the links between state and party organs have been totally eliminated, and all legal provisions prescribing such links (including the Resolution of the Central Committee of the Socialist Unity Party of 7 June 1977 concerning work with cadres) have ceased to have any bearing on state action; the Order of 19 February 1969 concerning the duties, rights and responsibilities of collaborators of state bodies was abrogated by a decision of the Council of Ministers of 18 December 1989, and it is proposed to revise the Act of 16 October 1972 concerning the Council of Ministers;
- work has already begun on a new Act concerning lawyers, on new regulations for the Academy of Sciences, and on the revision of the legal provisions regarding driving instructors and pharmaceutical staff (in all these sectors the Committee had noted the existence of cadre requirements or other conditions of a political nature);
- the Directive of 8 February 1973 on special studies for leading functions in vocational training has already been amended by a Directive of 1 November 1989;
- new regulations are being drawn up regarding access to studies and correspondence and evening courses and studies to prepare for access to higher education, and should enter into force before the school year starting on 1 September 1990; certain provisions of the existing texts are no longer applied; similar action is being taken with respect to the Examinations Order approved on 3 January 1975, the Order of 29 December 1978 concerning research studies, and the Order of 22 April 1986 concerning the granting of titles to teachers;
- there have been fundamental changes concerning the participation of youth in social life: the Free German Youth Organisation (FDJ) has transformed itself into an organisation independent of parties, many other youth organisations exist, and the rights of participation provided for in legal provisions which had previously been exercised by the FDJ are now exercised by elected bodies representing pupils, apprentices, students, etc., even though - because of pressure on the legislative authorities - the requisite legal basis for this situation still remains to be established.



The Committee has noted with satisfaction the important legislative and other measures already adopted with a view to eliminating difficulties in the implementation of the Convention noted in previous observations. It observes that systematic action is being pursued to bring legislation and practice fully into conformity with the Convention, and accordingly hopes that in the next report the Government will be able to indicate further progress in this respect.

Federal Republic of Germany (ratification: 1961)

The Committee has noted the discussion which took place on this case in the Conference Committee in 1989 and the indications given in the Government's report for the period ending 30 June 1989. It has also given further consideration to the comments received in March 1989 from the German Confederation of Trade Unions, expressing concern at the Government's position.

In earlier comments, the Committee has drawn attention to the need to eliminate discrimination on the grounds of political opinion in employment in the public service and to give effect to the recommendations on the matter formulated by the Commission of Inquiry which presented its report in February 1987. The Committee notes that, since then, one significant development has occurred in regard to these recommendations: in July 1988, the Land of Schleswig-Holstein abolished the practice of systematic inquiry from the authority for the protection of the Constitution in regard to all applicants for employment in the public service. However, at the federal level and in several Länder, a number of persons have continued to be adversely affected in employment and occupation (by loss or refusal of employment, demotion, suspension and loss of income). These measures have not been based on any reproach regarding the manner in which those concerned have carried out their professional duties, but on their participation in lawful political activities, such as standing as candidates at elections or serving as elected members of town councils.

The Committee notes that in its report, the Government refers to its statement to the Conference Committee in 1989, where it reaffirmed its disagreement with the conclusions reached by the Commission of Inquiry. The Committee observes that under article 32 of the Constitution, the only authority capable of affirming, varying or reversing the findings or recommendations of a Commission of Inquiry is the International Court of Justice, and that therefore, a government which chooses not to avail itself of the possibility of referring the matter to the International Court of Justice ought to take account of the conclusions and act upon the recommendations of the Commission of Inquiry. In its report, the Government furthermore expresses the wish to defer consideration of the problem of the duty of faithfulness to the Constitution in the public service in the light of recent political developments in Eastern Europe and their possible repercussions on the Federal Republic.

The Committee takes due note of these indications. It hopes nevertheless that the necessary action will soon be taken to give effect to the Convention throughout the public service, and that the

Government will be in a position in the near future to indicate progress in this regard.

The Committee is dealing with a number of specific aspects in a request addressed directly to the Government.

Ghana (ratification: 1961)

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

The Committee notes the Government's report for the period ending June 1988.

1. In its previous comments, the Committee noted that under section 32 of the Civil Service Act, 1960, the President may dismiss any civil servant if he is satisfied that it is in the public interest to do so and that under regulation 60(i) of the Civil Service (Interim) Regulations, 1960, there shall be no appeal against a decision of this sort taken by the President. In its report, the Government states that the issue of channels of appeal available to dismissed civil servants is still receiving due attention. The Committee wants to hope that the necessary action will be soon taken, both as regards legal grounds for dismissal and regarding channels of appeal, to ensure that no civil servant is discriminated in his employment on the basis of his race, colour, sex, religion, political opinion, national extraction or social origin, and that the Government will indicate the specific measures taken or under consideration to this end.

2. The Committee notes the Government's statement in its report that steps are being taken to reconstitute the "National Advisory Committee on Labour" to finalise examination of the Committee's outstanding comments. The Committee however previously noted the indication given by the Government to the Conference Committee in 1986 that the "National Labour Advisory Committee" had been reconstituted in July 1985, and was examining outstanding comments of the Committee. Recalling the obligations of the Government under Article 3(f) of the Convention to indicate in regular reports action taken in pursuance of a policy to promote equality and eliminate discrimination, the Committee hopes that the Government will soon be able to provide the details called for in a direct request which the Committee is again addressing to the Government.

Greece (ratification: 1984)

1. With reference to its previous comments, the Committee notes with interest the detailed information provided by the Government concerning the various measures - legislative and practical - that have been taken in the public and private sectors in order to promote the principle of equal opportunity in employment and occupation. It notes in particular, and with satisfaction, the adoption of Act No.

1735 of 1987 concerning, inter alia, the qualifications required for access to employment in the public administration, and eliminating all discrimination on grounds of political, philosophical and religious convictions in respect of public sector officials or employees.

2. The Committee refers to the observations it has been making since 1986 concerning the allegations of the Pan-Hellenic Association of Women Telephone Operators with regard to certain discriminatory practices based on sex - particularly in the area of working conditions and promotion - said to be engaged in by the Government, and concerning women telephone operators employed by the Greek Telecommunications Agency (OTE), following the integration of the women operators into the administrative and technical staff of the Agency. In its observations, the Committee requested the Government, in particular, to supply information concerning promotions that had occurred among the women workers in question since their integration, to communicate the new wage scale applying to the whole staff of the Greek Telecommunications Agency, and to indicate the number of women employed by the Agency (including those employed in higher-level positions) and their percentage in relation to men. The Committee also requested details of the outcome of the work of the Joint Committee on Equality responsible for establishing rules to govern, inter alia, certain matters concerning the staff of the Greek Telecommunications Agency.

The Committee takes note of the information supplied by the Government in reply to its observations, and also notes the information provided in a new communication from the Pan-Hellenic Association of Women Telephone Operators, dated 13 October 1988.

The Government's reply indicates that the decision to integrate women telephone operators into the administrative and technical staff was taken by the Staff Council of the Agency, in conformity with the General Regulations covering the staff, with the aim of giving practical effect to the principle of equality of opportunity and treatment for both sexes in respect of professional careers and wage development, since the number of posts held by women telephone operators was declining owing to the introduction of new technology in this area. The information provided by the Government reveals however, that of the 48 promotions in the Agency since 1984, only six applied to women in this category of operators. Furthermore, both the Government's reply and the communication from the above-mentioned Association, indicate that there were no promotions during the period 1986 to 1988. In addition, the percentage of women employed by the Agency is 14.1 per cent, and only one woman, as compared to 144 men, is employed in a higher-level position. The Committee therefore hopes that the Government will not fail to take the necessary measures to remedy this situation and to ensure that the principle of equality of opportunity and treatment is also applied within the Greek Telecommunications Agency, with regard not only to promotions, but also to working conditions in general, including wages. On this last point, the Committee notes the Government's statement that the new wage scale for the staff of the Agency establishes equality of remuneration according to qualifications and seniority, irrespective of the sex of the persons concerned. The Committee recalls that under Convention No. 100, also ratified by Greece, equal remuneration for

men and women workers applies to work of equal value, and requests the Government to refer in this connection to the direct request that the Committee is addressing to it on that Convention. The Committee also asks the Government to provide information in its next report on the work of the Standing Committee for the Equality of the Sexes, set up under the collective agreement of 1987 concerning telecommunications staff, and on the results obtained. It would also like to receive a copy of the new wage scale of the above Agency, which was not received with the report.

Guinea (ratification: 1960)

The Committee notes the information supplied by the Government in reply to its previous observations and requests.

It notes with interest that the National Office for Occupational Training and Advanced Training has drawn up, as part of the Government's vocational training policy, a broad programme for the identification of enterprises, which takes account of employment opportunities. The Committee hopes that the Government will be able to indicate the results of the implementation of this policy, including the measures taken to facilitate the access of women to training and employment.

With regard to public employees, the Government indicates that the new statute of the public service is still being drafted and that it will only be available after the reform of the administration. The Committee takes note of this information. It has also noted Ordinance No. 107/PRG/SGG of 5 March 1987 (provided by the Government with its report on Convention No. 151), section 7 of which provides that the conditions and procedures of recruitment of public servants are to be governed by special regulations. The Committee notes, however, that section 20 of this Ordinance, which deals with the general principles of the public service, prohibits discrimination only on the grounds of philosophical and religious opinions, and sex, and does not include the other grounds listed at Article 1(a) of the Convention, such as race, colour, political opinion, national extraction and social origin.

The Committee therefore hopes that the new statute of the public service will be adopted in the near future and that it will take account of all the grounds on which discrimination is forbidden, that are set out in the Convention. Meanwhile, it asks the Government to provide any special regulations that are in force concerning public servants.

The Committee requests the Government also to refer to the request being addressed to it directly.

Islamic Republic of Iran (ratification: 1964)

1. The Committee has taken note of the discussion in the Conference Committee in 1989 and of the information provided by the Government in its report for the period ending 30 June 1989. It has also noted the information contained in the reports on the human rights situation in the Islamic Republic of Iran prepared by the

Special Representative of the United Nations Commission on Human Rights (UN documents A/44/620 of 2 November 1989 and E/CN.4/1990/24 of 12 February 1990) and in the report on implementation of the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief submitted by the Special Rapporteur appointed by the Commission on Human Rights (UN document E/CN.4/1990/46 of 12 January 1990).

2. The Committee notes that the statements made by the Government to the Conference Committee and also the Government's report do not indicate any change of policy, legislation or practice as regards the matters dealt with in earlier observations, but have sought to show that the measures referred to were compatible with the requirements of Convention No. 111. The Government has also raised certain questions regarding the meaning of expressions used in the Convention.

3. The above-mentioned reports presented to the UN General Assembly and the Commission on Human Rights do, however, mention a number of developments in the field covered by Convention No. 111, particularly as regards the situation of Baha'is. According to these reports:

- (a) Baha'is expelled from government posts have not been able to obtain reinstatement;
- (b) ranchers and farmers who profess the Baha'i faith continue to be denied admission to agricultural co-operatives;
- (c) those Baha'is who retired before the Revolution and are over 60 years are able to draw pensions if they have paid social security contributions for at least ten years, but those who retired or lost their jobs during the past ten years are not able to receive pensions. In some cases Baha'is have been required to repay government pensions as well as salary received while they were in government service;
- (d) since 1988, Baha'is have been admitted to primary and secondary schools, but they are generally still refused admission to universities;
- (e) a number of Baha'i shopkeepers whose shops had been closed have been permitted to re-open them;
- (f) in January 1989 the Prime Minister, in agreement with the President, issued a directive to all ministries, organisations, governmental institutions, revolutionary institutions and provincial offices for the purpose of co-ordination of measures concerning persons belonging to the Baha'i sect (the text of which is set out in the latest report to the Commission on Human Rights). According to this directive, while spies are to be treated firmly, as required by law, all other citizens are to be treated as normal citizens, no matter what their beliefs may be, in accordance with article 23 of the Constitution. No official or representative of the Islamic Republic of Iran may deprive them of their legal and social rights, if they have not been recognised as spies by the competent authorities and if such a condemnation has not been issued thus depriving them of their rights. The directive ends by recalling that, in conformity with article 13 of the Constitution, Iranians belonging to the Zoroastrian, Christian and Jewish religions are the only

recognised religious minorities within the Constitution and allowed to practise their religion, within the framework set by law, and to be registered as such and to teach their religion according to their customs.

4. The Committee has noted with interest the terms of the above-mentioned directive. It would appreciate further information on the precise effect of the directive in relation to equality of opportunity and treatment in employment and occupation, irrespective of religion, in the light of the reference to article 13 of the Constitution.

5. The Committee would also appreciate information on the measures taken to give effect to the above-mentioned directive, particularly as regards equality of opportunity and treatment of Baha'is with respect to:

- access to employment, both in the private sector and in the public service (including the opportunities afforded for reinstatement of those previously dismissed from government service);
- access to education and training at all levels, including higher education;
- conditions of employment;
- pensions and other social security rights;
- the operation of shops, the pursuit of peasant farming, and the exercise of other independent occupations.

6. The Committee would also appreciate information on the effect of the directive of January 1989 on the position of persons not professing any faith.

7. Having regard to the previously mentioned developments, the questions of interpretation raised by the Government do not appear to call for detailed consideration. However, in so far as the meaning of "discrimination" for the purpose of Convention No. 111 may still be regarded as pertinent, the Committee draws attention to Article 1, paragraph 1(a) of the Convention, and to the comments concerning this provision in its 1988 General Survey on Equality in Employment and Occupation, particularly paragraphs 22, 28, 29 and 47. In the light of the information available to the Committee, there can be no doubt that this definition covers the situations referred to above. The Committee also recalls that, while Article 4 of the Convention permits measures to be taken against individuals who engage in activities prejudicial to the security of the State or who are justifiably suspected of such activities, it does not authorise measures adversely affecting persons merely by reason of their belonging to a particular group (see paragraph 135 of the 1988 General Survey). The Committee observes that this approach also appears to underlie the Prime Minister's directive of January 1989.

8. The Committee had previously noted a directive of the Ministry of Labour, published on 8 December 1981, requiring courts to withhold any judgement in favour of dismissed employees proved to have been members of the Baha'i group or of any organisation whose constitution and rules negated divine religions. The Government stated in the Conference Committee in 1988 that this directive was no longer in force. The Committee once more requests the Government to communicate the text which abrogated the directive.

9. The Committee recalls the Government's statement in its report for the period ending 30 June 1988 that, while questions concerning employment of persons belonging to Freemasonry had arisen in the early days of the Revolution, they no longer existed. The Committee once more requests the Government to indicate the measures taken to enable persons who were removed from office or dismissed on this ground to be reinstated.

10. The Committee notes the Government's statement that women work as judges, in particular in family courts, and that recognised religious minorities, according to the Constitution, may present cases to courts in which the judges are of their own faith. It recalls, however, that according to an Act of 14 May 1982 to give effect to article 163 of the Constitution, judges must be chosen from among men who (*inter alia*) must profess the faith and enjoy religious authority (*ijtihad*) recognised by the Supreme Judicial Council. The Committee accordingly requests the Government to indicate what other legislative provisions exist to authorise the appointment of women as judges and to provide for the hearing of claims by members of recognised religious minorities by judges of their own faith, and to communicate copies of the provisions in question. The Committee also once more requests information on the number and positions of women and members of religious minorities who exercise judicial functions.

11. The Committee notes that the Act on Islamic Labour Councils of 1985 provided for the establishment of such councils in industrial, agricultural and service undertakings employing more than 35 workers. The functions of these councils include advice on matters of vocational training, promotions, dismissals, wage rates, criteria for allocation of housing, etc. Under section 2 of the Act, candidates for election to the councils must be practising Moslems, followers of the "Velayat Faghig", or members of the Jewish, Christian or Zoroastrian minorities. The Committee would appreciate information on:

- (a) the reasons for excluding persons who do not meet the above-mentioned criteria from eligibility to the councils;
- (b) the practical effect of requiring Moslem candidates to be followers of the "Velayat Faghig" and the reasons for this requirement;
- (c) whether restrictions similar to those stated in section 2 apply to other aspects of industrial relations and employment and occupation (if so, please supply the relevant texts).

12. In its 1988 General Survey on Equality in Employment and Occupation (paragraphs 15, 157 and 170), the Committee stressed the positive nature of the steps to be taken in pursuance of the national policy provided for in Articles 2 and 3 of the Convention and the need to supply full particulars of the action taken. The Committee accordingly once more requests the Government to furnish detailed information on the action taken with a view to promoting equality of opportunity and treatment in respect of employment and occupation and eliminating discrimination, particularly on the basis of sex, religion, political opinion, national extraction or social origin, and on the results achieved.

The Committee also requests the Government to provide information on restrictions on the employment of women, including copies of the legislative texts regulating this matter.

Israel (ratification: 1959)

Further to its previous direct requests, the Committee notes with satisfaction the entry into force, on 1 April 1988, of a new Employment (Equal Opportunities) Law, which extends the protection against discrimination based on sex, by prohibiting discrimination in respect of acceptance for employment, terms of employment, advancement in employment, vocational training or supplementary vocational training and dismissal or severance pay. Under section 7 of the Act, an employer shall not prejudice an employee by reason of the employee's rejection of a proposal, or resistance to an act, of a sexual nature made or done by the employer or by a person directly or indirectly in charge of the employee.

Mauritania (ratification: 1963)

The Committee takes note of the decision of the Governing Body at its 245th Session (February-March 1990) to set up a committee for the examination of a representation submitted under article 24 of the Constitution of the ILO, alleging non-observance by Mauritania of a number of Conventions, including Convention No. 111.

In accordance with its customary practice, the Committee is suspending its comments on the application of the Convention pending the conclusions of this committee.

New Zealand (ratification: 1983)

The Committee notes with satisfaction the adoption of requirements for equal opportunities employment programmes contained in a series of laws enacted since the last report, particularly in the State Sector Act 1988 and the State Owned Enterprise Act 1986. It requests the Government to provide examples in its next report of the programmes adopted in pursuance of these laws, and to indicate any progress achieved in their implementation.

The Committee also notes with interest the 1988 report of the Working Group on Equal Employment Opportunities and Equal Pay, entitled "Towards Employment Equity", which recommended the adoption of an Employment Equity Act to replace existing legislation in the field. It notes from the Government's report on Convention No. 100 that the Government has agreed in principle to the enactment of an Employment Equity Act which would incorporate the concepts of pay equity and of equal employment opportunity, and that an implementation committee should be established to consider the matter further. Please indicate in the next report any further developments in this respect.

The Committee is raising other questions in a request addressed directly to the Government.



Norway (ratification: 1959)

The Committee notes the information supplied by the Government in its reports, in reply to its previous comments.

In its earlier observations, the Committee has referred to the conclusions adopted by the Governing Body in March 1983, following its examination of a representation submitted by the Norwegian Federation of Trade Unions (LO) under article 24 of the ILO Constitution. The Governing Body considered that section 55A of the Worker Protection and Working Environment Act (No. 4 of 1977) (as amended by Act No. 22 of 1982), was drafted in such a way that employers could question job applicants about their political, religious or cultural views where such views were not relevant to the inherent requirements of a given job. It has asked the Government to take measures to ensure that section 55A is worded, interpreted and applied in conformity with Article 1, paragraph 2, of the Convention, and has asked the Government to supply information on the way in which the observance of the Convention is ensured in the application of section 55A of the Act. The LO has informed the Office, in a letter dated 20 October 1989, that it has again reminded the Government to consider the revision of this provision in the light of the Committee's previous examination of this question.

In its previous comments, the Committee noted the decision of the Oslo District Court, the order of the High Court of Eidsivating, and the order of the Supreme Court of 27 November 1986 concerning a legal action brought by, amongst others, the Norwegian Union of Civil Service Employees against the Board of a Christian college for the training of social workers (Diasos). The Supreme Court order in the case held, on appeal from the two lower court, that a personnel policy of a religious institution for training social workers which requires that all candidates for employment in the Department of Social Works be asked about their position with regard to the Christian faith, is not contrary to section 55A of the Worker Protection and Working Environment Act. The Committee had also noted that the Government, on request of the Parliament (Storting), had undertaken in 1986 a full analysis and assessment of the relations between section 55A and the Convention, on the one hand, and the European and United Nations Conventions on the other. The Government has stated in its report that this study is not yet completed. The Government also indicates that it has received no further information that section 55A has been applied in such a way as to contradict the Convention. Further, since 1987, no case has been brought to trial on the basis of section 55A. The above-mentioned letter from the LO states that a committee was established in June 1989 to consider whether changes have to be made to the Act.

The Committee recalls that section 55A of the Worker Protection and Working Environment Act appears to permit an employer's inquiry into religious, political or cultural views where such views may not be relevant to the inherent requirements of a given job. The Committee wishes to call the Government's attention to its statement in paragraph 127 of its 1988 General Survey on Equality in Employment and Occupation that "in the case of a religious, ethnic or political institution, the inherent requirements of a particular job must also

be evaluated in the light of the actual bearing of the tasks performed on the institution's specific objectives". Thus, "criteria such as political opinion, national extraction and religion may be taken into account in connection with the inherent requirements of certain posts involving special responsibilities"; regard must, however, be had to the actual duties of the job in question and, when necessary, to the direct bearing of these duties on the institution's objectives.

The Committee again requests the Government to provide information in its next report on measures taken to ensure that section 55A of the Act is interpreted and applied in a manner which does not conflict with the Convention and, in particular, does not permit discrimination on the grounds of race, colour, sex, religion, political opinion, national extraction or social origin, excepting "in respect of a particular job based on the inherent requirements thereof." The Committee asks the Government to supply information on the results of the study requested by the Storting and to continue to furnish information concerning the application in practice of section 55A of the Act. It also requests the Government to supply information on the points raised in a request that is being addressed directly to it.

#### Poland (ratification: 1961)

The Committee has taken note with interest of the information supplied by the Government in its reports, as well as the indications provided to the Conference Committee in 1989 regarding the application of Convention No. 87.

The Committee notes with satisfaction that an Act of 24 May 1989, as amended by Act of 7 December 1989, provides for reinstatement of persons dismissed since August 1980 on account of their political opinions, religion, trade union membership or trade union or self-management activities, and that an Amnesty Act of 29 May 1989 not merely granted amnesty, but expunged all convictions, inter alia, on account of protest actions committed after 31 August 1980.

The Committee has also noted the adoption on 7 April 1989 of the Act on Associations, which guarantees to all citizens, irrespective of their opinions or their religion, equal rights to participation in public life and to expression of their opinions.

The Committee has noted the setting up of a national committee for the revision of labour legislation and of a group of experts to examine the conformity of legislation with international labour standards relating to the protection of human rights. It has also noted indications furnished by the Government to the Committee on the Elimination of Racial Discrimination (document CERD/C/SR.836 of 18 August 1989) regarding the revision of the Constitution, due to be completed by 1991.

The Committee recalls that, in previous comments, it had referred to certain provisions which mentioned ideological and moral attitude or socio-political commitment among the qualifications required for certain employments and permitted the exclusion of a worker or student from his job or studies for offences the determination of which fell outside the normal rules of labour law and disciplinary law.

The Committee expresses the hope that the work now in progress with a view to the revision of the Constitution and legislation will make it possible to give full effect to the Convention, with due regard to a number of questions raised in a direct request which the Committee is addressing to the Government.

Portugal (ratification: 1959)

The Committee notes the Government's report for the period between 1 July 1986 and 30 June 1988.

1. The Committee notes with satisfaction the adoption of Legislative Decree No. 426/88, of 18 November 1988, governing equality of treatment in employment for men and women in the public service. It notes that section 1 of this text provides that its objective is to ensure equality of opportunity and treatment in respect of admission to and employment in the public service, deriving from the principle of equality and the right to work laid down in the Constitution. It also notes that by virtue of section 4, subsection 1, of this Legislative Decree, the right to work implies the rejection of all discrimination, direct or indirect, based on sex, particularly on marital status or family situation; subsection 2 specifies that temporary provisions establishing a preference for the purpose of remedying a *de facto* inequality, and measures protecting maternity are not considered as discriminatory. The Committee asks the Government to provide information on the practical implementation of the above Legislative Decree.

2. The Committee notes with interest the agreement signed on 28 February 1984 by the Ministry of Education and the Committee on Women's Affairs, with a view to undertaking joint action to review programmes of studies and primary and secondary-school curricula, and also teacher training methods, has been replaced by a new agreement signed in April 1988. The latter follows the lines of the resolution adopted in June 1985 by the Ministers of Education of the member States of the EEC, and of the EEC medium-term programme of action on equality between men and women. The agreement is now applied at all levels of education, including higher education, and provides for training educational and career guidance officers with a view to countering the prejudices which obstruct the diversification of technical schools for girls. A working group composed of representatives of the Committee on Women's Affairs and representatives of all levels of the teaching profession will draw up a plan of action every year to implement the various points of the agreement. The Committee asks the Government to provide information on the work of the above-mentioned working group and the progress made as a result of the agreement of April 1988.

3. The Committee also notes with interest from the information supplied by the Government that, following the efforts of the Committee on Women's Affairs, Act No. 46/86 of 14 October 1986 concerning the foundations of the education system provides in section 3 that the education system has the responsibility of ensuring equality of opportunity for the two sexes, in particular by implementing a policy of coeducation and educational and career

guidance, and by raising awareness of this subject amongst all those involved in the education process. The Government also refers to a seminar organised in January 1988 by the Committee on Women's Affairs to take stock of action already undertaken and to draw attention to the need to implement the EEC medium-term plan of action for equality between men and women (1986-1990).

Romania (ratification: 1973)

The Committee takes note of the decision of the Governing Body at its 244th Session (November 1989) to set up a commission of inquiry to examine the complaint that Romania is not observing Convention No. 111, submitted under article 26 of the Constitution of the ILO.

In accordance with its customary practice, the Committee is suspending its comments on the application of the Convention pending the conclusions of the commission of inquiry.

Rwanda (ratification: 1981)

In its previous direct request, the Committee had noted that section 122 of the Civil Code requires a married woman to obtain the authorisation of her husband for any legal instrument under which she must furnish a service in person. It pointed out that this constitutes a violation of the Convention through imposing restrictions on the employment of women which do not exist for men. The Government has stated in its report that there has been no change in the legislation in this respect. The Committee recalls that Article 3 (c) of the Convention requires ratifying States to "repeal any statutory provisions ... which are inconsistent with the policy" embodied in the Convention. It therefore again requests the Government to indicate in its next report the measures which it has taken or is contemplating to bring the national legislation into conformity with the Convention on this point.

The Committee had also noted that certificates of good conduct, living and morals, are required by the labour administration before any person begins to work for wages. It noted that these certificates are issued by the communal authority, and requested the Government to provide information on the provisions governing their issuance. It noted further that when the communal authority considers that the person concerned may be suspected of carrying on an activity prejudicial to the security of the State, it refuses to issue the certificate. In its report the Government has indicated that the issuance of these certificates is within the discretion of the Bourgmestre of the commune of origin; it thus appears that there are no provisions or procedures governing the issuance of these certificates. The Committee therefore requests the Government to indicate in its next report the measures which it intends to take to ensure that no discrimination contrary to the Convention is practised on the community level in the issuance of these certificates.

The Committee is also raising certain points in a request addressed directly to the Government.

Sierra Leone (ratification: 1966)

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

1. In its previous observations, the Committee noted the Government's indication that no national policy had been declared to promote equality of treatment in respect of access to employment and occupation and as regards terms and conditions of employment and that consequently, it had not been possible to appraise the effect of such a policy. The Committee pointed out that application of the Convention requires the adoption of positive measures in pursuance of a national policy designed to promote equality of opportunity, and requested the Government to supply information on a number of points to be covered by such a policy which were considered in a more detailed request addressed directly to the Government.

The Committee notes the Government's statement in its latest report that it intends to seek the views of the Tripartite Joint Consultative Committee, as soon as it is convened, as to ways in which the aims of this promotional Convention might be further pursued. In the absence of a reply concerning the various questions raised in the direct request, the Committee hopes that full information on these matters will soon be provided.

2. In its previous observations, the Committee noted that the Constitution of Sierra Leone (Act No. 12 of 1978) makes provisions for a one-party system of Government and does not prohibit discrimination on the basis of political opinion, as did the previous Constitution. The Committee further noted that articles 138(3) and 139(3) of the Constitution reserve certain high public offices to members of the recognised party, and asked the Government to supply information on any further provisions adopted which would establish a link between political opinion or affiliation and qualifications for employment. The Government states in its latest report that it is not aware of any such provisions.

The Committee takes due note of this indication and asks the Government to supply full information on present conditions governing access to employment in the public sector, including copies of relevant laws and regulations.

Spain (ratification: 1967)

In its previous observation, the Committee noted that, in its communication dated 7 February 1989, the Trade Union Confederation of Workers' Commissions (CC.OO.) alleged that the measures that should have promoted the employment of women had been a failure, given that the unemployment rate for women is 27.5 per cent, as against 15.09 per cent for men. Furthermore, according to the comments made by the same organisation, there are situations in which discrimination occurs on grounds of colour and race, particularly in the Catalan region of Maresme, where coloured workers receive wages that are much lower than

those of other workers, and in Ceuta and Melilla, where the same situation applies to Muslim workers.

The Committee notes the observations communicated by the Government in reply to the above comment. Nevertheless, the Committee finds that the Government's observations do not reply to the above points. The Committee therefore hopes that in its next report the Government will supply detailed information on the matters raised by the CC.OO.s, and in particular on:

- (a) the measures that have been taken to promote the employment of women and to ensure that restructuring measures do not prejudice their security of employment, nor their opportunities of access to employment disproportionately as compared with men;
- (b) the discriminatory situations that may exist in the Catalan region of Maresme and in Ceuta and Melilla against coloured workers and Muslim workers.

In this connection, the Committee notes that the CC.OO.'s communication refers to two categories of workers. The first of these consists of migrants of foreign nationality who, due to the fact that they have no work permits, receive lower wages and are dismissed when they are no longer necessary; the situation of these workers falls under the provisions of the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), which has been ratified by Spain. The second category consists of workers "of Muslim origin who were born in the cities under Spanish sovereignty", to whom the Government issues a statistical card that is equivalent to a work permit. The Committee requests the Government to indicate whether the latter category of workers are of Spanish nationality and, if so, the measures which have been taken or are envisaged to prevent any discrimination on grounds of national extraction, in accordance with the Convention.

#### Sweden (ratification: 1962)

1. The Committee notes with interest the Government's most recent report and the documents and statistical information sent with it.

2. As concerns discrimination based on sex, the Committee notes with interest the adoption of Government Bill No. 1987/88:105, setting government policy to the mid-1990s on equality between men and women in Sweden, and which specifies concrete goals for equality to be achieved by certain dates and the measures by which they can be achieved. It hopes that the Government will indicate in future reports the measures taken in these respects and the results achieved.

3. The Committee also notes with interest that the Equal Opportunities Ombudsman presented a report to the Ministry of Labour in December 1986 which recommended among other things that the Equal Opportunities Act be amended to include a ban on reprisals on account of complaints of sex discrimination, in view of the insufficiency of existing safeguards against such reprisals. Please provide with the next report information on whether this proposed amendment has been adopted and on any further measures in this connection.

4. Further points are being raised in a request addressed directly to the Government.

Switzerland (ratification: 1961)

1. The Committee notes the detailed information and the documentation supplied by the Government in reply to its previous comments. It notes with satisfaction that, by the Ordinance of 24 February 1988, a Federal Office for Equality between Men and Women has been set up which will have the task of promoting the application of the principle of equality of the sexes in all walks of life, including employment and occupation, and of eliminating all forms of direct or indirect discrimination. The Committee requests the Government to supply information on the work of this Office for the elimination of the inequalities that still exist between women and men, particularly as regards access to vocational training, access to employment and to particular occupations and terms and conditions of employment, including wages.

2. The Committee has also examined the documentation concerning the work of the Office for the Status of Women, which is operating in the Canton of Jura and, in particular, notes with interest the information campaign undertaken by this Office and the efforts made to facilitate the access of women to vocational training, particularly for occupations that are not considered to be traditional occupations for women, to confirm their right to work and to promote their access to posts of responsibility. The Committee also notes with interest the first measures taken by the Office for Equality of Rights for Men and Women and by the Advisory Committee on Equality, set up in the Canton of Geneva, and it requests the Government to continue supplying information on the work of these bodies and the results achieved (including statistics). The Committee also hopes that similar offices will be set up in other cantons in the country.

3. As regards the amendments to the federal legislation proposed in the 1986 report on the legislative programme on Equality of Rights for Men and Women, the Government indicates in reply to the Committee's comments that this report has been brought to the attention of Parliament and that certain amendments have already been made (such as the amendment of the legislation respecting the public service) or are about to be made. The Committee notes these indications and requests the Government to keep it informed of any further developments in this connection and to supply copies of the texts that are adopted.

Tunisia (ratification: 1959)

1. The Committee notes the information supplied by the Government in reply to its previous comments and notes that women make up 24.5 per cent of the staff of the public service and that they represent 23.5 per cent of middle and higher management, 31.9 per cent of supervisory staff and 42.5 per cent of administrative staff. The Committee also notes that the number of women in positions of responsibility in the public sector is 1,880, which represents 7.8 per cent of the number of men in positions of responsibility. The Committee hopes that the Government will continue to endeavour to promote the access of women to the public service and to positions of



responsibility and that it will provide information on any developments in this connection.

2. The Committee also notes with interest the establishment, under Decree No. 88-306 of 25 February 1988, in the Ministry of Social Affairs, of a Directorate for the Education and Training of Women, which is responsible for promoting the vocational training of women and facilitating their productive participation in development. The Committee requests the Government to supply information on the practical work of this Directorate, and particularly on any positive measure taken to formulate and develop education and training programmes for women and girls, and to promote vocational training for them in various skills as a function of the needs of the area. The Committee also requests the Government to indicate any progress achieved in the areas of the training and the participation of women in trades and occupations that are not traditionally exercised by women. The Committee would be grateful, in particular, to be provided with statistics on this subject.

#### Turkey (ratification: 1967)

The Committee has taken note of the discussions in the Conference Committee in 1989 and of the Government's report for the period ending 30 June 1989. It has also given further consideration to the observation received in March 1989 from the Confederation of Turkish Trade Unions (TURK-IS) concerning the measures taken in application of Act No. 1402 respecting martial law and proposed amendments to that Act (a copy of which had been sent to the Government to enable it to present comments thereon).

The Government's report was received on 15 February 1990. The Committee will be able to examine it in detail only when translations of the documentation appended to it (including a ruling of the Council of State of December 1989 and legislation and court decisions concerning disciplinary action against public servants) have become available. However, in view of the importance attached by the Conference Committee to the adoption of measures to eliminate the previously noted divergencies between law and practice and the requirements of Convention No. 111, the Committee deems it appropriate to draw attention already at its present session to the following points:

1. Position of public servants dismissed or transferred during the period of martial law. In its previous comments the Committee had sought information concerning the reinstatement in employment of public servants who had been dismissed or transferred to other regions pursuant to decisions taken by Martial Law Commanders under Act No. 1402, during the period between 1980 and 1987, when martial law was in force throughout the country or in a number of provinces. According to information given by the Government in its report:

- on 7 December 1989 the Council of State ruled that the provision in section 2 of Act No. 1402 that "dismissed public servants shall never be employed again in the public service" applied only during the period of martial law, and that after termination of



martial law those affected would be able to return to their duties unless there were other legal impediments;

- by virtue of section 40 of Act No. 2575 concerning the Council of State, the above-mentioned ruling is binding on the administration and administrative tribunals;
- on 11 December 1989 the Higher Education Board issued a circular to University Deans informing them that, by virtue of the ruling of the Council of State, dismissed faculty members were entitled to reinstatement, and requesting them to give priority to such persons in filling vacancies and to apply to the Board for creation of additional posts if no vacancies existed.

The Committee has noted this information with interest. It requests the Government to provide particulars of the measures taken with a view to reinstatement of public servants who had been dismissed, not only in universities, but also in other parts of the public service, and also to permit persons who had been transferred to other regions under martial law powers to return to their previous positions.

The Committee recalls that, according to a document dated February 1989 communicated by the Confederation of Turkish Trade Unions (TURK-IS) and stated to be based on official figures, of a total of 9,400 public servants who had been dismissed or transferred to other regions, 4,125 were still regarded as "harmful". The Committee accordingly hopes that the Government will provide precise statistical data on the number of public servants who have been reinstated or enabled to return from regions to which they were transferred.

The Committee would also appreciate information on the steps taken to recognise the rights of those concerned arising out of their previous service and on any measures enabling them to obtain compensation for loss of earnings and other benefits during the period of their exclusion from employment or transfer.

The Committee also requests the Government to indicate what other kinds of legal impediments constitute a bar to reinstatement, and the number of persons to whom reinstatement has been refused on the respective grounds.

2. Proposed amendments to Act No. 1402 respecting martial law. The Committee notes that the bill to amend Act No. 1402 is still pending in the Turkish Grand National Assembly. According to the indications given by the Government, the bill would permit periodic review of the situation of persons affected by measures taken during a period when martial law was in force and, in accordance with article 125 of the Constitution, it would be possible to apply for judicial review of decisions taken by the relevant agencies.

The Committee notes, however, that the bill would still permit measures affecting employment to be taken against persons considered "harmful or undesirable in respect of State security", and that the possibility of judicial review under article 125 of the Constitution would be limited to determining the conformity with the law of the acts and proceedings of the administration. The Committee recalls the comments concerning the scope of Article 4 of Convention No. 111 made in paragraphs 136 and 137 of its 1988 General Survey on Equality in Employment and Occupation, in which it pointed out that measures

intended to safeguard the security of the State must be sufficiently well defined and delimited in order not to lead to discrimination (inter alia) on the basis of political opinion; that the application of measures intended to protect the security of the State must be examined in the light of the bearing which the activities taken into consideration might have on the performance of the job, tasks or occupation of the person concerned; and that the provision of a right of appeal would not be sufficient to meet the requirements of Article 4 of the Convention if the foregoing substantive conditions were not met.

The Committee trusts that the above-mentioned considerations will be fully taken into account in the final text of the proposed new legislative provisions relating to martial law. It requests the Government to indicate the progress made towards the adoption of these provisions.

3. Measures taken on the basis of security investigations. According to the information communicated in 1989 by the Confederation of Turkish Trade Unions (TURK-IS), measures affecting employment in the public service had also been taken and, even after termination of martial law, continued to be taken pursuant to the Regulations on security investigations to collect political and other subjective information, which was taken into account in decisions on new appointments, transfers, promotions, etc. The Committee notes from the Government's report that the Regulations on security investigations regarding key public servants to be recruited, transferred or assigned had been held to be invalid, on grounds of formal defect, in a recent decision by the Council of State, the text of which will be sent to the ILO, when published. The Committee hopes that the Government will provide, in addition to this decision, information on any new regulations which may have been adopted or may be contemplated to provide for such security investigations, and the measures taken to ensure the observance of the Convention in this respect.

#### USSR (ratification: 1961)

The Committee has noted the information provided by the Government in its report for the period ending 30 June 1988, as well as the indications on a number of more recent developments contained in the reports and statements made to the UN Human Rights Committee at its 37th Session in October 1989 and in the press in recent months. It hopes that the next report will indicate the measures taken on the points raised in its previous comments, which it recalls in a request addressed directly to the Government.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Algeria, Angola, Antigua and Barbuda, Australia, Belgium, Benin, Brazil, Bulgaria, Byelorussian SSR, Cape Verde, Central African Republic, Chad, Côte d'Ivoire, Cyprus, Czechoslovakia, Dominica, Dominican

Republic, Egypt, Finland, France, Gabon, German Democratic Republic, Federal Republic of Germany, Ghana, Greece, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Iraq, Israel, Italy, Jamaica, Jordan, Kuwait, Liberia, Libyan Arab Jamahiriya, Madagascar, Mali, Morocco, Mozambique, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Norway, Panama, Poland, Portugal, Rwanda, Saint Lucia, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Sierra Leone, Somalia, Spain, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Togo, Ukrainian SSR, USSR, Yemen.

### **Convention No. 113: Medical Examination (Fishermen), 1959**

Tunisia (ratification: 1963)

Referring to comments which it has formulated over the past two years concerning the application of Article 3, paragraphs 1 and 2 (nature of the medical examination), and of Article 4, paragraph 2, of the Convention (period for which the medical certificate shall remain in force for persons aged 21 years and over), the Committee notes that, according to the Government's report, no law yet exists to ensure the application of these provisions. The Committee hopes that the Government will be in a position to take the necessary measures in the near future.

[The Government is requested to send a detailed report for the period ending 30 June 1990.]

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

Cyprus (ratification: 1966)

Following its earlier observation, the Committee notes that according to the Government's report, the drafting of the legal provisions which should ensure the application of the Convention has reached its final stage and that the Government hopes that these provisions will be adopted before the next report. The Committee would be grateful if the Government would supply the text as soon as it is adopted.

### **Convention No. 115: Radiation Protection, 1960**

Poland (ratification: 1964)

The Committee notes with satisfaction the adoption of Order No. 124 of 31 March 1988 issued by the President of the State Atomic Agency concerning limit doses of ionising radiations and indicators determining the risk connected with ionising radiation which ensures the application of Article 6 of the Convention. In particular, the

Committee appreciates the information provided by the Government concerning limits of exposure for workers called to intervene in abnormal situations, in response to the questions raised in its general observation of 1987.

In the general observation, governments were requested to indicate the measures taken concerning abnormal situations where the level of exposure to ionising radiations exceeds the normal annual level fixed by law. It was pointed out that there are two phases to an abnormal situation. The first phase is when emergency measures are necessary in order to save human life or avoid a substantial increase in the scale of the incident. Neither the recommendations of the International Commission on Radiological Protection (ICRP) nor the ILO Code of Practice on Radiation Protection (ionising radiations) fix an exposure limit for this first phase of intervention. In this regard, the Committee notes with interest that section 8.2 of Order No. 124 endeavours to ensure protection beyond a certain level of exposure by providing that rescue workers intervening in abnormal situations to save human life or substantially limit the exposure of other persons shall be protected from doses exceeding 50 rems for the entire body and 300 rems for individual tissues or organs.

As concerns the second phase of an abnormal situation, although the ICRP and the ILO recommend that remedial measures be taken while maintaining compliance with permissible annual dose limits (50 mSv or 5 rems), it is also noted that in special circumstances certain essential operations may need to be carried out when the level of exposure to ionising radiations is still beyond the fixed limits. It is recommended, however, that workers intervening in this second phase should not be exposed to a dose greater than five times the permissible annual dose limit in a lifetime (i.e. 250 mSv or 25 rems). In this regard, the Committee notes that section 8.1 of Order No. 124 provides that workers who intervene in the second phase of one or more emergency situations shall not be exposed in the course of a lifetime to a level of ionising radiations exceeding five times the normal annual limit dose prescribed (the annual limit dose being fixed at 50 mSv (5 rems)).

The Government is requested to continue supplying information on any other measures taken or envisaged concerning the procedures to be followed in abnormal situations.

The Committee is raising other points 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: Brazil, Greece, Mexico, Poland.

#### **Convention No. 117: Social Policy (Basic Aims and Standards), 1962**

Requests regarding certain points are being addressed directly to the following States: Bahamas, Venezuela.

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

Central African Republic (ratification: 1964)

The Committee notes with regret that, for the second year running, the Government's report provides no new information on the points that it has been raising since 1968. It must therefore repeat its previous comments which read as follows:

1. Article 4 of the Convention, branch (g) (employment injury benefit). The Committee has drawn the Government's attention to the fact that national legislation does not contain provisions expressly ensuring that the dependents (survivors) of the victim of employment injury, a national of the State bound by the Convention, who were not residing in the Central African Republic at the time of the victim's death and continue not to reside there, can claim survivor's pension if it is proved that they were actually dependent on the victim at the time of his death. It has taken note of the statement by the Government under Convention No. 19 that a draft ordinance has been submitted to the Council of Ministers with a view to supplementing section 27 of Act No. 65-66 of 24 June 1965 on workmen's compensation by adding a second subsection, so as to make good this lacuna.

Since the Government makes no further mention of section 27 of Act No. 65-66 of 1965, the Committee can only express once again the hope that the Government will be able, in accordance with its earlier assurances given in the context of Convention No. 19, to take the necessary measures to supplement section 27 of Act No. 65-66 of 24 June 1965 on workmen's compensation, so as to ensure the application of Article 4, paragraph 1.

2. Article 5, branch (e) (old-age benefit). In reply to the Committee's comments, the Government referred to the General Social Security Convention of the African and Mauritian Common Organisation. It also stated that a draft was being discussed with Benin and Togo. The Committee is bound once more to point out to the Government that the General Social Security Convention of the AMCO does not govern the question of payment abroad of old-age benefit, and that, by virtue of Article 5, the payment of benefits in the case of residence abroad must be insured automatically whatever the country of residence, even in the absence of bilateral or multilateral agreements, both to nationals as also to nationals of a State Member that has accepted the obligations of the Convention for the old-age benefit branch (that is to say at present, Barbados, Brazil, Guinea, Iraq, Israel, Italy, Kenya, Libyan Arab Jamahiriya, Mauritania, Mexico, Netherlands, Syrian Arab Republic, Tunisia, Turkey, Venezuela and Zaire). In the circumstances, the Committee again asks the Government to indicate the measures taken or under consideration to ensure, in accordance with this provision of the Convention, the payment of old-age benefit in the event of residence abroad, both to nationals of the Central African Republic and to nationals of any other State Member that has accepted the obligation of the Convention in respect of the old-age benefit branch.

The Committee also asks the Government to furnish a copy of the text of Ordinance 81/024 of 16 April 1981 to establish the old-age, invalidity and survivors' pension scheme for employees, and of Decree No. 83/340 of 10 August 1983 issued under it, which was mentioned by the Government as having been enclosed with its report but which has not been received by the ILO.

3. Article 6. The Committee noted the Government's statement that it had taken note of its comments on section 1 of Act No. 65-57 of 3 June 1965 regarding family benefit and that this section would be amended in the near future. Accordingly, it hopes that it will be possible for this provision to be amended shortly so as to guarantee expressly both to nationals of the Central African Republic and to nationals of any other Member that has accepted the obligations of the Convention in respect of branch (i) (family benefit), the benefit of family allowances for children who reside in the territory of any such Member (under conditions and within limits to be agreed upon by the Members concerned) in so far as there is any migration of the type referred to in this provision of the Convention. (So far, the following countries have accepted branch (i) (family benefit): Bolivia, France, Guinea, Ireland, Israel, Italy, Libyan Arab Jamahiriya, Mauritania, Netherlands, Tunisia, Uruguay and Vietnam.)

4. Articles 7 and 8. The Committee took note of the information provided by the Government and noted that there was a draft text of a social security convention at the level of the Customs and Economic Union of Central Africa, that was to be discussed in the near future by the Member countries. It would be grateful if, in future reports, the Government would provide information on any progress made towards the adoption of this convention and its possible ratification by the Central African Republic and the conclusion of bilateral and multilateral social security agreements with other concerned States that have ratified Convention No. 118.

The Committee further noted that draft social security agreements between the Central African Republic and the Congo, France and Zaire were apparently being discussed. It asks the Government to provide information on any progress made in this respect.

[The Government is asked to report in detail for the period ending 30 June 1990.]

#### France (ratification: 1974)

The Committee notes the information supplied by the Government in its report. It notes, in particular, the information concerning the application of Article 5, paragraph 1, of the Convention, branch (d) (invalidity benefit).

1. (a) Article 3, paragraph 1, of the Convention, branch (d) (invalidity benefit). In reply to the Committee's previous comments concerning the provision of supplementary allowance from the National Solidarity Fund granted under section L.815-2 of the Social Security



Code that it must be payable to nationals of all the States Members parties to the Convention and not only to French nationals and nationals of countries that have signed an international reciprocity agreement with France (as provided in section L.815-5 of the Code), the Government repeats that the supplementary allowance is not a social security benefit, but an assistance-type benefit payable on the basis of a means test, the object of which is to guarantee to the beneficiaries a minimum subsistence income, irrespective of the type of basic benefit provided. The situation may even arise where there is no basic benefit and it has been observed that this benefit is being provided increasingly to persons who have never worked. A distinction should therefore be made between pension supplements, which are an accessory to a benefit, and income guarantees, which are intrinsically bound up with the living standards of the State in which they are provided and are the expression of national solidarity.

Furthermore, the Government points out that, when awarding supplementary allowance from the National Solidarity Fund, account is taken not only of pensions (and this includes pensions provided by other States), but also of other resources such as occupational income, personal estate, etc. In cases where the applicant possesses personal estate, the institution providing the allowance is bound to require that a mortgage be taken out on this estate and, in the case of an inheritance, the institution may recover the whole or part of the sums that have been paid in the form of the supplementary allowance from the inheritance. Since these procedures are applied to French nationals who make a claim for the allowance, it is not possible to exempt foreign nationals resident in France from the same procedures. It is therefore necessary to conclude bilateral agreements, which take the form of specific protocols distinct from social security agreements reflecting the juridical nature of the National Solidarity Fund allowance and providing for the active participation of the contracting State in the verifications, that are indispensable, of the conditions under which the allowance can be granted and which are specific to each branch depending on whether reciprocity can be found in the legislation of the other State.

The Committee takes note of these statements. It points out that the award of the allowance in question is not subject to discretionary appraisal, but constitutes a right for the applicants who fulfil the required conditions, which is one of the characteristic features of an insurance benefit. It considers that, even though this supplementary allowance can, in certain cases, be awarded without the existence of a basic benefit, this allowance, as its name indicates, is a supplement to a principal benefit and hence it constitutes a social security benefit falling within this provision of the Convention. It is in this sense that the Court of Justice of the European Community, in a judgement that the Committee noted in its previous comments, ruled on 24 February 1988 in the case of Giletti et al. In this connection, the Committee is bound to refer to its previous comments to the effect that, in accordance with the meaning given in the Convention (Article 1, paragraph (b)), the term "benefits" refers to "all benefits, grants and pensions, including any supplements".

As regards the procedures described above, which apply to applicants for the allowance, the Committee agrees with the

Government, that these must doubtless be applied without distinction to foreigners when they have property in France. The Committee therefore once again expresses the hope that the Government will take the necessary measures to give full effect to this provision of the Convention.

(b) In its previous comments, the Committee, which had previously taken note of the comments of the General Confederation of Labour (CGT) in relation to Convention No. 97, concerning the conditions of payment of allowance to disabled adults instituted by Act No. 75-534 of 30 June 1975, expressed the hope that the provision of this allowance could be guaranteed to nationals residing in France of all the 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 of up to five years). It stressed the fact that the characteristics of this allowance for disabled 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 (JOS of 3 April 1982, p. 906), that the possibility of granting to all foreigners the right to allowance for disabled adults, subject to a certain period of residence, was being thoroughly examined. Since the Government's report contains no new information in this connection, the Committee can only once again express the hope that the next report will contain information on the progress achieved in the implementation of this provision of the Convention.

(c) Article 4, paragraph 1, branch (d) (invalidity benefit) and branch (f) (survivors' benefit). In its previous comments, the Committee noted that the legislation made the payment of social insurance benefits (in this case invalidity and survivors' benefits) to foreigners insured under the general scheme (section L.311-7 of the Social Security Code), the agricultural scheme (section 1027 of the Rural Code) and the mining sector scheme (section 184 of Decree No. 46-2769 of 27 November 1946), conditional upon their being resident in France, except where there is an agreement between France and the country of origin of the beneficiary specifically guaranteeing the maintenance of these benefits. The Committee therefore pointed out that, under the above provision of the Convention, the right to invalidity and survivors' benefits without any residence requirement should be guaranteed to nationals of all States Members parties to the Convention. In its report, the Government specifies that section L.311-7 of the Social Security Code does not impose the condition of residence in France on foreigners in order to entitle them to the benefit of pensions. The condition of residence in France is required only at the time of applying for the payment of pension. The Committee takes note of this information with interest. In this connection, it wishes to know whether the condition of residence in France is also required at the time of applying for payment of survivors' and invalidity benefits.

2. Article 6. In reply to the Committee's previous comments concerning the obligation to provide family allowances in respect of children resident abroad, the Government indicates that under the



terms of section L.512-1 of the Social Security Code, all persons resident in France are entitled to benefit from family allowances, provided that the children are also resident in France. The criterion of residence is a substantial requirement in view of the fact that, since the abolition in 1975 of the requirement of exercising an occupational activity, it remains the only criterion to obtain family benefits. This criterion is justified by a range of legal, political and financial motives.

With reference to the desire expressed by the Committee that the French Government should complete existing bilateral agreements (with Israel and Norway) and conclude new ones (with the Central African Republic, Libyan Arab Jamahiriya, Bolivia and Viet Nam), if there is any migration of the type referred to in Article 6 with those States, the Government's report points out that it should be recalled that bilateral agreements are co-ordinating instruments concerning certain or all branches of social security which follow certain rules, the most important of which is reciprocity. How is it therefore possible to conclude an agreement for certain branches which it is known do not exist in the other contracting countries. Furthermore, these agreements are negotiated and take into account historical circumstances, the will of the two parties, the abiding interests and the situation of their legislations.

The Committee notes this information. It considers that it would be useful to point out that Article 6 of the Convention does not cover all family benefits (branch (i) of paragraph 1 of Article 2 of the Convention), but only "family allowances", that is "periodical payments granted as compensation for expenditure for the maintenance of children, exclusive of certain special allowances, especially those granted to mothers remaining at home" (see 1977 General Survey on Equality of Treatment (Social Security), paragraph 103). It would also be useful to clarify that this provision does not establish a direct or immediate obligation arising only from the ratification of the Convention, but merely an indirect obligation, conditional on the conclusion of agreements among the member States concerned as to the conditions and the limits within which the guarantee referred to should be applied (see in particular paragraph 108 of the 1977 General Survey on Equality of Treatment (Social Security)). In these circumstances, the Committee requests the Government to re-examine the matter at the appropriate time in order to give effect to this Article of the Convention.

3. Article 10, paragraph 1, of the Convention. With reference to its previous comments, the Committee notes with interest that: (a) the allowance for handicapped adults established by Act No. 75-534 of 30 June 1975, which is payable to persons of French nationality or nationals of a country that has concluded a reciprocity agreement in this connection and who reside or have resided in the metropolitan territory or in any overseas department or territory (section L.821-1 of the Social Security Code), has been extended, by ministerial circulars Nos. 1258 of 2 November 1979 and 7 of 23 January 1980, to refugees and stateless persons who are permanently resident in France, by applying the clause of the most favoured nation; (b) in general, France is endeavouring to include refugees and stateless persons in

the scope of most of the social security agreements that it concludes with other countries.

4. In its previous direct request, the Committee requested the Government, taking into account the provisions of Article 2, paragraph 1(a) (medical care) (taken in conjunction with Article 3, paragraph 1, of the Convention), to clarify the scope of Ministerial Letter No. 36 of 13 January 1986 (the Ministry of Social Affairs), which was referred to in the circular dated 12 February 1986 and in the letter dated 16 April 1986 of the National Sickness Insurance Fund for Employees, under which the beneficiaries of French invalidity and old-age benefits and pensions in respect of industrial accidents are refused benefits in kind under sickness insurance when they are foreign nationals resident abroad who are temporarily staying in France, while French nationals resident abroad who are beneficiaries of French benefits and pensions, receive the benefit of medical care when they are staying temporarily in France.

The Government indicates in this connection that the condition of at least three months' lawful residence required of foreign workers cannot be imposed upon French nationals residing abroad who are beneficiaries of French benefits and pensions and who therefore must be awarded benefits in kind under the sickness insurance scheme when they are temporarily staying in France. These beneficiaries are, due to their nationality, considered to be in possession of permanent right to residence in France. The Committee takes note of this statement.

#### Guinea (ratification: 1967)

Article 5 of the Convention. With reference to its previous comments, the Committee notes with interest the Government's statement that a draft Social Security Code has been formulated giving complete effect to the Convention. It notes that by virtue of section 91(3) of the above draft, benefits are neither withdrawn nor suspended for the nationals of countries that have ratified the Convention. It requests the Government to inform it of any progress achieved in the adoption of the above draft.

However, the Committee notes that the Government supplies no information on the application of the legislation respecting exchange controls which appears to restrict the payment of benefits in case of residence abroad. It therefore requests the Government once again to indicate the impact of this legislation on the payment of benefits when the beneficiary resides abroad, and to indicate the extent to which, and the number of cases in which, beneficiaries have not been able to obtain payment of these benefits abroad. The Committee also requests the Government to state in its next report the measures that have been taken to give full effect to the Convention in both law and practice, irrespective of the existence of any legislation regarding exchange controls.

Article 6. The Committee notes that the report does not contain any reply to its previous comments. However, it notes with interest that the draft Social Security Code removes, in section 94(1), the requirement of residence in respect of children that is provided in

section 38 of the Social Security Code currently in force in order to qualify for entitlement to family allowances. The Committee hopes that the draft Social Security Code will be adopted shortly. The Committee once again requests the Government to inform it of the outcome of the consultations referred to previously by the Government that have been commenced with countries in the subregion for the negotiation of bilateral agreements concerning the social insurance of migrant workers. It once again expresses the hope that the Government will endeavour to conclude agreements with the other member States concerned which have accepted the obligations of the Convention in respect of the family benefits branch in cases where migrations of the type contemplated by Article 6 exist with those States.

[The Government is asked to report in detail for the period ending 30 June 1990.]

#### Italy (ratification: 1967)

The Committee has noted the information supplied by the Government in its report for the period ending June 1989.

Articles 3, 5 and 10, paragraph 1, of the Convention, branch (e) (old-age benefits). In its previous comments the Committee had drawn the attention of the Government to the fact that the "social pension" to which all Italian citizens are entitled, who are above the age of 65 years and who satisfy certain means criteria, under the terms of article 26 of Law No. 153 of 30 April 1969, should be regarded as falling within the scope of this Convention, especially since the payment of this benefit is automatically guaranteed if the required conditions of the means test are fulfilled, and it is therefore not a benefit excluded from the purview of the Convention, but is a non-contributory social security benefit of the type indicated in Article 2, paragraph 6(a) of the Convention. The Government had referred in its earlier report to a European Community Court of Justice Judgement of 5 May 1983, according to which a benefit such as the one provided under article 26 of Law No. 153 of 30 April 1969 in principle falls within the scope of social security, inasmuch as, on the one hand, it confers a legally defined position on the beneficiaries, apart from any individual or discretionary assessment of personal situations or needs and, on the other hand, it helps to ensure supplementary income to the beneficiaries of social security benefits. The Committee has noted this information with interest. In the light of this judgement and these comments, the Committee once again expresses the hope that the Government will re-examine its position with regard to the true character and designation of "social pension" with a view to applying the Convention and that it will indicate progress made in this respect in its next report.

#### Mauritania (ratification: 1968)

The Committee notes with regret that for the third year in succession the Government's report has not been received. It therefore again expresses the hope that a report will be supplied for

examination by the Committee at its next session and that it will contain the information called for in relation to Articles 3 to 11 of the Convention in accordance with the report form adopted by the Governing Body of the ILO.

Suriname (ratification: 1976)

Articles 4 and 5 of the Convention - branch (g) (employment injury benefit). In its previous comments the Committee drew the Government's attention to the fact that section 6, subsection 8, of the Accidents Regulations (Decree No. 145 of 1947) as amended by Decree E-38 of 20 January 1983 is not entirely in conformity with the Convention in so far as it provides only for the possibility for a beneficiary to request the conversion of his employment injury pension into a lump sum if he transfers his residence abroad before the expiry of a three-year period from the date of the accident. In fact under the Convention employment injury pensions must continue to be paid without restriction where the beneficiary, whether a national of Suriname or of any State that has accepted the obligations of the Convention in respect of this branch, transfers his residence outside the territory.

In its report the Government indicates, concerning the discussions it was going to have with the insurance companies, that these talks have not yet led to a solution. It also indicates that an ILO/UNDP project on the introduction of a social security scheme is under discussion. In conformity with the observations of the Committee of Experts, a Decree amending the Accidents Regulations has been drafted and shortly this draft Decree will be presented by the Minister of Labour to the tripartite labour advisory board for advice. Lastly, the Government adds that although it is not explicitly so stated in the Accidents Regulations, section 6 and section 10, para. 6, of the Act mean that the insurance companies are legally obliged to guarantee the payment of periodical benefits abroad and the Act is implemented in this manner. As already stated in the previous reports, in situations of transfer of residence outside the country, requests for conversion into a lump sum have, even prior to the coming into force of Decree E-38, been granted by the Accidents Committee, in accordance with section 18, para. 2 of the Act, before the end of the three years' term.

The Committee notes this information with interest. It therefore considers that the Government should have no difficulty in giving full effect to these provisions of the Convention by expressly removing all restrictions on payment abroad of periodical benefits payable in cases of permanent disability, even if the degree of incapacity is still subject to review (but without prejudice to any measures that might be taken, in particular within the framework of arrangements and agreements contemplated by Articles 9 and 11 of the Convention in order to avoid cumulation of benefits and provide for checking of the condition of injured persons resident abroad).

The Committee consequently expresses again the hope that the above-mentioned draft Decree amending the Accidents Regulations will soon be adopted, and that section 6, subsection 8, of Decree No. 145

of 1947 will be repealed. It also hopes that machinery will be provided for the payment of benefits in the event of residence abroad. With respect to the above, the Committee requests the Government to supply any indication in regard to the adoption of the draft Social Security Act elaborated in the context of the ILO/UNDP project, which states in section 25(1)(g) that "regulations may provide for the treatment of benefit entitlement for persons no longer ordinarily resident in Suriname".

In addition, the Committee again requests the Government to specify the laws, regulations or other provisions whereby the payment of employment injury pensions abroad is guaranteed to injured persons once the above-mentioned three-year period has expired as well as to the dependants of injured persons where they are resident abroad.

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

### Convention No. 119: Guarding of Machinery, 1963

#### Congo (ratification: 1964)

Further to its previous observations, the Committee notes with satisfaction the adoption, under sections 135 and 137 of the Labour Code, of Government Orders No. 9029 MTRFPSPS/DGT/DSSHST respecting dangerous machinery and guards for dangerous machinery, No. 9030 MTRFPSPS/DGT/DSSHST to set up health and safety committees in enterprises and No. 9031 MTRFPSPS/DGT/DSSHST for the establishment, organisation and operation of the Committee for the Certification of Dangerous Machinery, of 10 December 1986. The Committee has examined the provisions of the Government Orders and notes that they give full effect to the Convention and that, in particular, in accordance with Article 2, paragraph 2, of the Convention, section 2 of Order No. 9029 prohibits the exhibition, sale or hire, the transfer in any other manner or the use of apparatus, machinery or parts of dangerous machinery that are not so assembled, installed or protected as to meet requirements that are officially established, or recognised as such, and ensure the safety and health of the workers.

#### Ecuador (ratification: 1969)

Further to its previous observations, the Committee notes with satisfaction that the Regulations on the Health and Safety of Workers and the Improvement of the Working Environment have been adopted by Decree No. 2393 of 13 November 1986 and promulgated in the Official Gazette, No. 565 of 17 November 1986, and that they give effect to the provisions of Articles 2 and 3 of the Convention (which prohibit the

sale, hire, transfer in any other manner or exhibition of dangerous machinery which is not equipped with appropriate guards).

Ghana (ratification: 1965)

Articles 1 and 17 of the Convention. With regard to the application of the Convention in mines, the Committee has taken note of the texts of the Mining Regulations, 1970, the Mining (Amendment) Regulations, 1971, the Explosives Regulations, 1970, and the Explosives (Amendment) Regulations, 1971, supplied by the Government.

In earlier comments, the Committee noted that measures had yet to be adopted to give effect to the Convention in agriculture, forestry, road and rail transport and shipping.

The Committee notes from the Government's latest report that the Government will now undertake consultations with the ministries and the sectors concerned in order to obtain their views, after which the Tripartite National Advisory Committee on Labour will consider the matter. Since this matter has been the subject of comments for a number of years and assurances were given by the Government on many occasions, the Committee hopes that the necessary action will at last be taken to ensure the guarding of machinery in the sectors concerned and that the Government will soon report concrete progress towards the adoption of the statutory instruments required.

[The Government is asked to report in detail for the period ending 30 June 1990.]

Niger (ratification: 1964)

The Committee notes with regret that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

The Committee has noted from the Government's report for the period ended June 1985 that the draft Decree to issue the rules on safety and health to be observed in the use of machinery, which was intended to give effect to the Convention, had been amended to take account of the earlier comments of the Committee. The Committee hopes that this draft will be adopted shortly and that it will also take account of the comments made in a request addressed directly to the Government.

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

Sierra Leone (ratification: 1964)

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

The Committee noted the information supplied by the Government to the Conference Committee in 1988 in reply to its previous observations, to the effect that the Factories Act was

adopted by Parliament in 1987 and was due to come into force in 1988. The Committee trusts that the provisions of this Act give effect to Part II of the Convention (prohibition of the sale, hire, transfer in any manner and exhibition of unguarded machinery) and to Article 17 (application of the provisions of the Convention to all sectors of economic activity). It requests the Government to supply a copy of the new Act with its next report.

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

#### Turkey (ratification: 1967)

The Committee notes with interest the adoption in December 1984 and January 1985 respectively of the General Safety Rules against Occupational Accidents in Machinery and the General Rules concerning Guarding and Safe Use of Woodworking Machinery, prepared by the Turkish Standards Institute.

Article 16 of the Convention. The Committee notes from the Government's report that, after examining the relevant files, no information has been found indicating that employers' and workers' organisations were consulted during the formulation of the General Safety Rules against Occupational Accidents in Machinery and the General Rules concerning Guarding and Safe Use of Woodworking Machinery.

The Committee points out that by virtue of Article 16 of the Convention, any national laws or regulations giving effect to the provisions of the Convention shall be made by the competent authority after consultation with the most representative organisations of employers and workers concerned.

The Committee hopes that in future the requirements of the Convention in this respect will be taken into account.

Article 15. The Committee notes the information supplied by the Government in its report that the 1983 Regulations on the Guarding of Machinery are enforced partly through inspection activities designed to ensure the practical application of these provisions and partly through the penalties specified in Labour Act No. 1475, which can be imposed in cases of violations of the above Regulations.

The Committee requests the Government to supply information on any measure that is taken to ensure the effective application of the 1983 Regulations on the Guarding of Machinery. In particular, the Committee requests the Government to supply information on the effect given in practice to section 16 of the Regulations, particularly by supplying copies of inspection reports on the application of the 1983 Regulations on the Guarding of Machinery and by indicating the number of violations of its provisions reported and the sanctions imposed.

Article 17. The Committee has been referring for many years to the exclusion of the agricultural sector and sea and air transport from the scope of the provisions that give effect to the Convention. It notes that the above sectors are explicitly excluded from the scope of the Labour Act under the terms of section 5(1) and (2) of the Act,



and that the scope of the 1983 Regulations on the Guarding of Machinery is restricted to the commercial and industrial sectors.

The Committee points out that, by virtue of the requirements of Article 17 of the Convention, its provisions shall be applied in all branches of economic activity.

In its last report, the Government indicates that the exclusion of certain sectors from the scope of the Labour Act has not prevented the adoption of other measures to give effect to the Convention in these sectors.

As regards sea transport, the Government referred to the Sea Labour Act No. 854. The Committee notes that this Act does not contain provisions on the guarding of machinery.

The Government also indicates that the provisions of Labour Act No. 1475 are applied to the production, repair and maintenance of agricultural machinery and to the land services of air transport. The Committee takes due note of this statement and hopes that the Government will supply copies of the provisions adopted to this effect.

Furthermore, the Committee hopes that the necessary measures will be taken to extend the application of the Labour Act and the Regulations to the whole of the agricultural sector, to the extent required by Article 1(3)(b) of the Convention, and to air and sea transport and to other sectors of economic activity that are excluded from the scope of the Labour Act and that the Government will report in the near future the progress made in this respect.

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

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

#### Madagascar (ratification: 1964)

The Committee notes with regret that no report has been received by the Government. It must therefore repeat its previous observation on the following matters:

For many years, the Committee has been calling attention to the fact that there are no specific laws or regulations to ensure the full application of Articles 14 and 18 of the Convention, which provide that seats shall be supplied to all workers without distinction of sex and that noise and vibrations likely to have harmful effects on workers shall be reduced as far as possible. Since 1975, the Government has stated in its reports that the Order provided for by the Labour Code of 1975 would give full effect to the above-mentioned provisions of the Convention. The Committee has noted from the Government's last report for the period ending October 1981 that no progress appeared to have been made in the adoption of this Order. It trusts that this Order will be adopted in the near future and that it will give full effect to the provisions of the Convention.



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

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

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

### Convention No. 121: Employment Injury Benefits, 1964

Guinea (ratification: 1967)

1. With reference to its earlier comments, the Committee takes note of the information provided by the Government, concerning in particular Article 25 of the Convention.

2. The Committee also notes with interest that, according to the information provided by the Government, the draft Social Security Code contains a number of provisions which enable effect to be given to the Convention. The Committee hopes that the new Social Security Code and the regulations issued under it will be adopted shortly and that they will ensure full effect to be given to the provisions of the Convention, particularly with regard to the following Articles which have been the subject of the Committee's comments for many years: Article 8 (List of occupational diseases); Article 15, paragraph 1 (Conversion of periodical payment into a lump sum); Article 22, paragraph 2 (Payment of part of the cash benefit to dependants in the event of suspension of the benefit).

3. Articles 19 and 20. The Committee takes note of certain statistical data provided by the Government. It observes, however, that the data are not sufficient to determine whether the amounts of the benefits paid in the event of temporary incapacity, permanent incapacity and death of the breadwinner (taking into consideration the family allowances paid before and, where appropriate, during the contingency) attain the level prescribed by the Convention. It therefore asks the Government to indicate whether recourse is had to Article 19 or to Article 20 of the Convention to establish that the percentages required by schedule II of this instrument are attained, and to provide the statistical information required by the report form adopted by the Governing Body, under Articles 19 or 20, according to the choice made.

4. Article 21. In its previous comments, the Committee asked the Government to supply information on the measures taken to ensure application of this provision of the Convention, which provides that the rates of cash benefits currently payable in respect of industrial accidents and occupational diseases shall be reviewed following substantial changes in the general level of earnings where these result from substantial changes in the cost of living. Given the importance it attaches to the adjustment of benefits, particularly in the present general economic situation, the Committee hopes that the

Government will not fail to include the information requested in its next report, particularly the statistics required by the report form under this Article of the Convention.

5. Lastly, the Committee asks the Government to provide the texts of any law or regulations concerning compensation for industrial accidents and occupational diseases for public servants coming under the public service rules and who are not covered by the general social security system.

#### Netherlands (ratification: 1966)

The Committee has been informed that the Government of the Netherlands, in a communication dated 15 June 1989, has formally withdrawn its denunciation of this Convention, which would have come into effect on 22 July 1989. The Committee has noted this information with satisfaction.

#### Senegal (ratification: 1962)

Article 8 of the Convention. In its previous comments, the Committee had pointed out that the list of occupational diseases, established by Decree No. 9634bis of 14 November 1958 (modified by Decree No. 5199 of 18 April 1960), did not conform fully to the list of occupational diseases in Schedule I of the Convention to the extent that the national list of occupational diseases, on the one hand, set forth a limited number of diseases likely to be caused by substances mentioned in the Convention and, on the other hand, generally does not cover all these substances.

In its previous report for the period ending 30 June 1985 the Government had included a draft list of occupational diseases, which the Committee had considered sufficient to permit the application of this provision of the Convention. The Committee had therefore expressed the hope, in a direct request made in 1987, that this draft list be adopted in the near future, and had requested the Government to communicate the text, once it had been adopted.

In its latest report, the Government submitted a new draft list of occupational diseases, which is now at a very advanced stage and should be adopted in the near future after approval by the National Consultative Council of Labour. The Committee takes note of this new draft. It notes, however, that this new draft list is not in conformity with the list in the appendix of the Convention on a certain number of points, to the extent that it is drawn up in a manner which is similar to the list of occupational diseases currently in force.

In the first place, the Committee is bound to point out that the new draft list of occupational diseases contains in the left-hand column a restrictive enumeration of certain diseases which would entitle a person to compensation, whereas the list attached to the Convention is formulated in general terms so as to cover all diseases and disorders caused by the toxic substances or noxious agents mentioned by the Convention.

Secondly, the new draft list of occupational diseases in general does not cover all the substances, exposure to which is likely to cause diseases. The following are the substances concerned: phosphorus or its toxic compounds (item No. 17 of the draft list mentions only phosphorus and sesquisulphur of phosphorus, and item No. 33 pyrophosphate phosphates and alcoyl aryle thiophosphates or alcoyl aryle and other organic phosphorus, as well as phosphoramides and anticholinesterasic carbonates); chromium or its toxic compounds (item No. 10 mentions only chromic acid as well as alkaline chromates and bichromates, chromate of zinc and sulfate of chromium); manganese or its toxic compounds (item No. 38 mentions only bioxide of manganese); toxic halogen derivatives of aliphatic hydrocarbons (item No. 12 mentions only a few of these derivatives); benzene or its toxic homologues (item No. 4 mentions only benzene and its derivatives, and item No. 5, benzene, toluene, xylenes and their derivatives); toxic nitro and amino derivatives of benzene or its homologues (item No. 13 mentions only nitric and chloronitric derivatives of benzene carbide).

Thirdly, with regard to primary epitheliomatous cancer of the skin, the new draft list of occupational diseases does not mention all the substances mentioned by the Convention as being likely to cause this disease (item No. 16 mentions only tar, pitch and anthracene).

The Committee therefore hopes that in the near future the Government will be able to adopt the necessary measures to give full effect to the Convention by completing the draft list of occupational diseases communicated in its last report with due regard to the above comments, unless it prefers to adopt without alteration the draft list of occupational diseases communicated with its previous report on the period ending 30 June 1985. The Committee trusts that the next report from the Government will be able to specify the progress made in ensuring full application of this provision of the Convention which has been the subject of comments for over 20 years.

Furthermore, the Committee would again request the Government to supply information on certain points raised in a direct request to the Government.

[The Government is asked to report in detail for the period ending 30 June 1990.]

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In addition, requests regarding certain points are being addressed directly to the following States: Bolivia, Ecuador, Finland, Japan, Libyan Arab Jamahiriya, Luxembourg, Netherlands, Senegal, Venezuela, Yugoslavia.

### Convention No. 122: Employment Policy, 1964

#### Algeria (ratification: 1969)

1. The Committee notes the Government's report for the period ending 30 June 1988 and the information supplied in reply to its

previous comments. The report shows that the Government has had to face two types of constraints. On the one hand, external constraints resulting from the world economic crisis, which have made it necessary to reduce investment plans over recent years and has led to a contraction of the labour market. On the other hand, internal constraints of a demographic nature, resulting from the rapid growth of the population, which has had the effect of increasing the number of jobseekers each year, the control of which has been a major concern to the Government. The general orientations of the Government's employment policy emphasise the mobilisation and rational utilisation of human resources, within the framework of measures intended to achieve a better balance on the labour market. The Government states that employment is the fundamental element in the 1989 annual plan, and that the priorities that have been set out are intended to create 90,000 permanent jobs in the public and private sectors, considered complementary. A specific programme for the employment of young persons was set up in 1988 with the objective of occupying almost 100,000 young persons. The Committee would be grateful if the Government, in its next report, would provide information to assess the extent to which the employment objective set out for the 1985-89 five-year period have been achieved and to identify the difficulties that have been encountered. It also hopes that the Government's next report will contain information on the measures that have been taken or are envisaged, within the context of a co-ordinated economic and social policy, to achieve the objectives of the Convention, with particular reference to measures intended to balance the supply and demand of labour, at professional and geographical level, including the measures to adjust the workforce to structural changes (Articles 1 and 2 of the Convention).

2. Additionally, the Committee is sending to the Government a direct request on other points, specifically concerning new development plans and programmes, statistical data on the employment situation in the various regions of the country, measures taken as regard to the needs of youth, women, disabled workers, migrant workers and consultation with representatives of private employers or of other persons concerned such as those employed in the rural sector (Article 3).

#### Australia (ratification: 1969)

1. The Committee has noted the Government's helpful and detailed report for the period ending June 1988, containing replies to the previous observation. It notes in particular the enactment of the Employment, Education and Training Act (No. 80 of 1988) which aims at providing a co-ordinated framework of advisory structures in employment, education and training. The report, recognising that labour market outcomes are the result of a broad range of macroeconomic and microeconomic policies, describes the Government's policies in various fields as they relate to employment: such as fiscal and monetary policies; investment policies including tax reforms; industry and trade policies including reducing significantly assistance to industry; and prices, incomes and wages policies

including the introduction of a two-tiered wage system by the National Wage Case decision of 10 March 1987, with a view to replacing the system of wage indexation which had operated since 1983. As to the labour market policies, the Government indicates the shift in emphasis in favour of education and training, moving away from job-creation activity lacking a formal training element, as well as the high priority given to assisting the long-term unemployed and other particularly disadvantaged persons.

2. The Committee notes with interest a variety of schemes and programmes for job creation and employment assistance and for education and training referred to in the report, some of which have recently been undergoing revision and reorganisation (for example, the abolition in 1987, in line with the above-mentioned shift in emphasis in government policy, of a short-term job creation scheme, the Community Employment Programme; the integration of some community-based assistance programmes into a new one called "Skillshare" targeted specifically at long-term unemployed and other disadvantaged groups).

3. The Committee notes the Government's indication that strong employment growth in 1987-88 (with full-time employment rising by 2.4 per cent and part-time employment by 5.8 per cent) more than offset the increase in the labour force, and the unemployment rate declined from 8.4 per cent in January 1987 to 7.3 per cent in June 1988; a fall in long-term unemployment is also pointed out. It hopes that the Government will continue to supply information on the development and results of the policies to achieve the aims of the Convention, with particular reference to the effects of labour market programmes, especially training programmes, upon subsequent employment of persons involved. The Committee would also be grateful if the Government would provide an evaluation of the impact on the labour market of changes in industry and trade policy and in the wage-fixing system.

4. Concerning the machinery for consultation with the persons affected (Article 3 of the Convention), the Committee notes that the Australian Council for Employment and Training has been replaced by the National Board for Employment, Education and Training, established under the above-mentioned Act, consisting of members appointed by virtue of individual skills and expertise (however, two of them are required to have expertise relating to trade unions and two relating to business or industry). The Committee looks forward to receiving further information on advisory activities of this Board and other advisory councils and committees under the said Act as well as on relevant policies and programmes consequently developed. Finally, it would also be grateful if the Government would supply information on the consideration given to the recommendations, relevant to the matters covered by the Convention, made by the National Labour Consultative Council in its 1987 report on "Labour Market Flexibility in the Australian Setting".

#### Chile (ratification: 1968)

1. The Committee notes the Government's detailed report for the period between July 1986 and June 1988. In its previous observation,

the Committee requested the Government to pay particular attention to information on the evolution of employment in the public and private sectors, on the role played by the informal sector in job creation, on the unemployment situation of educated young persons and on productive employment and on the employment created through special programmes such as the Minimum Employment Programme (PEM) and the Employment Programme for Heads of Households (POJH). Furthermore, the Committee expressed its concern at the ability of the measures adopted by the Government to ensure both that the system of education and training is designed to meet the needs of the national economy and that there is the opportunity for individuals to qualify for and use their skills in jobs for which they are well suited, as required by Article 1 of the Convention.

2. As regards overall policy measures, the Government has supplied an analysis containing information on the co-ordination of tariff, fiscal, investment and taxation policies and their impact on employment policy, prepared by the National Planning Office (ODEPLAN). In this document, it is stated that, in order to resolve the problem of debt in a realistic manner and seek measures to lessen its financial burden, adjustment by means of expansion of the economy was sought. In view of the existence of a secondary market for Chilean external debt, a system was introduced authorising its capitalisation through the conversion of external debt shares into domestic bonds, and it is claimed that these incentives to investment were an important stimulus to employment in the medium term and resulted in increases in real incomes. In its assessment of the results of the strategy adopted to overcome the effects of the economic crisis in 1982, ODEPLAN indicates that the economic recovery (a sustained growth rate of nearly 5 per cent annually since 1984) and especially the boom in the export sector have permitted a considerable reduction in unemployment. The Committee notes with interest that the information supplied by the Government shows an increase of 6.4 per cent in the number of persons employed for the period July 1987–September 1988, a decrease of 8.2 per cent in the number of unemployed persons and a fall of 3.4 per cent in the unemployment rate, which was estimated at 8.7 per cent of the economically active population in 1988. The information supplied by the Regional Employment Programme for Latin America and the Caribbean (PREALC) confirms this trend in employment and unemployment, but indicates that this improvement was not accompanied by an equally significant recuperation of real incomes since the remuneration of most workers, and particularly those in the construction and agricultural sectors, and the least skilled, remained very low. In parallel, the number of persons registered under government employment programmes, which was higher than 500,000 workers in 1983, also fell drastically. In September 1988, 5,413 persons were registered under the PEM and 20,583 under the POJH. In a general report for the period ending 30 June 1989, the Government states that in December 1989 the PEM and POJH programmes were terminated, following the transfer of those registered under these programmes to stable and productive employment.

3. As regards education and vocational training policies, the Government's report describes the "enterprises' programme", under which part of the cost of staff training measures can be offset, and



the vocational training programmes administered by the National Training and Employment Service (SENCE). The Government indicates that within each university and vocational training institute the occupational careers that are available are matched with those requested by the students. It also states that, although there have been dismissals of teaching staff, there have been no cases of conscientious students being unable to obtain diplomas, because, as a criterion for the rationalisation, it was decided to maintain the student/teacher ratio in proportion to the needs of each municipalities. The Government supplies information on the number of teachers who were dismissed (6,118 teachers) and states that the number of actual dismissals only represented 2.5 per cent of the total number of teachers in the education sector. In this respect, the Committee recalls that the Conference Committee, at its 1987 Session, shared, in particular, its concerns in relation to the dismissal of teachers and the political aspects of education and training as elements of an employment policy. The Committee on Freedom of Association also urged the Government to examine the possibility, within the flexibility measures introduced for the reinstatement of teachers, to give particular consideration to the case of laid off teachers who were trade union officers.

4. The Committee would be grateful if the Government would continue supplying information on the matters raised in this observation and the information required by the report form under Articles 1, 2 and 3 of the Convention on new employment policy measures adopted to attain the objectives of the Convention. It trusts that, in particular, information will be supplied on the wages and incomes policy, the measures designed to harmonise the supply and demand of labour and structural changes, teaching and vocational training policies and measures to guarantee that each worker has the opportunity to acquire the necessary training. The Committee would also be grateful if the Government would describe the measures that have been taken to meet the needs of particular categories of workers (women, young persons, the disabled, indigenous populations, etc.). Finally, the Committee would be grateful if the Government would supply additional information on the procedures adopted to ensure that the effects on employment of measures taken to promote economic development or other economic and social objectives receive due consideration (Article 2) and also on consultations with representatives of social partners in relation to employment policy, with particular reference to consultations with representatives of other sectors of the economically active population such as the rural sector and the informal sector (Article 3).

#### Denmark (ratification: 1970)

The Committee notes the brief report of the Government received during the present session. It notes, according to figures published by the OECD, that total employment fell in 1988 and that the unemployment rate rose from 7.9 per cent in 1986-87, to 8.6 per cent in 1988 and was expected to exceed 9 per cent in 1989. Referring also to its 1987 observation, the Committee hopes the Government will

supply a detailed report for examination at its next session, containing the information specifically requested by the report form for the Convention on the principal policies pursued and measures taken with the aims of the Convention as to full and productive employment as a major goal in mind.

France (ratification: 1971)

1. The Committee notes the information supplied by the Government for the period 1986-88 which is contained in the Employment Delegation document "Assessment of Activities 1987-88", to which the list of new texts respecting employment is attached.

2. The Government recalls the directions in which employment policy has been developing for several years. These are four in number and, as the Committee noted in its previous comments, mainly cover:

- (i) facilitating the transformation of enterprises and taking measures to assist and support restructuring;
- (ii) promoting the vocational and occupational reintegration into the workforce of vulnerable groups such as young persons, the long-term unemployed and the disabled by means of various forms of specific assistance for employment and training;
- (iii) encouraging both the development of employment through the creation of enterprises and the creation of new activities, particularly through a policy of local incentives and activities;
- (iv) protecting loss of income through unemployment benefits and using these benefits more actively to stimulate the reintegration of jobseekers.

3. The document by the Employment Delegation mentioned above gives a detailed account for 1987-88 of the measures taken in those four main policy areas. The Committee notes in particular that, as regards young persons, who account for 30 per cent of jobseekers, the programmes that have been pursued (employment opportunity activities, training courses, contracts involving alternate training and employment) benefited 1,200,000 young persons in 1987 and had a positive impact in terms of employment. These measures, which broadly involve all the partners in employment policy (enterprises, territorial communities, training institutions), were to be pursued in 1989 with the objective of maintaining the levels attained as regards the number of young persons involved and improving the quality of the activities, particularly as regards training. The document also describes a series of measures that were introduced in 1987 and developed in 1988 to promote the social and vocational reintegration of the long-term unemployed through training and recruitment incentives. Although it is still difficult to assess the full effects of these measures on employment, the extent of the phenomenon of long-term unemployment (840,000 persons without a job for more than one year in 1987) is of concern to the authorities who consider it to be "the most serious problem on the labour market". The Committee notes that assistance to the unemployed by way of the creation of



enterprises, which the Committee noted in its previous observation as the principal employment promotion measure, has not yet been the subject of an official and systematic assessment.

4. The Committee appreciates the information contained in the document prepared by the Employment Delegation, although it considers that this information only partially responds to the Committee's previous comments and the requests set out in the report form for the Convention. Based on specific employment and labour-market management policies, the Government's report does not fully permit an overall appraisal of the employment policy, in the meaning of the Convention, and fails to supply information on the situation, level and trends of employment and unemployment.

5. According to the information contained in official documents prepared by national bodies (the National Institute of Statistics and Economic Studies) and international organisations (the annual reports and economic surveys of the OECD), the Committee believes that it can identify the following trends: after several years of contraction, jobs started to be created in 1987, and this trend was confirmed in 1988 when there was a particular increase in job creation in commercial sectors other than agriculture (in particular the manufacturing and construction industries). However, the recovery was still too limited (0.1 per cent in 1987 and 0.8 per cent in 1988) to result in a significant reduction in the unemployment rate, which remained over 10 per cent in 1987 and 1988 and was among the highest of the seven major economies in the OECD. Furthermore, two trends appear to have been strengthened: periods of unemployment are continuing to grow longer and "particular forms" of employment are increasing at the same rate as the fall in full-time salaried employment. The relationship between precarious forms of employment and unemployment is suggested by the fact that in 1987 over half the persons who became unemployed did so after the termination of contracts for a limited period (fixed-term and temporary contracts).

6. In view of these developments, of the relative impact of specific employment policies and the limits attained by "social treatment" measures to deal with unemployment, which remain a massive problem (affecting between 2.4 and 2.5 million economically active persons in 1987 and 1988), the Committee would be grateful if the Government would indicate in greater detail the measures that have been taken or are envisaged to give effect to the fundamental provisions of the Convention, including those of Article 1 which call for an active policy designed to promote full, productive and freely chosen employment to be declared and pursued "as a major goal", and Article 2 which provides that the measures to be adopted for the achievement of these objectives must be decided upon and kept under review "within the framework of the co-ordinated economic and social policy". It hopes that the Government's next report will contain appropriate information that will enable the Committee to make a better assessment of the manner in which the Convention is applied as a whole.

Ireland (ratification: 1965)

1. The Committee takes note of the Government's report for the period ending June 1988 and the appended documents.

2. The Committee notes that the primary element in the Government's strategy for job creation is to create an environment conducive to investment and economic growth, generated by fiscal and monetary policies. The Government takes the view that the several key features in the performance of the economy (real GNP rose by 5 per cent in 1987) will aid employment creation and thus lessen the high level of unemployment. The cornerstone of Government employment policy is the Programme for National Recovery, a plan for achieving growth along with the maintenance of social equity, agreed upon, in October 1987, by the Government, the Irish Congress of Trade Unions, the Federated Union of Employers, the Confederation of Irish Industry, the Construction Industry Federation, the Irish Farmers Association, the Young Farmers Association and the Irish Co-operative Society. One of the major strategies of the Programme, which is to extend to the end of 1990, is to create viable jobs in the legitimate economy and not in the "black economy" according to the report. In the creation of new employment, it divides the economy into sectors and contains a series of specific measures and job targets, in particular the creation of 20,000 manufacturing jobs per year over the next ten years.

3. The Government report also supplies information on developments concerning its labour market policies. The Committee notes that under the Labour Services Act, 1987, the Training and Employment Authority (FAS) was established in January 1988, and that it now deals with the roles previously performed by the National Training Authority (AnCO), the National Manpower Service and the Youth Employment Agency. The major concerns of the FAS are to provide or encourage training and retraining for employment, to provide assistance in obtaining work experience and to contribute to the process of job creation through employment schemes, public employment, self-employment and to provide job placement and guidance services for the unemployed.

4. The Committee notes, from the Government's report and more recent data (Quarterly Economic Commentary of the Economic and Social Research Institute, Dublin, August 1984; 1989 OECD Economic Survey) that, after a slight fall in employment in 1987, the current employment picture appears to be a little more favourable. At the end of June 1988, the unemployment rate was 18.1 per cent, compared with a rate of 18.7 per cent in June 1987. Registered youth unemployment fell at a faster rate, but the number of unemployed aged 45 years or over increased, and about 45 per cent of the registered unemployed had been out of work for over one year. Further to its previous comments, the Committee notes that the employment situation remains a matter of great concern. The level of unemployment is one of the highest of the European countries (well above the average estimated rate for the region at 10.2 per cent in 1988), despite high and rising net emigration rates and a decline in the labour force participants.

5. In view of the above, the Committee would be grateful if the Government would, in its future reports, provide information on progress made in attaining the employment objectives of the Programme,

stating whether special difficulties have been encountered in this connection and indicating how far they have been overcome. Furthermore, it trusts that the Government will also forward copies of the discussion document announced in the Programme, which was to review legislative issues related to employment policies (unfair dismissal, employment equality, payment of wages); and the impact on employment creation of the measures taken by the Training and Employment Authority (FAS). The Committee hopes that the Government will make every effort to pursue, as a major goal, an active employment policy designed to promote full, productive and freely chosen employment in conformity with Article 1 of the Convention. It hopes that the Government will keep the measures taken for obtaining these objectives under close review, as required by Article 2 and that it will ensure, as required by Article 3, the necessary consultations with employers' and workers' organisations concerning the measures taken to implement the Convention.

Italy (ratification: 1971)

1. The Committee notes the information supplied by the Government in its report for the period ending 30 June 1988. The employment promotion policy follows two main directions: greater flexibility in the operation of the labour market and broader functions and responsibilities for the employment services. The measures taken by the Government are therefore intended to facilitate access to the labour market and to strengthen the structures for the integration of workers, and in particular young persons and women seeking their first job. The Government has supplied information in its report, in reply to the Committee's previous comments, on the impact of the programmes that have been adopted in terms of the persons affected.

2. More precisely, within the context of measures to increase the flexibility of the labour market, various standard-setting measures have been taken. Act No. 863 of 19 December 1984 introduced new formulae, such as "solidarity contracts", which are an outcome of agreements between enterprises and workers' organisations for a stable and programmed reduction in working time and remuneration, with the objective of avoiding the elimination of jobs or of creating new jobs. Act No. 863 also provides for "training and employment" contracts which make it possible to recruit young persons for a maximum period of 24 months, during which the employer undertakes to provide, in addition to the corresponding remuneration, appropriate vocational training. Between 1985 and 1987, 700,000 persons benefited under this type of contract. Act No. 863 also had the objective of developing part-time work, although the Government notes high resistance by workers to this type of employment, the relatively low importance of which in total employment is confirmed by statistics. More recently, other measures have been adopted, particularly with the objective of compensating for the accumulated inequalities of age, sex and region. Act No. 44 of 28 February 1986 is intended to promote the creation of enterprises and co-operatives by young persons in the Mezzogiorno. In June 1988, 185 projects had been approved, covering

3,281 jobs. Act No. 113 of 11 April 1986 is intended to promote the integration of young persons, women and the disabled who are the victims of long-term unemployment by encouraging their recruitment through tax relief. The report indicates that, through the "training contracts" provided for under this Act, by 31 December 1987 it had been possible to recruit 16,492 young persons. Direct subsidies were introduced under the Finance Act No. 67 of 11 March 1988 for manufacturing, handicrafts and co-operative enterprises which, between 1988 and 1992, were to take on workers with contracts for an undetermined period, while the Act also provided for the financing of local initiatives for community work to be undertaken in the Mezzogiorno.

3. Secondly, within the context of measures intended to strengthen the employment services, the Committee notes the creation of a general directorate to evaluate the labour market under Act No. 56 of 28 February 1987 respecting the organisation of the labour market, and to co-ordinate information and statistical data on employment. Regional employment commissions, set up under the regional labour and manpower offices, have been made responsible for managing the labour market, while employment agencies have been set up in areas that are particularly badly affected by unemployment.

4. Furthermore, the Committee notes the comments submitted by the General Confederation of Italian Agriculture (CONFAGRICOLTURA) and the Trade Union Association of Petrochemical Enterprises in the Public Sector (ASAP), transmitted by the Government in its report. The CONFAGRICOLTURA, which states that it is aware of the gravity and increasingly acute unemployment problem, refers to the contribution that has been made by the measures taken under the collective labour agreement for the agricultural sector and emphasises the value of Act No. 56, which enables the regional employment commissions to take charge at the regional and local levels of the application of measures for the placement of the unemployed and studies on the labour market. The ASAP notes that difficulties of a bureaucratic nature have impeded the regular and satisfactory application of measures for the creation of enterprises by young persons, particularly in the South of the country (the Mezzogiorno). It also draws attention more particularly, among other matters, to the importance of training and, especially, vocational guidance.

5. The Committee notes the efforts that have been made by the Government, which is devoting an increasingly large proportion of public assistance to activities for the disadvantaged regions and groups of the population (the South - the Mezzogiorno - and young persons, in particular), to promote an active employment policy in consultation with the representatives of the persons affected. It is nevertheless led to make a similar observation to that contained in its 1988 observation, namely that, from all appearances, the measures that have been taken have not up to the present time made it possible to resolve an employment situation that remains worrying. Despite the sustained growth in production, the rate of job creation was not sufficient between 1986 and 1988 to decrease unemployment, the rate of which was 12 and 12.1 per cent in 1987 and 1988, according to OECD data. There continued to be considerable differences between: regions (the South had an unemployment rate of 19.2 per cent in 1987,

as compared with 8.4 per cent in the industrialised regions in the North and the centre of the country); age groups (with a national unemployment rate of 35.6 per cent of the 14-25 year-olds and of 53.1 per cent in the South for the same group); and sex (8.1 per cent of the active male population was unemployed in 1987 as compared with 18.7 per cent of women). The Committee hopes that the Government will strengthen the measures to promote the objectives of the Convention as set out in Article 1, and will report the particular difficulties encountered in achieving these objectives and the extent to which they have been overcome. It would be grateful if the Government would continue to supply information on labour market policies, and particularly on measures intended to balance the supply and demand of labour at the occupational and geographical levels, including measures to adjust the workforce to structural changes, and measures intended to meet the needs of particular categories of workers. It also hopes that the next report will be supplemented by information on overall and sectoral development policies, including policies and measures for balanced regional development, and on the procedures adopted to ensure that the effects on employment of measures taken to promote economic development or other economic and social objectives receive due consideration (Article 2). Finally, the Committee would be grateful if the Government would supply full supplementary information providing details on the scope and outcome of consultations concerning employment policies with representatives of the persons affected by the measures that are to be taken (Article 3).

#### Madagascar (ratification: 1966)

The Committee notes with regret that for the sixth year in succession the Government's report has not been received. In 1984, it made a direct request raising various issues concerning the application of the Convention. It notes that Madagascar is receiving technical assistance from the ILO in the promotion of employment, notably with a view to encouraging labour-intensive works and in the field of vocational training. The Committee hopes the Government will supply a full report for examination at its next session.

#### Netherlands (ratification: 1967)

1. The Committee notes the Government's report for the period between June 1986 and June 1988. It also notes the statement by the Netherlands Council of Employers' Federations (RCO) expressing its agreement with the content of the Government's report. The Committee has also taken account of the information available to the Office or contained in the reports and periodical surveys of the OECD.

2. The Government has supplied substantial information and analyses on the labour market situation in relation to a number of questions raised in its 1987 observation. In overall terms, the following characteristics may be identified. Despite growth of employment (at the rate of 1.2 per cent in 1987 and 1 per cent in 1988), unemployment seems only to have declined slightly. The



unemployment rate, which the Government described as a "relative concept", is difficult to estimate. According to the new methods of calculation introduced by the Government, it was 8.7 per cent in 1987 and 8.3 per cent in 1988. The standardised rates calculated by the OECD are 9.6 per cent and 9.5 per cent, respectively. According to the information supplied by the Government in its report, there has been a relative improvement in the situation of young persons, although their rate of unemployment remains high. As regards long-term unemployment, although it ceased to increase in 1987, more than 53 per cent of the unemployed had been without work for more than one year. Very long-term unemployment (over two years) has continued to increase, with the longer period of unemployment decreasing opportunities for occupational reintegration.

3. The Government's report also contains detailed information on the measures that have been taken or are envisaged to meet the employment needs of young persons and of underprivileged groups and persons. Specific measures for the employment of young persons, such as the extension at the national level of the JOB plan (the temporary scheme for municipal employment initiatives for young people) are intended to ease their access to the labour market through improved vocational training. For the first time, in 1987, the objective that had been set in agreement with the social partners in 1984, of doubling the number of young persons admitted to the apprenticeship training system, was attained. In consultation with the Joint Industrial Labour Foundation, an Act was adopted in 1986 to promote the employment of the very long-term unemployed, through exemption from social security contributions and the provision of a part of their training and guidance costs. Emphasising the increased unemployment of ethnic minorities between 1986 and 1987, the Government indicates that these workers, in the same way as other categories of disadvantaged workers such as women and the disabled, will benefit from positive measures to promote their access to employment in the public sector.

4. The Government's report supplies more information on the various measures taken in recent years to promote labour market flexibility, both as regards internal flexibility (reduction of working hours) and external flexibility (part-time work, temporary work, fixed-term contracts, etc.). The conclusions of a survey referred to in the Government's report illustrate that flexible forms of employment are concentrated in lower category jobs and are mainly occupied by women. The forecasts made in this survey of an increase in these forms of employment in 1986 and 1987 appear to have been contradicted more recently by other surveys. Part-time employment represents a relatively high proportion of total employment (between 25 and 30 per cent in 1987-88). The Government emphasises that flexible forms of employment have both advantages and disadvantages: a flexible contract may be a means of obtaining a permanent job (as was the case in 1985-86 for more than 55 per cent of temporary workers or workers with a flexible contract), although training measures may have a lower cost-benefit ratio. The Committee recalls that the Government also indicated that these forms of employment relationship often place the worker in a weak position as regards the protection of his or her rights concerning dismissal, working hours and social

insurance. The Government puts forward the hypothesis that the economic recovery can explain the fact that in 1987 the growth in the number of flexible jobs ceased, although they had increased markedly during the first half of the 1980s. Finally, the Committee notes, from the Government's report on the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96), that a Bill is due to be adopted in the near future to organise the employment service on a tripartite basis and to authorise and regulate private employment agencies. The Committee refers to its direct request on Convention No. 96 as regards the conformity of the plan with the obligations that have been accepted under that Convention.

5. The Committee appreciates the repeated efforts by the Government to establish a detailed and documented report describing and analysing labour market measures and policies under their various aspects. It hopes that the Government will continue to supply information on the development of the labour market and the impact of measures that are taken to improve it, and that it will pay particular attention to the problems referred to in the Committee's comments due to their acute nature: long-term unemployment, the unemployment of young persons and other disadvantaged categories on the labour market, the development of particular forms of employment, policies as regards training, vocational rehabilitation and retraining, and measures to co-ordinate education and training policies with employment prospects. Furthermore, the Committee would be grateful if the Government would supply the information called for in the report form on overall and sectoral development policies (including fiscal and monetary policies; prices, incomes and wages policies; investment policy and trade policy), and on the procedures adopted to ensure that the effects on employment of measures taken to promote economic development or other economic and social objectives receive due consideration (Articles 1 and 2 of the Convention). Finally, the Committee would be grateful if the Government would supply information on the co-operation procedures with organisations of employers and workers that it proposes to introduce relating to the operation of the employment service and, more generally, on the manner in which representatives of these organisations and of other sectors of the economically active population are consulted concerning employment policies (Article 3).

#### Norway (ratification: 1966)

1. Further to its previous comments, the Committee notes the information on the employment and unemployment situation and trends supplied in the Government's clear and helpful report. It also takes into consideration information contained in the Government's report to the Fourth Conference of European Ministers of Labour (Copenhagen, October 1989), and in the annual OECD reports. The Government points out that the very marked increase in employment during 1986 and 1987 was due to both high output growth and the cut in normal working hours. The contractual weekly working hours were reduced from 40 to 37.5 with effect from January 1987. The weakening of economic activity during 1988 and the tighter economic policy led to a sharp

slow-down in employment growth in 1988. Unemployment climbed to an unusually high level in Norwegian terms, with 108,000 unemployed or 5 per cent of the labour force in the first quarter of 1989, compared with a rate of 2.2 per cent noted by the Committee in its 1987 observation. Unemployment rose in the case of both women and men, and most markedly among young workers. The increase in unemployment has been strongest in the larger conurbations, especially in western Norway.

2. With a view to curbing the increase in unemployment, the Government has called for intensive use of labour market programmes. As indicated in the 1989 Government's report on Convention (No. 88) concerning the Employment Service, 1948, the Labour Market Administration's overall priority is "to get people back to work". The deterioration of labour market conditions has led the Government to introduce or to propose in 1989 various measures ranging from a reinforcement of already existing labour market programmes - with emphasis on skills training - to measures like speeding up public investments in roads, public buildings, etc., or concerning incomes policy legislation.

3. The Committee trusts that in its next report the Government will make reference to the results, in terms of job creation, of the programmes mentioned above and will also describe the overall and sectoral development policies, with particular reference to prices, incomes and wages and other measures taken with a view to ensuring that there is work for all who are available and seeking work (see report form under Article 1 of the Convention). It hopes that the Government will pursue and intensify its efforts to obtain again the positive results achieved in the recent past in promoting full employment, in consultation and co-operation with representatives of the persons affected by the measures to be taken, as required by the Convention.

#### Paraguay (ratification: 1969)

1. The Committee takes note of the Government's report. In a previous observation, the Committee requested information on the application of Articles 1, 2 and 3 of the Convention. In particular, it requested information on the extent to which employment objectives included in development plans and programmes were being attained, particularly those in the 1985-89 National Economic and Social Development Plan; the measures adopted to co-ordinate education and vocational training policies with employment prospects and opportunities; statistics on the labour market situation and on the consequences for job creation of measures such as major public works programmes and the main rural and agricultural settlement programmes. It also requested detailed information on the way in which consultation and collaboration is ensured with the representatives of the persons affected by employment policy.

2. In its reply, the Government describes recent trends in the economy, showing that the economic recovery process which began in 1984 continued in 1987 and 1988. GDP rose by 4.3 per cent and 6.2 per cent in 1987 and 1988 respectively. The data on the employment



situation for 1986 and 1987 show a drop in the number of unemployed despite the increase in the active population. In its analysis of the external factors obstructing production and employment growth, the report refers in particular to the terms of trade, the increase in interest rates and the foreign debt burden. In this connection, it provides detailed information on the amount, composition and trends of the external debt, whose balance represented 48.3 per cent of GDP in 1987; debt servicing as a proportion of the value of exports is estimated at approximately 70 per cent. The Government warns that if Paraguay has to service its external debt regularly in the years to come, it will undoubtedly be at the cost of reducing its economic growth rate to a minimum. The Government adds that the foregoing shows the need to propose a new policy on regular external debt servicing to the international co-operation organisations and external creditors. According to the Government, a sizeable reduction in external debt servicing will enable the country to return to former levels of economic growth.

3. The Committee takes note of the foregoing information and would be grateful if, in its next report, the Government could also include the information required by the report form for Articles 1 and 2 of the Convention. It would be useful for example if it stated the employment objectives included in development plans and programmes currently being implemented and described the main employment policy measures as well as the procedures adopted to ensure that the effects on employment of measures taken to promote economic development or other economic and social objectives receive due consideration.

4. The Committee notes that consultation and collaboration with employers and workers is ensured by their permanent participation in bodies such as the Council of State, the Social Welfare Institute, the National Service for the Promotion of Vocational Training, the National Workers' Bank, the National Council on Minimum Wages and the Permanent Board of Conciliation and Arbitration. The Committee would be grateful if, in its next report, the Government would include indications on employment policy measures that have been dealt with by the above bodies and on the consultations held with representatives of other sectors of the economically active population, such as workers in the rural and informal sectors. With regard to the purpose of consultations, the Committee recalls that Article 3 of the Convention provides that representatives of the persons affected should be consulted "with a view to taking fully into account their experience and views and securing their full co-operation in formulating and enlisting support for such policies".

5. In a direct request, the Committee asks for information on other questions related to the application of the Convention.

#### Peru (ratification: 1967)

1. The Committee notes the detailed report supplied by the Government for the period ending 30 June 1988. The Government has been pursuing an economic policy since 1985 designed to promote the expansion of internal demand and the full exploitation of existing capacity to reactivate production, increase employment and improve

wages and income distribution. In order to encourage the integration of the workforce into the labour market, the Government has carried out specific job-creation programmes, such as the Temporary Income Support Programme (PAIT), which is designed to increase the income from employment of the inhabitants of marginal urban areas, and the Emergency Employment Programme (PROEM), which is designed to facilitate the recruitment of new workers on a fixed-term basis.

2. The information supplied in the Government's report illustrates the positive results of this strategy during the years 1986-87. The rapid growth of the gross domestic product (8.3 per cent and 6.9 per cent in 1986 and 1987, respectively) resulted in higher levels of employment, while the rates of unemployment and underemployment decreased. In Metropolitan Lima, the unemployment rate was reduced to 5.4 per cent in 1986 and 4.8 per cent in 1987. From the second half of 1987, the pace of production began to decrease as a result of the progressive exhaustion of the existing capacity in a number of industrial sectors, the lower availability of the foreign exchange needed to provide the inputs for industry and the high dependence on foreign inputs, capital and technology. This gave rise to strong inflationary pressure due to excess demand. In 1988 the Government forecast a growth rate for the GDP of 2.9 per cent. Nevertheless, according to the National Planning Institute estimates referred to in the Government's report, it was forecast that there would be a fall in the GDP (of between 8 and 10 per cent in 1988 in relation with 1987) and a marked deterioration in the employment situation and in real incomes. The most recent data available to the Office, and particularly the information supplied by the Regional Employment Programme for Latin America and the Caribbean (PREALC), which the Committee notes, has confirmed these forecasts and trends for 1988.

3. As regards its medium-term policy, the Government supplies information concerning the objectives and strategy set out in the 1986-90 Plan. The creation of more than 1 million jobs has been envisaged, of which 500,000 temporary jobs are in the context of the PAIT. Indeed, considering the limitations of the productive sector to absorb the wide margin of unemployment that exists and the additional cohorts of workers on the labour market each year, the Government states that it has become indispensable to pursue the state programmes for the generation of employment and to support the informal and rural sectors during this period. The urban informal sector in particular, according to the Government, accounts for 40.9 per cent of the total economically active population and has an important role in the generation of income and jobs and has therefore been assigned particular priority in dealing with its problems. In this connection, the Government is implementing the Social and Job Development Project (PRODESE) to improve terms and conditions of employment, productivity and the incomes of those employed in the urban informal sector. Other important objectives for 1986-90 are public investment, with priority being given to labour-intensive projects, the realigning of technical options and human resource planning.

4. The Committee takes due note of the information supplied by the Government in its report and of its point-by-point reply to the comments made in its observation and direct request in 1988. Over

recent years, particular efforts have been made to increase the employment and the living standards of the most vulnerable categories of the population. The Committee is nevertheless concerned at the development since 1988 of the economic situation, which is characterised by recession, inflationary pressure, the application of austerity measures and their effects on employment, low labour productivity and low levels of income, which are concentrated in the urban informal sector and in rural areas. In this difficult situation for the application of the Convention, the Committee trusts that the Government will continue to make every effort to declare and pursue, as a major goal, an active policy designed to promote full, productive and freely chosen employment. The Committee would be grateful if the Government would continue supplying information on the extent to which the employment objectives included in its development plans and programmes are being attained and on any particular difficulties that have been encountered and the principal policies that have been applied in the sense of Articles 1, 2 and 3 of the Convention.

5. Other more specific matters concerning the application of the Convention are raised in a request that is being addressed directly to the Government.

#### Portugal (ratification: 1981)

1. The Committee takes note of the Government's report for the period ending June 1988. In its previous comments, the Committee noted with interest the adoption of a development programme, the "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 PCDED provides for an annual growth in employment of 1 per cent 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 is pleased to note that, according to the detailed information in the Government's report and more recent information published by the OECD (Economic Surveys, Portugal, July 1989), the recovery in economic activity has been accompanied by strong employment growth (2.5 per cent in 1987 and 1988) and a considerable decline (2.8 points) in the unemployment rate over two years (the unemployment rate dropped from 8.6 per cent in 1986 to 7.1 per cent in 1987, and to 5.8 per cent in 1988). The Committee notes with interest the considerable improvement in the overall labour market situation, which has taken place in the context of a structural adjustment policy and an active labour market policy which are geared towards the objectives and methods of application of the Convention as defined particularly in Articles 1 and 2.

The Committee hopes that the Government will pursue its efforts, in co-operation with the social partners, to promote, within the framework of a co-ordinated economic and social policy, full, productive and freely chosen employment in the meaning of the Convention, and to find solutions to the problems which, the Government stresses in its report, are among its main concerns:

unemployment of young people, long-term unemployment, the return flow of migrant workers, low productivity in small- and medium-sized enterprises and the problems of retraining their staff, the effects of the steep climb in inflation on wages, investment and growth.

2. In this connection, the Committee notes with interest that the Government envisages promoting an employment policy having a special impact on those groups of persons that experience the most serious difficulties in the labour market. The report provides detailed information on the action of the Institute for Employment and Vocational Training (IEFP) and the Inter-Ministerial Committee for Employment (CIME) within specific job-creation programmes and vocational training activities. The information shows the varying impact of the actions undertaken: certain programmes, which aimed to promote permanent employment (local employment initiatives, support for self-employment, support for former trainees from training centres), attracted approximately 3,700 persons, whereas other programmes, designed to employ young people for a given period, involved 28,800 persons. The Committee would be grateful if, in its next report, the Government would include more detailed information on the results of the various actions undertaken by the competent authorities to meet the needs of all categories of persons who frequently encounter difficulties in finding lasting employment. In this connection, it may be useful to refer to the suggestions included in Part III of the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169).

3. Article 3. In its previous observation, the Committee noted with interest the emphasis placed upon consultation and co-operation with the social partners, as an essential part of a strategy whose aims (modernisation of the economy and reduction of unemployment) may give rise to disputes. The Government provides little new information on this matter in its report. The Committee would be grateful if it would provide particulars of consultations on employment policies held with representatives of the persons affected, with particular reference to the terms and scope of agreements concluded by the social partners in the Standing Council for Social Consultation, and to the employment measures taken within the framework of the Tripartite Advisory Council of the Institute of Vocational Training and Employment (IFPE).

4. The Committee is also addressing a direct request to the Government concerning a number of other points.

#### Spain (ratification: 1970)

The Committee takes note of the communication from the Workers' Trade Union (USO), of Asturias, dated 17 July 1989, and of the Government's observations thereon, dated 2 February 1990. In a direct request, the Committee refers, in particular, to the questions raised concerning the employment policy measures adopted in connection with the restructuring and reindustrialisation process. The Committee recalls that it has already examined and commented on this problem in the past. The Committee hopes that, in its next report, the

Government will refer to the 1989 observation and will also provide the information asked for in the direct request.

Venezuela (ratification: 1982)

1. The Committee notes the Government's report. In reply to the specific questions raised in 1987 in a direct request, the Government has provided brief general information that emphasises the factors and obstacles of an external nature, and in particular the debt burden, and the need for international economic co-operation to ensure the effectiveness of employment policies.

2. With reference to the Committee's previous comments on this problem, the Government's report emphasises that in the context of the international economic crisis experienced over the past six years, any measure that is taken and pursued by the State in the field of employment generation policies will be ultimately conditioned by an international environment characterised by massive problems of indebtedness, a contraction of trade and declining economic activity. In this connection, the Government indicates that as a consequences of the adverse external situation, the measures required of governments by international financial bodies in order to obtain the necessary financial resources for their economic development are diametrically opposed to the principles contained in the Convention. The Government's report also points out that in 1986 Venezuela made the initial proposal for a High-Level Meeting on Employment and Structural Adjustment to be held in the ILO, which took place in November 1987 and was chaired by the Ministry of Labour of Venezuela. The documents placed before the High-Level Meeting for examination and the resulting papers have been of great value to the Government since they have added substance to the information that has been collected quantifying the extent of the employment problem at both the national and international levels. The fact of having recognised the problem of external debt and its consequences as a problem over and above any consideration of a narrow economic nature was a step forward that was absolutely necessary and that the Government considers to be vital for industrialised economies to understand that an international economic order cannot permit a region such as Latin America to remain outside world economic progress. In this context, the Government states that Venezuela as a country is fully identified with the principles of regional solidarity and considers that it was for this reason that the era of international co-operation and consultation began to resolve the problems that prevent development and aspirations towards social justice in the terms set out in the Convention.

3. The Committee would be grateful if the Government would continue supplying information on the relation between employment policies and programmes and structural adjustment policies and programmes and if it would indicate the methods and procedures that have been adopted to ensure that the impact of the latter on employment receive due consideration. Furthermore, more generally, the Committee requests the Government to supply full information in its next report on the application of the Convention, in reply to the

matters raised in relation to Articles 1, 2 and 3 of the Convention in a new direct request.

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In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Comoros, Cyprus, Djibouti, Ecuador, German Democratic Republic, Greece, Honduras, Israel, Jamaica, Japan, Jordan, Libyan Arab Jamahiriya, Madagascar, Mauritania, Nicaragua, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Portugal, Spain, Sudan, Uganda, Uruguay, Venezuela, Yugoslavia.

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

#### India (ratification: 1974)

Further to its previous comments, the Committee notes with satisfaction the Government's declaration made under Article 3 of the Convention raising the minimum age for admission to employment underground in mines from 16 to 18 years of age, in conformity with section 40 of the Mines Act, 1952, as amended in 1983.

#### Rwanda (ratification: 1970)

In its previous comments, the Committee has pointed out that Ministerial Circular No. 221/2243/10/473/325 of 29 December 1970 and Presidential Order No. 111/09 of 17 April 1978, to which the Government again refers in its report, do not suffice to ensure full application of the Convention. It recalls, in particular, that the above Ministerial Circular fixing the minimum age for underground work at 18 years, which is addressed to employers and labour inspectors requesting them to secure observance of the provisions of the Convention, does not replace the legislative provisions required by Article 2 of the Convention. Furthermore, for a number of years, the Government has indicated that a draft Order had been prepared under section 124 of the Labour Code, to provide that young people under 18 years of age shall not be "employed" or "work" underground in mines and quarries, in accordance with Article 2. The Committee notes that the Government does not mention this draft in its last report. The Committee also recalls that section 5 of Presidential Order No. 111/09 of 17 April 1978 prescribes the keeping of an employer's record at the workplace indicating the name and age of the workers, whereas Article 4, paragraph 4, of the Convention requires the employer's records to indicate, in respect of persons under the age of 20 who are employed or work underground, in addition to their date of birth, the date at which they were employed or worked underground in the undertaking for the first time. This information must also be included in the lists of such persons that the employer must make available to the workers' representatives at their request, in accordance with paragraph 5 of

this Article. The Committee therefore trusts that the draft Order to establish the minimum age of 18, in accordance with section 124 of the Labour Code will be adopted shortly. It hopes that the Order will also prescribe appropriate penalties to ensure enforcement of the minimum age provision, in accordance with Article 4, paragraph 1, of the Convention, and the keeping of the records and lists laid down in paragraphs 4 and 5 of the same Article, and will provide that they shall be made available to the workers' representatives.

The Committee trusts that the Government will indicate the measures taken to bring the national legislation into harmony with the Convention with regard to the above points.

Zambia (ratification: 1967)

Article 2, paragraph 3, of the Convention (minimum age in no case to be less than 16 years). With reference to its previous comments, the Committee notes with satisfaction the adoption on 15 August 1989 of the Employment of Women, Young Persons and Children (Amendment) Act (No. 14/1989)(Cap. 505). This amendment prohibits the employment or work of young persons in occupations which are likely to jeopardise their health, safety or morals until they have reached the age of 16, and then under certain conditions and as an exception only after consultation with the relevant occupational organisations.

The Committee also notes with interest, from the information supplied by the Government in its report in reply to its above comments, that the final version of the amendment to section 2117, paragraph 2, of the 1971 Mining Regulations has now been finalised and that it will be published in the near future as a statutory instrument. The Committee hopes that the adopted text of the amendment will be communicated to it in the near future and that it will confine the possibility of underground work in mines to the purposes of apprenticeship and vocational training to young persons over 16 years of age.

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

**Convention No. 124: Medical Examination of Young Persons (Underground Work)  
1965**

Requests regarding certain points are being addressed directly to the following States: Madagascar, Portugal, Uganda.

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



**Convention No. 125: Fishermen's Competency Certificates, 1966**Brazil (ratification: 1970)

The Committee notes with regret that the Government's report has not been received. It hopes a report will be supplied for examination at its next session and that it will deal with the matters again referred to in a direct request.

Sierra Leone (ratification: 1967)

The Committee notes with regret that the Government's reports on the present Convention and on Convention No. 126 have not been received. In its earlier comments, the Committee noted 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 indicated 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. 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 vessels manning and thus to draft regulations to apply the Convention. The Committee hopes that the reports due will be supplied and that 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. The Committee is again addressing a direct request to the Government concerning Convention No. 126.

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

**Convention No. 126: Accommodation of Crews (Fishermen), 1966**Panama (ratification: 1971)

Further to its previous observations and direct requests, the Committee notes with interest that Resolution No. 603-04-118-ALCN of 1988, approving Safety Regulations for fishing vessels of 24 metres and over, has made further provision for the maintenance of a system of regular inspection. The Government indicated in its report for the period ending 1988 that it hoped to implement the Convention in full within two years. It also referred to particular difficulties in applying the Convention to existing vessels.

The Committee notes that the new Regulations include provisions covering several of the items in Part III of the Convention, in addition to those dealt with in Resolution No. 614-257-ALCN of 1984.



It proposes to consider the remaining questions at its next session. As for existing ships, the Committee has noted with interest the measures being taken by the Government; it hopes that the consultations provided for in Part IV of the Convention will be ensured in this connection.

Yugoslavia (ratification: 1973)

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

Article 8 of the Convention. The Committee noted that there is no special legislation concerning the heating of crew accommodation in vessels below 500 tons. The Government previously stated that the matter would be taken into account in the preparation at the levels of the Republic and of the Provinces of regulations on safety and health on sea-going vessels. The Committee hopes that the Government will find it possible to take measures in the near future to give effect to this Article of the Convention and that a detailed report will be supplied for examination by the Committee at its next session.

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In addition, requests regarding certain points are being addressed directly to the following States: Belgium, Denmark, Federal Republic of Germany, France, Netherlands, Sierra Leone.

**Convention No. 127: Maximum Weight, 1967**

Algeria (ratification: 1969)

In comments formulated over a period of several years, the Committee drew attention to the absence of laws and regulations limiting the weight of loads to be manually transported by adult males. Since the adoption of Ordinance No. 73-29 of 5 July 1973, which repealed the laws previously applicable, there has been no legislative or statutory provision limiting the weight of loads to be transported manually by women and young workers. The Government referred, on several occasions, to company or works agreements and to circulars and service notes which settled these questions at the level of individual firms and sectors of economic activity, without however supplying the texts of these agreements or circulars, despite repeated requests by the Committee. In 1989, the Committee noted the adoption of Act No. 88-07 of 26 January 1988 on occupational health and safety and occupational medicine, which establishes the principles applicable in this respect and only affects the application of the Convention in a very general manner.

In its latest report, the Government states that the Convention is being correctly applied in the country due to the utilisation of

appropriate technical methods in handling and maintenance work, and this in the Government's constant concern to improve working conditions with a view to reducing overwork, fatigue and the hazards to which workers are exposed. It further indicates that the priority given to the drafting of legislation, made necessary as a result of economic and political reforms, has delayed the enactment of legislation on the application of Act No. 88-07 of 26 January 1988 on occupational health and safety and occupational medicine, but that two draft decrees on the application of Act No. 88-07 are in the process of enactment. According to the Government, the first of these drafts, which deals with general prescriptions on protection in the matter of health and safety at the workplace, caters to the concerns expressed by the Convention.

The Committee has taken note of this information. It hopes that the draft in question will give effect to the provisions of the Convention and that the Government will be able to communicate the text adopted in the very near future.

[The Government is asked to report in detail for the period ending 30 June 1990.]

#### Madagascar (ratification: 1971)

In the comments that it has been making for a number of years, the Committee notes that measures have not yet been taken to limit the weight of loads that may be transported by adult male workers.

Even before the adoption of the Labour Code in 1975, the Government announced in its reports that texts to apply the Code would include a text to give effect to this Convention. In a report received in 1983, the Government confirmed this undertaking, although it pointed out that factories manufacturing jute and plastic sacks for rice, flour, etc., now respected the standard of 50 kg, and that the old sacks of 70 or 75 kg were disappearing since they were no longer being manufactured in Madagascar. In its report for the period ending 30 June 1986, the Government indicated that the above information concerning the current standardisation of sacks manufactured locally remained valid and that this practice would be laid down in regulations.

However, the Government's last report, which was received in 1989, and the two letters signed by the Minister of the Civil Service, Labour and Labour Legislation in 1988, which were attached to the report, show that, in practice, factories, traders, transporters and farmers use sacks of 90 kg, 75 kg or 70 kg, which are generally manufactured locally, even though certain enterprises which are the principle manufacturers of these articles currently respect the standard of 50 kg. Consequently, the use of sacks that are in conformity with the requirements of international standards would, in the opinion of the Government, give rise to problems at the level of manufacture and consumption and would create difficulties as regards production costs and prices for manufacturers, users, producers and farmers. In a letter to the social partners in November 1988, the Minister invited them to recommend production units, "in order to avoid the harmful effects of the immediate application of the

Convention in national law and so as not to be in opposition with the country's undertakings on the international level", to manufacture, by stages, sacks of 55 kg or 65 kg and to launch them progressively, as they are produced, onto the market.

The Committee recalls that by virtue of Article 3 of the Convention, no worker shall be required or permitted to engage in the manual transport of a load which, by reason of its weight, is likely to jeopardise his health or safety. This rule does not provide for any exceptions on the grounds of production costs or prices or for any other reason. Soon it will be 30 years since Madagascar has ratified the Convention. For several years, the Government has been undertaking to lay down in regulations the current practice adopted by the principle manufacturers of sacks which respect the standard of 50 kg. In these circumstances, its letter recommending the production of sacks of up to 65 kg constitutes a serious retrogression. The Committee trusts that the Government will re-examine its position and that it will indicate in the near future the measures that have been taken to ensure that the Convention is applied to adult male workers.

[The Government is asked to report in detail for the period ending 30 June 1990.]

#### Turkey (ratification: 1975)

The Committee notes the information supplied by the Government in reply to its earlier comments, as well as an observation of the Turkish Confederation of Employers' Associations dated 5 September 1989 on the application of the Convention, transmitted with the Government's report.

Article 3 of the Convention. In earlier comments, the Committee had noted the absence of provisions preventing male adult workers from engaging in the manual transport of loads which by their weight are likely to jeopardise their health or safety. Referring to point 91 of the table in the Appendix to Regulations No. 7/6174 of 29 March 1973 regarding strenuous and dangerous work, which lists "transport, emptying or loading of weights in excess of 50 kg, using a wheelbarrow or the like" among the strenuous or dangerous jobs, the Committee observed that this point in its present wording does not in fact concern manual transport of loads, as defined by the Convention, but transport of loads by means of mechanical devices and that, moreover, the Regulations do not prohibit in any way the assignment of adult male workers to the strenuous and dangerous work defined in the Appendix. Since, however, the Government had stated that this provision implied, although not expressly, that the maximum weight that may be transported by an adult male worker without the aid of mechanical devices was limited to 50 kg, the Committee asked the Government to take the necessary measures to make this explicit in law.

The Committee notes with interest the Government's indication in its latest report that, with a view to fixing the maximum weight that may be transported by an adult male worker without the aid of mechanical devices, the Ministry of Labour and Social Security has started consulting its competent institutions. The Committee hopes that the necessary measures to give effect to the Convention both in

law and in practice will thus soon be adopted and that the Government will indicate the action taken.

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

### **Convention No. 128: Invalidity, Old-Age and Survivors' Benefits, 1967**

#### Libyan Arab Jamahiriya (ratification: 1975)

1. In reply to the Committee's previous comments, the Government states that it will supply next year the requested information. The Committee notes this statement. It trusts that the Government's next report will contain a detailed reply to the points that it has been raising for many years and that it sets out again in a request that it is addressing directly to the Government.

2. Part V, Article 29 of the Convention (Review of cash benefits currently payable). For many years, the Committee has been requesting the Government to supply information on how effect is given to this provision of the Convention which lays down that the rates of cash benefits currently payable pursuant to Article 10 (invalidity benefit), Article 17 (old-age benefit) and Article 23 (survivors' benefit) shall be reviewed following substantial changes in the general level of earnings or substantial changes in the cost of living. In this connection, the Committee also refers to the general observation that it made in 1989 concerning Conventions Nos. 102 and 128 (copies of which are attached), in which it considers that, given the effects of inflation on the general level of earnings and increases in the cost of living, revision of the amount of long-term benefits should receive governments' particular attention, in particular, as concerns the general economic climate of today. The Committee therefore requests the Government to take all possible steps to ensure the application of Article 29 and to supply the statistical data requested under this Article of the Convention in the report form adopted by the Governing Body.

[The Government is asked to report in detail for the period ending 30 June 1990.]

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Bolivia, Federal Republic of Germany, Libyan Arab Jamahiriya, Venezuela.

**Convention No. 129: Labour Inspection (Agriculture), 1969**Bolivia (ratification: 1977)

In reply to the Committee's previous observation, the Government indicates, as it did in its 1987 report, that due to the prevailing situation in rural areas (lack of roads, hospitals, schools, etc.) it is neither appropriate nor practical to establish a system of labour inspection in agriculture as laid down in the Convention. The Government adds that the inspection services that are required for the few enterprises that exist in the agricultural sector can be provided by inspectors from the neighbouring urban district who will apply the General Labour Act and its regulations and, as regards workers engaged for the sugar-cane or cotton harvests, Supreme Decree No. 20255 of 26 May 1989, which establishes the rights and duties of these workers. In this connection, the Committee recalls, as it did in its 1985 General Survey that, although inspection services can be competent for all sectors of activity, including agriculture, "the prime objective of Convention No. 129 is to guarantee that, where laws and regulations governing working conditions and the protection of workers in agriculture exist and are enforceable by labour inspectors, all the undertakings without any exception should be covered by the system of inspection" (paragraph 57). The Committee therefore requests the Government to supply detailed information on how effect is given to the provisions of the Convention, and particularly to provide statistics on the subjects set out in Article 27 of the Convention (unless this information is included in the annual inspection report established in accordance with Article 20 of Convention No. 81).

France (ratification: 1972)

The Committee notes the memorandum communicated by the National Union of Labour Directors of the Ministry of Agriculture on "the situation of agricultural labour inspection, employment and social policy in the light of the reform of the external services of the Ministry of Agriculture", and the observations made on this subject by the Government. It is addressing a request directly to the Government on certain points concerning the application of the Convention deriving from the comments made by the above union.

Italy (ratification: 1981)

The Committee takes note of the information provided by the Government in reply to its previous observation. It requests the Government to refer to its comments under Convention No. 81.

Malawi (ratification: 1971)

The Committee notes the information supplied by the Government in its report for 1988 concerning the application of Article 16,

paragraph 2, of the Convention. However, the Committee notes that no progress has yet been made in giving effect to the provisions of Article 19 (notification of occupational diseases and association of inspectors with any inquiry into the causes of the most serious occupational accidents or occupational diseases). On this point, it refers to its previous observation and hopes that the Government will not fail to take the appropriate legislative measures in the near future.

Articles 26 and 27. See under Convention No. 81, Articles 20 and 21.

Romania (ratification: 1975)

Articles 20(c), 26 and 27 of the Convention. See comments under Convention No. 81.

Syrian Arab Republic (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 16, paragraph 3, of the Convention. For many years the Committee has been drawing the Government's attention to the fact that labour inspectors must, on the occasion of an inspection visit, notify not only the employer or his representative of their presence (as provided by section 248 of the Act to organise agricultural relations), but also the workers or their representatives. In its report for 1986, the Government stated that the Act to organise agricultural relations was to be amended in order to give full effect to this provision of the Convention. The Committee regrets to note, from the Government's last report, that it has changed its position and considers that the legislation that is in force is in conformity with the Convention since, during inspection visits at the workplace, inspectors necessarily come into contact with workers. The Committee is bound to note that inspection visits to offices (for example, for the purposes of inspecting documents) do not automatically result in contact with the workers. It therefore requests the Government to take the necessary measures to amend section 248 of the Act, so as to provide explicitly that workers or their representatives should be informed of the presence of inspectors in the enterprise in the same way as employers or their representatives.

Articles 26 and 27. The Committee notes that the statistical tables appended to the Government's report do not contain the information required under Article 27 of the Convention. Furthermore, it recalls that, by virtue of Article 26 of the Convention, an annual report on the work of the inspection services in agriculture (either in the form of a separate report, or as part of a general annual report of the labour inspection services) must be published and communicated to

the ILO within 12 months after the end of the year to which it relates. It therefore trusts that, in future, reports containing information on all the subjects laid down in Article 27 will be published and communicated to the ILO within the time limits set forth in Article 26.

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

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In addition, requests regarding certain points are being addressed directly to the following States: Argentina, Burkina Faso, Colombia, Costa Rica, France, Guyana, Madagascar, Morocco, Netherlands, Portugal, Uruguay.

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

Libyan Arab Jamahiriya (ratification: 1975)

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 refers to the comments that it has been making for a number of years and notes that the information supplied by the Government in its various reports replies only partially to these comments and does not contain the statistical data requested by the report form adopted by the Governing Body, without which the Committee is unable to ascertain the extent to which effect is given to the provisions of the Convention.

Consequently, the Committee is bound to raise the question again in a new direct request in the hope that the Government will not fail to transmit the information requested.

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In addition, requests regarding certain points are being addressed directly to the following States: Libyan Arab Jamahiriya, Venezuela.

### Convention No. 131: Minimum Wage Fixing, 1970

Spain (ratification: 1971)

The Committee takes note of the report of the committee set up to examine the representation made by the Trade Union Confederation of Workers' Commissions (CC.OO.) under article 24 of the ILO Constitution, alleging non-observance by Spain of this Convention (GB.243/6/22, Geneva, June 1989). It also takes note of the statement made by the representative of the Government of Spain at the 243rd



meeting of the Governing Body, and the Government's communication of 16 May 1989 in which reference is made to the Committee's comments.

Articles 3(a) and (b) and 4, paragraph 1, of the Convention. In its observation, the CC.OO. indicated that the minimum wage is not being automatically adjusted to the Consumer Price Index (IPC), and it also pointed out that when the inter-occupational minimum wage is fixed, the needs of workers and their families are not taken into account, as the average rate of increase of the wages of workers covered by collective agreements is considerably higher than the wage of the workers covered by the inter-occupational minimum wage. It also pointed out that no account is taken of economic growth, since, according to the CC.OO., the rate of economic growth attained (from 5 to 6 per cent for 1988) has led to an increase in productivity which, in turn, should justify the minimum wage being increased to a level higher than the one granted by the Government. According to the CC.OO., the foregoing situations are contrary to the provisions of Articles 3(a) and (b) and 4(1) of the Convention.

The Committee recalls that the committee that examined the representation made by the CC.OO. indicated that "taking account of the information available, the Government has not failed to comply with the provisions of Article 4, paragraph 1, of the Convention in maintaining machinery whereby 'minimum wages can be adjusted from time to time'". In this connection, the Committee also indicated that "the methods for the fixing and adjustment of minimum wages are in accordance with the provisions of the Convention in so far as they respond to the principal objective of the Convention", which, moreover, does not specify the frequency of wage adjustments.

However, in view of the provisions of Article 3 of the Convention, in determining the level of the inter-occupational minimum wage, the Government should take into account the needs of workers and their families and the economic factors including the level of minimum wages fixed by collective agreements and of the Consumer Price Index, which, as the Government itself recognises, is higher than the percentage increase of the inter-occupational minimum wage. As a result, the growth of the latter over the period 1979 to 1988 has been less than the increase in the Consumer Price Index.

Article 4, paragraph 2. With reference to the statement made by the representative of the Government of Spain before the Governing Body, to which the Government refers in its report, the Committee notes that, according to that statement, when fixing the minimum wage for 1989, the Ministry of Labour and Social Security sent extensive documentation on the matter to the social partners, who submitted their respective replies which were discussed in meetings held on 27 December 1988 and 5 January 1989. The Committee hopes that the Government will continue to consult the social partners so that they can hold exhaustive discussions before the inter-occupational minimum wage is fixed, in conformity with the provisions of Article 4, paragraph 2, of the Convention.

The Committee asks the Government to continue to provide information concerning the procedures for fixing the inter-occupational minimum wage and particularly on the consultations held with the representatives of the workers' and employers'



organisations, and on the elements taken into consideration in determining the inter-occupational minimum wage.

Sri Lanka (ratification: 1975)

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

1. In those comments, the Committee referred, amongst other matters, to the comments submitted in 1984, 1985 and 1986 respectively by the United Plantation Workers' Union, the Democratic Workers' Congress, the Lanka Jathika Estate Workers' Union and the Ceylon Workers' Congress, concerning non-observance of Article 4 of the Convention, particularly with regard to the maintenance of machinery for fixing and adjusting minimum wages in consultation with the organisations of employers and workers concerned. The allegations made by the above trade union organisations concern a resolution of the Wages Board for the Tea-Growing and Manufacturing Trade, providing for an increase in the cost-of-living allowance for plantation workers. The above-mentioned organisations alleged that, contrary to usual practice, the Commissioner of Labour failed to convene a further meeting of the Wages Board following publication of the resolution, with the result that it could not be implemented because it had not been re-examined by the Board in the light of the objections of the parties, and had not been submitted for the Minister's approval in accordance with the procedure laid down in section 29, subsection 3, of the Wages Boards Ordinance.

In its previous report, the Government indicated, in reply to these allegations, that the objections received following the publication of the resolution of the Wages Board drew attention to the serious implications of such an increase for the national economy, and that a committee under the chairmanship of the Minister of Labour, set up at the request of the main unions in the plantation sector, was to examine the whole structure of wages in this sector, with the unions participating. This committee made an interim recommendation to increase the cost-of-living allowance by 3 cents per unit of one point cost-of-living index increase. The Government also indicated that until export conditions and internal conditions were stabilised, it would not be practicable for the committee to reach any conclusive decisions.

The Committee took note of this information and recalled that, under Article 4 of the Convention, machinery for fixing and adjusting "from time to time" the minimum wages for groups of wage earners whose terms of employment are such that coverage would be appropriate must be established and maintained, in full consultation with the employers' and workers' organisations. It also referred to Paragraphs 11 and 12 of the Minimum Wage Fixing Recommendation, 1970 (No. 135), which provide that such adjustment should take account of changes in the cost-of-living and other economic conditions, and asked the Government to provide information on any measure taken or under consideration to ensure the establishment and maintenance of machinery for fixing and adjusting minimum wages in accordance with the Convention and the national legislation.

In its last report (received in March 1990), the Government indicates that wages of workers in the tea-growing and manufacturing trade, rubber-growing and manufacturing trade and the coconut-growing trade were increased by substantial amounts in 1988, but that the question of wage structure in the plantations sector needs elaborate analysis. The Committee notes these indications and hopes that such an analysis will be undertaken in consultation with the employers' and workers' organisations concerned and that the machinery for fixing and adjusting minimum wages, provided for in the Wages Boards Ordinance, will also be maintained and implemented in the plantations sector. The Committee asks the Government to indicate the measures taken to this end.

2. In its previous comments, the Committee also noted the allegations made by the Employers' Federation of Ceylon that a large number of employers outside this Federation were violating the regulations respecting minimum wages. The Federation considered that it was absolutely essential that the inspection machinery should be strengthened so that such employers are made to comply with the laws on minimum wages. The Committee therefore asked the Government to provide detailed information on the operation of the inspection service responsible for supervising the application of minimum wage standards.

In its last report, the Government indicates that the inspection services have been strengthened by the recruitment of additional labour officers. It adds that in the event of violations with regard to payment of minimum wages, the workers concerned can submit complaints either individually or through their trade unions, or to the courts of law and that, in most cases, they obtain satisfaction. The Committee notes this information with interest. However, the Committee notes from the statistical information provided in the report that the amount of the unpaid wages recorded by the labour inspectors remains fairly high. It therefore hopes that the Government will do its utmost to remedy this situation and that it will continue to provide information on the practical measures taken to ensure that effect is given to national regulations on minimum wages and to the Convention.

3. The Committee also takes note of a communication from the Ceylon Federation of Trade Unions, dated 10 October 1989, alleging violations of minimum wage provisions and connected matters (such as overtime wage rates) by certain employers and which are detrimental to the collective bargaining right of unions. The Committee notes that these allegations were transmitted to the Government in a letter dated 27 October 1989 so that it could make any comments it deemed appropriate. The Committee therefore intends to examine the above allegations at its next session.

4. The Committee also asks the Government to refer to the direct request being addressed to it concerning a number of other points.

Uruguay (ratification: 1977)

The Committee takes note of the information provided by the Government in reply to its observation of 1989 which concerned, among other matters, the allegations made by the Inter-Union Workers' Assembly - National Workers' Convention (PIT-CNT) with regard to the application of Articles 3 and 4 of the Convention. The PIT-CNT alleges that the elements referred to in Article 3(a) in connection with the needs of workers and their families, are not taken into consideration in the fixing of the national minimum wage established by decree. It also alleges that the minimum wage of rural workers continues to be fixed by government decree without consultations being held, as required by Article 4 of the Convention, with the employers' and workers' organisations in this sector. The above organisation also indicates that the Government has not created wage councils in the farming, wine-producing, bee-keeping, etc. sectors, as provided for in the legislation, and in particular in Act No. 13246. The above-mentioned organisation also referred to domestic staff, who continue to be left outside any minimum wage-fixing system.

The Committee takes note of the Government's reply to the above allegations and to the Committee's own previous comments. The Committee also examined the legislation and statistical data appended to the report, concerning wage rates, and wishes to make the following observations:

Article 1, paragraph 3 of the Convention. The Government again refers to the reasons it evoked in its previous report for the exclusion of domestic workers from the coverage of minimum wage legislation. The Committee asked the Government to indicate whether measures were envisaged to ensure that these workers are provided with a system for fixing minimum wages, in accordance with the Convention. In view of this request and the comments made by the PIT-CNT, the Committee hopes that the Government will be able to provide information on the measures planned or envisaged to this effect.

Article 3(a). The Committee notes the Government's indications that the elements taken into consideration in fixing minimum wages through administrative measures include consumer price index movements and forecasts. The Committee gathers that the elements referred to in Article 3(a), i.e. the needs of workers and their families, given the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups, are apparently not fully taken into account in determining minimum wages. The Committee's impression is reinforced by the comments of the PIT-CNT to the effect that the basic basket, at the time when the comments were made, was 125,000 new pesos and the minimum wage fixed by the Government was 25,000 new pesos. The Committee takes note of the planned increase in the minimum wage of the agricultural sector, mentioned by the Government, and would be grateful if the Government would provide information on the manner in which all the elements mentioned in Article 3(a) are taken into account when the national minimum wage and the minimum wage of rural workers are fixed by administrative measures.

Article 4, paragraphs 2 and 3. The Committee takes note of the information supplied by the Government concerning the manner in which

the workers' and employers' organisations participate in fixing minimum wages through tripartite councils. However, the Committee gathers that in determining and adjusting the minimum wages established by decree (national minimum wage and minimum wage in the rural sector) the organisations of workers and employers concerned are not consulted in advance. In view of this information and the comments of the PIT-CNT, to which the Committee has already referred, it asks the Government to consider adopting measures to ensure that the workers' and employers' organisations concerned, or their representatives, are consulted when the national minimum wage and the minimum wage of rural workers are fixed. Another approach might be to amend the provisions of Decree No. 647/978 of 21 November 1978, concerning the rules governing the employment of rural workers, in order to ensure that when the minimum wages of this category of workers are fixed the workers' and employers' organisations concerned are consulted, or to amend Decree No. 178/1985 to include farming among the activities mentioned therein. The Committee requests the Government to indicate the measures taken with regard to either of these possibilities.

The Committee also takes note of the further allegations of the Inter-Union Workers' Assembly - National Workers' Convention (PIT-CNT), dated 9 February 1990, which were transmitted to the Government in a letter dated 2 March 1990. The allegations recall some of the comments made previously by the above organisation, with regard to the application of the Convention and they add that, in determining minimum wages by branch of activity and occupational category, the Government applies Act No. 10449 (minimum wages fixed by collective bargaining in tripartite councils) only formally, but not in substance. It fixes the minimum wages unilaterally, thus applying Legislative Decree No. 14791. The Committee hopes to examine these new allegations once the Government has transmitted comments which it considers pertinent on the above allegations.

[The Government is asked to report in detail for the period ending 30 June 1990.]

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In addition, requests regarding certain points are being addressed directly to the following States: Brazil, Guyana, Libyan Arab Jamahiriya, Niger, Sri Lanka, Yemen.

### Convention No. 134: Prevention of Accidents (Seafarers), 1970

#### Nigeria (ratification: 1973)

The Committee notes the information supplied by the Government in its report and reply to the previous observation, as well as the information submitted to the Conference Committee in 1989. The Committee also has taken note of the provisions of statutory instruments communicated in reply to earlier requests.

Article 2 of the Convention. The Committee previously asked for the supply of copies or relevant extracts of reports of inquiry into occupational accidents, as well as samples of statistics compiled in conformity with the provisions of the Convention. In its report, the Government has supplied details concerning accidents in which lives were lost on Nigerian ships from 1983 to February 1989; the Government indicates that accidents on board ships are reported only when the ship sustains a structural damage or when there is loss of life or serious injury; however, private and government shipping companies keep records of minor accidents. The Committee must point out that under Article 2, paragraph 2 of the Convention, all occupational accidents shall be reported and statistics shall not be limited to fatalities or to accidents involving the ship. The Committee accordingly hopes that records of minor accidents kept by private and government shipping companies will be integrated into reporting procedures and statistics and that, in accordance with Article 2, paragraph 1, the Government will take the necessary measures to ensure that occupational accidents are adequately reported and investigated, and comprehensive statistics of such accidents kept and analysed.

Article 3. The Committee notes the Government's indication in its report that no research has been conducted into the causes and prevention of accidents aboard Nigerian ships. However, it appears from the breakdown given in the Government's report that several accidents involving loss of life were caused by the severance of stage ropes or the sudden cut of the mooring ropes, and that, furthermore, all the accidents reported occurred when the ships were anchored in ports or when they were about to be moored. The Committee hopes that the Government will take the necessary measures for research to be undertaken into these general trends and hazards revealed by statistics, in order to provide a sound basis for the prevention of accidents which are due to particular hazards, as provided in the Convention.

Articles 4 and 5. In previous comments, the Committee asked the Government to provide copies of any rules in force under the Merchant Shipping Act for the prevention of accidents which cover the various matters listed in particular in these Articles. The Committee has taken note of the provisions of the Merchant Shipping (Fire Appliances) Rules, 1967, which give effect to Article 4(3)(f) of the Convention, and the Merchant Shipping (Life-Saving Appliances) Rules, 1967, supplied by the Government. It hopes that the Government will soon be able to supply details of similar provisions adopted or contemplated to prevent occupational accidents and covering the specific field of stage and mooring ropes (Article 4(3)(h)) as well as the various matters listed in Article 4(3)(a), (b), (c), (d) and (i).

Article 7. The Committee notes with interest the Government's indication in its report that it is the responsibility of National Surveyors and Engineers, who are crew members on board, to conduct inspection on board ship, and that there is also a safety or accident committee on board, chaired by the Master, with the Chief Engineer, the Chief Officer, the Second Engineer and the Radio Officer as members; duties are assigned to each member, meetings are held at specified intervals and proceedings are documented in the official log

book. The Committee hopes that the Government will supply a copy of a statutory instrument making provision for the practice described.

Articles 8 and 9. The Committee notes the Government's indication in its report that senior officers on board Nigerian ships do give lectures and conduct exercises on accident prevention for other crew members on specified periods. The Committee hopes that the Government will supply further details concerning the tripartite establishment and implementation of programmes for the prevention of occupational accidents (Article 8) and the inclusion of instruction in accident prevention and health protection in the curricula of vocational training institutions for all categories and grades of seafarers (Article 9(1)).

The Committee hopes that the Government will take all necessary measures to give effect to the Convention both in law and in practice and that it will soon report on the measures taken or contemplated.

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In addition, a request regarding certain points is being addressed directly to United Republic of Tanzania.

### **Convention No. 135: Workers' Representatives, 1971**

Netherlands (ratification: 1975)

The Committee takes note of the comments of the Confederation of Netherlands Trade Union Movement (FNV) and the Government's reply thereto concerning the granting of protection and facilities to both categories of workers' representatives mentioned in Article 3 of the Convention.

The FNV observes that only members of works councils (set up, by law, in firms employing at least 35 workers) are entitled to the legal protection and facilities referred to in the Convention and that even if collective agreements can include provision of such facilities and protection in small businesses having less than 35 employees, the agreements do not cover all enterprises and do not give full protection because they are limited in time. The FNV considers that both categories of employee representatives mentioned in Article 3 should receive the facilities and protection set out in the Convention; it regrets that the Government, which had previously agreed with this approach, has now changed its position. It adds that discussions are being held in the tripartite Labour Foundation regarding the possibility of issuing a recommendation to employers to afford broad coverage, but the FNV believes that any such recommendation would not be binding and would be no more than a guide-line for negotiations.

The Government points out that the Convention, in Article 3, defines two categories of workers' representatives which may benefit from the provisions of the Convention; the Convention does not oblige ratifying States to grant protection and facilities to both categories, as is clear from the terms of Article 4. It states that

it has determined, by legislation, which type of workers' representatives should be entitled to the benefits of the Convention, namely members of works councils.

The Committee notes that the Convention permits a certain flexibility in the choice of workers' representatives to enjoy its provisions, subject to the special protection of trade union representatives set out in Article 5. Given the clear wording of Article 4, the Committee considers that the present system does not infringe the requirements of the Convention. However, the Committee draws the Government's attention to the fact that since certain workers' representatives in small enterprises risk having no coverage - either by legislation or collective agreements - a criterion of reasonableness should apply to ensure that they are not denied the protection and facilities provided for in 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.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Costa Rica, Iraq, Jordan, Yemen.

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

**Convention No. 136: Benzene, 1971**

Côte d'Ivoire (ratification: 1972)

In comments made for a number of years, the Committee has been referring to a draft decree to amend Decree No. 67-321 of 21 July 1967 codifying the regulatory provisions of the Labour Code concerning special occupational safety and health measures applying to establishments whose staff is exposed to benzene intoxication. The Committee notes the Government's statement in its latest report that while the draft decree amending Decree No. 67-321 of 21 July 1967 has been approved by the Health and Safety Technical Advisory Committee, it has not yet entered into force because the Labour Code and the Decree No. 67-321 are presently undergoing further revision. The Committee further notes the Government's indication that all efforts are being made for the adoption of these new texts.



The Committee hopes that, accordingly, the necessary amendments will soon be adopted to give 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).

Morocco (ratification: 1974)

In its previous observation, the Committee noted that the regulations part of the draft Labour Code contained provisions to give effect to a certain number of provisions of the Convention which had not been applied by national legislation previously. The Committee had, however, noted that the draft communicated by the Government called for improvement on the following points: in accordance with Article 3 of the Convention, provision should be made for the consultation of the most representative employers' and workers' organisations concerning the granting of temporary exemptions by labour inspectors under section 502 of the draft regulations; also, in accordance with Article 8, paragraph 1, measures needed to be taken to ensure adequate means of personal protection for workers who may have skin contact with liquid benzene or products containing benzene. The Committee notes with interest the Government's statement in its latest report that these comments have been taken into consideration in the latest draft of the regulations part of the Labour Code. The Committee once again expresses the hope that the amended draft will be adopted in the very near future and that, in its final form, it will give full effect to the Convention.

Spain (ratification: 1973)

The Committee takes note of the comments made by the Trade Union Confederation of Workers' Commissions (CC.OO.) on the application of the Convention and the Government's reply to these comments.

1. In its comments, the CC.OO. has estimated that 150,000 workers are occupationally exposed to benzene or products containing benzene situated in the following industries: explosives, rubber, treatment of skins and footwear, refining and distillation, dyeing, printing, and production of DDT. The CC.OO. has also indicated that benzene is used principally as a solvent or diluent in open spaces. The Government has indicated that although there has been an increase in the use of benzene over the past years, the industries which have used benzene as a solvent in the past now use other products instead. The Committee would recall that, under Article 4, paragraph 2, of the Convention, the use of benzene as a solvent or diluent is to be



prohibited, unless the process is carried out in an enclosed system. The Committee notes that the Government has taken the measures necessary for the application of this Article in promulgating the Joint Resolution of 15 February 1977. Nevertheless, by virtue of Article 14(c), the Government undertakes to provide appropriate inspection services for the purpose of supervising the application of the Convention. The Committee therefore hopes that the Government will indicate the measures taken in this regard and report any information which may call into doubt the observance of the prohibition of the use of benzene as a solvent or diluent in an open system.

2. Statistics have been provided by the CC.OO. which indicate that workers in the above-mentioned industries have suffered from a variety of occupational diseases which, although not exclusively linked to benzene exposure, could result from an exposure to benzene or exposure to a number of substances, including benzene. The Committee notes the information supplied by the Government concerning labour inspection and a variety of studies undertaken to investigate the cause of occupational diseases in some of these industries, as well as endeavours made to prevent the risks of these diseases. The Committee recalls that, by virtue of Article 2, harmless or less harmful substitute products are to be used instead of benzene or products containing benzene whenever available. With a view to facilitating the application of this Article, reference may be made to Paragraph 26 of the Benzene Recommendation No. 144, which provides that the competent authority in each country should actively promote research into harmless or less harmful products which could replace benzene. The Committee hopes that the Government will supply information on progress made in using harmless or less harmful substitute products instead of benzene and of the results of any research in this regard.

3. In reply to the comments made by the CC.OO., the Government has indicated that situations where workers are exposed to a concentration of benzene in the air exceeding 25 parts per million are rare. The Committee would note, however, that, by virtue of Article 6, paragraph 2, this ceiling value of 25 parts per million represents a strict maximum which should not be exceeded. Noting that the same ceiling was fixed in section 2 of Resolution No. 6248 of 15 February 1977 regulating the use of solvents and other compositions containing benzene, the Committee hopes that the necessary measures will be taken to ensure that effect is given to this provision.

4. The Committee notes that in both the comments made by the CC.OO. and the Government's reply, reference has been made to instances where certain provisions of the Convention are not adequately complied with, including black market enterprises involving the use of benzene in work processes where pregnant and nursing mothers are employed, contrary to Article 11, paragraph 1. The Committee notes the projects initiated by the Government concerning labour inspection and research relevant to the working environment. It notes that these projects have been undertaken in order to attain fuller practical application of the provisions of the Convention. The Committee hopes that the Government will continue to indicate the measures taken or envisaged to ensure application of the provisions

which give effect to the Convention and to supply extracts from inspection reports and any statistics available on the number of employed persons covered by the relevant legislation and the number and nature of the contraventions reported.

5. The Committee is raising certain other points in a request addressed directly to the Government.

Zambia (ratification: 1973)

1. In earlier comments, the Committee noted the Government's indication in its 1985 report that a general survey of working places where benzene is used was to provide the information necessary for the full application of the Convention. The Committee notes from the Government's latest report that the general survey, which was started with the assistance of the Lusaka Urban District Council could not be completed due to a lack of qualified personnel, transport and relevant measuring equipment. The Government, however, considers that a thorough survey of working premises where benzene is used is still necessary for effective enforcement of the Factories (Benzene) Regulations and the application of the requirements of the Convention. The Committee hopes that the appropriate priority will be given to this project and that the Government will soon be in a position to indicate that the survey has been completed.

2. For a number of years, the Committee has noted the absence of measures to give effect to important requirements of the Convention. The Committee hopes that the necessary steps will be taken in the near future so as to ensure the application of Article 4 (prohibition of the use of benzene as a solvent or diluent unless the process is carried out in an enclosed system), Article 6, paragraph 3 (directions on carrying out the measurement of benzene in the air), Article 7, paragraph 1 (work processes involving the use of benzene to be carried out in an enclosed system), and Article 8, paragraph 2 (personal protective equipment against the risk of inhaling benzene vapour for workers exposed to excessive concentrations of benzene). The Committee hopes that the Government will soon be able to indicate progress made in this regard.

[The Government is asked to report in detail for the period ending 30 June 1990.]

\* \* \*

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

**Convention No. 137: Dock Work, 1973**Spain (ratification: 1975)

1. The Committee takes note of the communication, dated 5 September 1989, from the Canary Islands Nationalist Autonomous Confederation (CANC), endorsing the questions raised by a group of dockworkers in a previous communication. The communication alleges that the dockworkers enrolled in the Special Register of Dockworkers of the Port of La Luz and Las Palmas are in a situation which is inconsistent with Convention No. 137 in that they are under the obligation to be present at all calls, yet enjoy no rights corresponding to that obligation. The Office transmitted a copy of the communications to the Government which forwarded its observations dated 15 December 1989.

2. Article 3 of the Convention. In their communication, the workers state that they are enrolled in the "Special Register of Dockworkers of the Port of La Luz and Las Palmas" (RETP), which comes under the Ministry of Labour and Social Security. The 286 workers involved belong to the category of casual workers: they are not hired by a state company (special labour relationship), or by a non-state port enterprise (common labour relationship). They are merely entitled to enrol in a special register of dockworkers that exists in every "port operated in the general interest". The situation of this group of dockworkers is regulated by the fifth provision of the RETP operation manual whereby Royal Legislative Decree No. 2 of 23 May 1986 concerning public service cargo handling (vessels) is applied in the ports of La Luz and Las Palmas. The Committee notes that the final part of clause 31 of the operation manual establishes that "all workers registered (in the RETP) must be present at the calls, at which they may be designated "incumbents" or "substitutes". Those designated must present themselves at the assigned workpost at the beginning of each shift. The substitutes must wait at the place thus assigned by the State Company, and remain at the disposal of the latter, for the first half-hour of the shift for which they were designated substitutes."

3. As the workers registered in the RETP point out, they are under an obligation to be present at all calls. This practice may be deemed to be consistent with the provision of paragraph 3 of Article 3, which prescribes that "registered dockworkers shall be required to be available for work in a manner to be determined by national law or practice".

4. The workers registered in the RETP add that, if no work is assigned to them, they receive no remuneration whatsoever. They invoke their right to be assured a minimum income or a minimum number of shifts per month, in keeping with their professional conscientiousness and the fact that they are under permanent obligation to be present at all calls. The Government, for its part, admits that as these workers are unemployed, they are seeking to be hired for dock work on the very occasional days when the number of workers needed exceeds the public service's estimate of its requirement for permanent workers. The economic coverage of their situation on the days when they do not work depends on their

individual entitlement to unemployment benefit. However, Article 2, paragraph 2, of the Convention provides that "in any case, dockworkers shall be assured minimum periods of employment or a minimum income, in a manner and to an extent depending on the economic and social situation of the country and port concerned".

5. The Committee refers to its direct request of 1989, in which it asked the Government to state whether unemployment insurance for dockworkers had been regulated in any specific manner and to indicate the scope and nature of the minimum income guaranteed to such workers (Article 2, paragraph 2). In this connection, the Committee would be grateful if the Government would indicate, bearing in mind the arguments submitted by the above-mentioned dockworkers, whether unemployment benefit is granted immediately to all dockworkers to whom it has not been possible to assign work. The Government is also asked to indicate the manner in which it ascertains that the above-mentioned group of dockworkers is covered by appropriate safety, health, welfare and vocational training provisions (Article 6).

[The Government is asked to report in detail for the period ending 30 June 1990.]

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

#### Convention No. 138: Minimum Age, 1973

Requests regarding certain points are being addressed directly to the following States: Algeria, Antigua and Barbuda, Dominica, Equatorial Guinea, Greece, Honduras, Iraq, Kenya, Niger, Togo, Yugoslavia.

In addition, a general direct request regarding certain points is being addressed to each State which has ratified the Convention.

#### Convention No. 139: Occupational Cancer, 1974

Guinea (ratification: 1976)

In earlier comments, the Committee noted that no specific measures have been taken since the Convention was ratified to prevent and control occupational cancer in accordance with the Convention.

The Committee notes with interest that, during the discussion concerning the application of this Convention at the Committee on the Application of Standards to the 1989 Conference, the Government expressed its wish for technical assistance from the ILO with a view towards drawing up as quickly as possible an adequate legal framework for protection against occupational cancer. The Conference Committee expressed the hope that concrete progress in this respect would be reported prior to the meeting of this Committee in 1990.

The Committee understands that ILO technical assistance shall occur prior to the International Labour Conference in June and hopes that, with this assistance, the Government will be able to take, in the very near future, the necessary steps for the application of the Convention in law and in practice.

[The Government is asked to report in detail for the period ending 30 June 1990.]

\* \* \*

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

#### **Convention No. 140: Paid Educational Leave, 1974**

Requests regarding certain points are being addressed directly to the following States: Afghanistan, United Republic of Tanzania.

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

#### **Convention No. 141: Rural Workers' Organisations, 1975**

India (ratification: 1977)

The Committee takes note of the information supplied in the Government's report, including the comments of the Hind Mazdoor Sabha (Maharashtra State) concerning the non-application of this Convention as regards various rural workers' organisations in that State by the provincial authorities. The Committee notes that the federal Government has requested a report from the State Government on the issues raised by this workers' organisation, and trusts that it will have a reply to these comments in time for its next session.

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In addition, requests regarding certain points are being addressed directly to the following States: Philippines, Venezuela, Zambia.

#### **Convention No. 142: Human Resources Development, 1975**

United Kingdom (ratification: 1977)

1. With reference to its previous comments, the Committee notes the Government's detailed report for the period ending 30 June 1989

and the information provided in reply to the comments made by the Trades Union Congress (TUC) in January 1989.

#### Article 1 of the Convention

2. In view of the recent developments in the Employment Service, the TUC expressed concerns that the Government was in the initial stages of dismantling its public employment service, in particular by reducing its functions and limiting its coverage in practice to the adults employed. For its part, the Government states that it is committed to the Employment Service (ES): the ES is to continue to offer a free service to people regardless of their employment status, and to play an important gateway role in directing people towards government training programmes. The Government felt that it was right to move the Professional and Executive Recruitment Agency (PER), formerly a part of the ES, into the private sector as, in the public sector, it had been providing services that were properly those of a fully commercial organisation. The Committee recalls that policies and programmes of vocational guidance and vocational training should be "closely linked with employment, in particular through public employment services" (Article 1, paragraph 1, of the Convention). It trusts that in its future reports the Government will provide further indications on the manner in which the policies and programmes of vocational guidance and vocational training are linked with employment and the public employment services. The Committee also refers in this connection to its outstanding comments on the application of the Employment Policy Convention, 1964 (No. 122).

3. Secondly, the TUC expresses the view that a new training programme introduced by the Government to cover unemployed adults - the Employment Training Scheme - does not take account of national economic or social development needs in the payment systems allowed. The payment levels for unemployed people doing productive work under the former community programme were set in accordance with relevant local wages level, whereas the training allowance paid under Employment Training (ET) is based on the state benefits level which had previously applied only to training outside the workplace. The Government indicates that ET was launched in September 1988 with a view to bringing together into one unified scheme a variety of training and work experience programmes for unemployed adults. Participants are provided with a programme of structured training and its aim is not to provide temporary employment; therefore such concepts as "rate for the job" are no longer appropriate. The Government adds that the training allowance paid to people on ET is, in its view, more equitable than a wage based on local rates of pay. The Committee recalls that the Convention (Article 1, paragraph 2) requires the policies and programmes of vocational guidance and vocational training to take due account, inter alia, of "employment needs, opportunities and problems, both regional and national" (subparagraph (a)); and of "the stage and level of economic, social and cultural development" (subparagraph (b)). The Committee would be grateful if the Government would indicate in its next report in what manner account is taken of the above-mentioned factors in the

Employment Training Scheme and other adult training schemes in the United Kingdom.

#### Article 3

4. The TUC is also of the view that the vocational guidance offered by the Government is seriously deficient; employees are not, in practice, offered vocational guidance and the Government has reduced the amount of resources devoted to employment information systems, such as those available from the Health and Safety Executive (HSE). The Government supplies detailed general information in its report and in reply to the TUC allegations it points out that national information systems, such as NOMIS, hold a wealth of data on employment, unemployment, job vacancies, placings and population; at local level, the Computer Assisted Local Labour Market Information System (CALLMI) was used by over 75,000 employers during its first two-and-a-half years of operation; and with respect to the HSE, there has been a marked increase in information disseminated. The Committee trusts that the Government will give particulars of any further extension of the vocational guidance system during the period covered by the next report, with a view to ensuring that comprehensive information and the broadest possible guidance is available to all children, young persons and adults, as required by Article 3.

#### Article 4

5. The TUC takes the view that the Government has failed to give sufficient weight to the general requirement of ensuring that human resources development is coherent and comprehensive and meets the needs of the economy and society. More specifically, it is of the view that the training policies of the Government are guided by the need to provide for unemployed people rather than to secure an adequately trained workforce. The Government is said to pursue a voluntary approach which has led to severe skill shortages. The TUC refers to the White Paper "Employment for the 1990s" (Cm. 540, December 1988), in which the Government maintains that "Developing training through life is not primarily a government responsibility". (Emphasis added by TUC.)

The Government declares that it believes that human resources development is crucial to meeting the economic and social needs of society; it states that it has massively increased its investment in training and that its commitment to training both the employed and unemployed throughout working life is shown by the very comprehensive schemes implemented and described in the report. The Committee notes however, from the above-mentioned White Paper (paragraph 6.19), that training for people in employment is relatively undeveloped and that a recent study of the funding of training shows that half of all employees received no training at all in 1987. The Committee would be grateful if the Government would supply in its next report information on the measures taken, in conformity with Article 4, with a view to extending the systems of vocational training to meet the needs of the economy and to ensure that they are adapted to the changing requirements of individuals throughout their life.

Article 5

6. Referring in its communication of January 1989 to the pending proposals concerning the abolition of the Training Commission, a tripartite national training authority and of the seven remaining statutory tripartite training boards, the TUC considers that the future structures to be established at national, sectoral and local level may involve union representatives, but there is no automatic provision for union involvement. The Government supplied a detailed reply to these allegations, explaining the reasons for its decision to abolish the Training Commission and its replacement with the Training Agency. It states that in taking this decision it takes full account of the views expressed by the organisations representing employers and employees, and also of its continuing obligations under Article 5 of the Convention. The Government reiterates the assurance contained in the White Paper referred to above, that the process of involving both employers and unions, as well as other interested parties, in the process of formulating policy and implementing programmes will continue as far as the Government is concerned. The report gives further information on the arrangements existing at national, local or industry levels. A National Training Task Force (NTTF) composed of leading figures in their fields and chosen for their personal commitment to training, was appointed in 1989 in order to assist the Secretary of State for Employment in carrying out his vocational education and training responsibilities. At local level, Training and Enterprise Councils (TECs) have been operating since July 1989. Finally, at industry level, the Government declares that it is not planning to abolish the seven existing statutory Industry Training Boards (ITBs), but that ITBs are to put forward plans to become independent non-statutory training organisations, generating their income from subscriptions and charges for services and products.

Referring to its previous comments, the Committee takes note of the assurances given by the Government and hopes that the Government will implement the appropriate measures and procedures with a view to give full effect to the provisions of Article 5 and to ensure that due co-operation with employers' and workers' organisations takes place in the field of vocational guidance and training at the stage of policy and programme formulation. It trusts that in its next report the Government will describe in greater details the achievements of co-operation with employers' and workers' organisations in connection with the measures contemplated or recently implemented, mentioned in this observation.

7. The Committee is not in a position, at this stage, to reach a conclusion on the matter. However, considering the allegations presented by the TUC and the information supplied by the Government, it is led to express some concern as regards the developments noted. It trusts that the Government will provide further detailed information showing that the policy implemented and the measures envisaged will not have as a consequence the lowering of the commitment of the Government to its obligations under the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Australia, Brazil, France, Guyana, Japan, Kenya, San Marino, United Republic of Tanzania, Venezuela, Yugoslavia.

### Convention No. 143: Migrant Workers (Supplementary Provisions), 1975

Italy (ratification: 1981)

Part II of the Convention. The Committee notes the Government's reports. In its previous comments concerning the observations submitted earlier by the Italian General Confederation of Labour (CGIL), the Committee requested the Government to indicate the measures that had been taken or were envisaged, in co-operation with employers' and workers' organisations, to secure the acceptance and observance in practice of the policy of equal opportunity and treatment set out in Article 12 of the Convention, particularly as regards migrant domestic workers.

In its report, received in June 1989, the Government indicates that the existence of Act No. 943 of 1986 which regulates domestic workers and the relevant collective agreement prevent any discrimination, that differences of treatment exist between nationals on the basis of occupation, region and market demand and that these differences of treatment cannot be considered to be discriminatory unless the criteria on which these differences are based or are the product of prejudices or discrimination.

The Committee takes due note of these indications. With reference to paragraph 285 of its 1980 General Survey on Migrant Workers, the Committee recalls that Part II of the Convention requires not only the repeal of statutory provisions and the modification of administrative practices which are discriminatory, but also action by the public authorities to promote equality of opportunity in practice. As regards the content of the national policies designed to promote and guarantee equality of opportunity and treatment, the Committee refers to the indications set out in paragraphs 162 to 170 of its 1988 General Survey on Equality in Employment and Occupation.

The Committee requests the Government to supply information on the measures that have been taken or are envisaged in co-operation with employers' and workers' organisations to secure the observance of a policy of equal opportunity and treatment in employment and occupation for persons who, as migrant workers or as members of their families, are lawfully within its territory. It also requests the Government to supply information on the points raised in a direct request.

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In addition, requests regarding certain points are being addressed directly to the following States: Guinea, Italy, San Marino, Uganda, Venezuela.

**Convention No. 144: Tripartite Consultation (International Labour Standards)  
1976**Bahamas (ratification: 1979)

The Committee notes once more that the Government's report contains no reply to its previous comments. As it had already pointed out, genuine consultations should be held frequently so that each of the questions listed in Article 5, paragraph 1, of the Convention may be examined when necessary, in accordance with the principle of "effective consultations" set forth in Article 2. Certain subjects (replies to questionnaires, submission to the competent authorities, reports to be made to the ILO under article 22 of the Constitution of the Organisation) imply annual consultations, whereas other subjects (for example, proposals for the denunciation of ratified Conventions), arise less frequently.

In these circumstances, the Committee again requests the Government to describe the measures taken or under consideration to hold regular consultations on these matters. It also requests the Government to furnish detailed information concerning the consultations held (during the period covered by the next report) on the various matters listed in Article 5, paragraph 1, specifying the results that these consultations have led to.

Moreover, the Committee recalls that according to Article 6, representative organisations of employers and workers should be consulted on the necessity of producing an annual report on the working of the procedures provided for in the Convention. It requests the Government to state whether such consultations have taken place and, in the affirmative, to provide information on any results.

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

Nicaragua (ratification: 1981)

The Committee notes the decision by the Governing Body, at its 244th Session (November 1989), to set up a commission of inquiry to examine the complaint submitted under article 26 of the Constitution alleging the non-observance by Nicaragua of Conventions Nos. 87, 98 and 144.

In accordance with its usual practice, the Committee is suspending its comments on the application of the Convention while awaiting the conclusions of the commission of inquiry.

Spain (ratification: 1983)

With reference to its previous comments, the Committee takes note of the Government's reply to the comments submitted by the Trade Union Confederation of Workers' Commissions concerning the application of the Convention. In a communication dated 7 February 1989, the above organisation alleged, inter alia, that the representative trade union organisations were not consulted on the content of the reports which

were due in 1988, under article 22 of the Constitution, which is an infringement of Article 5 of the Convention.

In its reply, the Government expresses the opinion that Article 5, paragraph 1(d) does not imply that there must be prior consultations on the substance of the reports in question, and that the preparation of the reports is exclusively the responsibility of the Government. The Government concludes that the questions calling for consultations with the occupational organisations are questions raised once the reports have been drawn up. It adds that it is always ready to receive comments from the occupational organisations and that it never fails to transmit them without delay to the ILO.

In the first place, the Committee wishes to point out, as it does in its General Survey of 1982 (paragraph 124) on Convention No. 144 and Recommendation No. 152, that the provisions of Article 5, paragraph 1(d) go beyond the obligation for member States to communicate reports that is stipulated in article 23, paragraph 2, of the Constitution. Consultations are called for not on every report but only on those concerning Conventions whose application poses problems. In the case of reports on the application of ratified Conventions, due under article 22 of the Constitution, the consultations are often concerned essentially with the substance of the reply to comments by the supervisory bodies.

Lastly, and at a more general level, the Committee feels that it is useful to recall its position regarding the scope of the obligation to hold prior consultations provided for by the Convention. The principle generally accepted during the preliminary work on the Convention is that the outcome of the consultations should not be regarded as binding and that the ultimate decision rests with the Government. However, the consultations in the meaning of the Convention are none the less compulsory and should be held before the proposed measures are ultimately decided upon (see the above-mentioned General Survey, paragraphs 42 to 45).

The Committee trusts that the Government will take the above comments into consideration and that, in future, it will hold the required consultations on "questions arising out of reports" due under article 22 of the Constitution, in accordance with the letter and spirit of the provisions of the Convention.

#### United Kingdom (ratification: 1977)

1. With reference to its previous comments, the Committee notes the Government's report and its reply to the comments submitted by the Trades Union Congress (TUC) on the application of the Convention.

2. In a communication dated 4 January 1989, the TUC alleged in substance, firstly, the lack of effective consultation [on the part of the Government] regarding the denunciation of Conventions and, secondly, the failure to hold consultations on the proposals that were adopted, through European Community procedures, for the conduct of negotiations about issues arising in draft ILO instruments.

3. With regard to the first question concerning consultation on proposals for the denunciation of ratified Conventions and the allegation that the Government did not take into consideration the

views and proposals made by the TUC, the Committee notes the information supplied by the Government, which confirms that noted previously by the Committee concerning the application of Article 5, paragraph 1(e) of the Convention. The Committee can only therefore refer, once again, to its previous comments and to its 1982 General Survey (concerning Convention No. 144 and Recommendation No. 152) in which it observed (paragraph 42) that the views expressed in the course of consultations are not a form of participation in decision-making but simply one stage in the process of reaching a decision.

4. With regard to the second question, the TUC denounced the lack of prior consultation when the December 1986 Decision was taken by the Council of Ministers of the Community concerning the adoption of rules for the conduct of negotiations on draft ILO instruments in matters in which the Community has exclusive competence. According to the TUC, the lack of consultations with the TUC and the CBI (Confederation of British Industry) on the implications of this Decision and possible developments, which raise questions and concerns, is a violation of Convention No. 144. The Convention requires that consultations on standards should be held at the national level, and the main concern of the TUC is that effective consultations should be ensured with national employers' and workers' organisations at all the stages of the formulation and implementation of standards. In its reply, the Government, after referring to the confidentiality of negotiations as justifying the absence of prior consultation, notes that the December 1986 Decision clearly establishes that member States will have to comply fully with the provisions of Convention No. 144.

5. Indeed, the Committee notes that under the terms of the above Decision, the Council and the Commission agreed that in the event of the Community having exclusive competence the preparation of standards should proceed "with due regard for Convention No. 144 and for the autonomy of both sides of industry". It also notes that in a later decision of 30 December 1989 (concerning the negotiations for the International Labour Conference on safety in the use of chemicals at work), the Council agreed to re-examine the Decision of 22 December 1986, with a view to supplementing it, if need be, by the addition of provisions designed to prevent difficulties arising from the ILO's Constitution or practices. Furthermore, the Committee notes the information supplied by the Government in its report concerning the Government's replies and comments on the proposed texts relating to items on the agenda of the 76th Session of the Conference, in accordance with Article 5, paragraph 1(a) of the Convention, and on each of the questions raised in paragraph 1. However, the Committee notes the concerns expressed by the TUC as regards the implications of the 1986 Decision and the questions that it raises. Although the decision-making procedures of the Community are clearly outside the scope of the Convention, national organisations of employers and workers are justified in ensuring that these decisions do not have an unfavourable impact on the effectiveness of the implementation of the obligations to which the States in question have subscribed under this Convention. The Committee trusts in this connection that the will expressed by the Council of Ministers and the Commission of the

Community to ensure "full respect" for the Convention means that "effective" consultations will continue to be held at the national level, in accordance with the provisions of Articles 2 and 5 of the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: Côte d'Ivoire, Greece, Guyana, New Zealand, Sierra Leone.

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

#### **Convention No. 146: Seafarers' Annual Leave with Pay, 1976**

Requests regarding certain points are being addressed directly to the following States: France, Nicaragua.

#### **Convention No. 147: Merchant Shipping (Minimum Standards), 1976**

##### Liberia (ratification: 1981)

Further to its previous comments, the Committee notes that the Government has not yet communicated a detailed report on the Convention. It has also noted that direct contacts took place in 1989 between the Government and a mission from the Director-General of the ILO relating to the present Convention, amongst others, and in this connection it refers to its general observation.

The Committee would be grateful if the Government would provide a detailed report on the Convention in the form approved by the Governing Body. Having regard to Article 2(f) of the Convention, it hopes that the Government will describe inspection and other arrangements - at home or abroad - whereby it ensures that ships registered in Liberia comply with applicable international labour Conventions which it has ratified (in particular Nos. 22, 23, 53, 55, 58, 87, 92, 98 and 108) and with the laws and regulations required under Article 2(a) of the present Convention (including those ensuring substantial equivalence to Convention No. 73, Article 5 of Convention No. 68, and Articles 4 and 7 of Convention No. 134). It hopes the Government will also indicate, as requested in the report form, the size of inspection staff, the numbers and results of inspections and investigations of complaints, and any penalties imposed.

The Committee is dealing with further matters in a direct request.

##### United Kingdom (ratification: 1980)

1. Further to its previous observations, the Committee has noted with interest the detailed report provided by the Government,

including information on a variety of social security measures (such as unemployment, old-age, family, maternity and invalidity benefits, and in some cases co-operation with other countries in this respect), in connection with Article 2(a)(ii) and (b)(ii) of the Convention. It has also noted in particular the information as to inspection (Article 2(f)). The Committee hopes the Government will pursue its efforts in these directions and continue to supply details.

2. As regards the arrangements for official inquiries into serious marine casualties (Article 2(g)), the Committee would be grateful further if the Government would indicate the measures taken as a result of the formal investigation referred to in the report and any such subsequent investigations.

3. The Committee refers to its earlier observations, in connection also with the comments received from the Trades Union Congress, concerning the need for laws or regulations laying down safety standards including hours of work, as a matter of ensuring the safety of life on board ship (Article 2(a)(i) of the Convention). It has noted with interest the Government's indication that it commissioned a study of hours of work and fatigue on board ship, and that it would consider introducing regulations on the subject after the study was completed. The Committee understands that that study has now been completed and that it has reached a conclusion in favour of the regulation of hours of work at sea. The Committee hopes the next report will contain full details.

4. Article 2(a) (Conventions listed in the Appendix to Convention No. 147 but not ratified by the United Kingdom).

- Convention No. 73, Article 1(3)(a). In its earlier observations, the Committee pointed out that the Merchant Shipping (Medical Examination) Regulations, 1983, only apply to ships of over 1,600 gross registered tons (GRT), whereas Convention No. 73 allows the exclusion of vessels of less than only 200 GRT.

The Government's view is that there is nothing in Article 1(4)(c) of Convention No. 147 to require or allow the definition of "small vessels" to be varied in its application to different parts of the Convention or its Appendix; but that the scope to exclude "small vessels" should be unlimited. It therefore states that it cannot agree with the Committee in this respect.

The Committee would refer to the explanations in paragraphs 43-45 of its 1990 General Survey of Convention No. 147, in which it has indicated that the exclusion of vessels of up to 1,600 GRT from provisions for the medical examination of seafarers is not consistent with the notion of substantial equivalence in Article 2(a) of the Convention. The Committee has earlier indicated that in determining, under Article 1(4)(c) of Convention No. 147, which are the "small vessels" which may be excluded from the requirements of that Convention, regard must be had to the provisions as to scope in the respective Appendix Conventions, so that the discretion to exclude "small vessels" is not an unlimited one.

The Committee has taken full note of the Government's earlier indications that small ships were defined for the purposes of Convention No. 147 as those below 1,600 GRT, and that

shipowners' and seafarers' organisations were consulted in this respect. However, it would be grateful if the Government would consider entering into further consultations with those organisations, in order to decide in the light of the Committee's comments whether the scope of the Regulations in question might not be extended in order to bring them more into line with the provisions of Convention No. 73. It would also be grateful if, in the meantime, the Government would indicate the appropriate numbers of seafarers employed on ships of between 200 and 1,600 GRT.

- Convention No. 73, Article 5(1). In its earlier observations, the Committee indicated that the discrepancy between the requirements as to the frequency of medical examinations for seafarers in the 1983 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 for the Regulations to be considered substantially equivalent for the purposes of Convention No. 147.

The Government states that it has seen no evidence to suggest that any benefit would accrue to either employers or workers by reducing the frequency of medical examinations of such seafarers from five years to two.

Whilst the Committee would agree with the Government that Article 2(a) of Convention No. 147 does not require literal compliance with every provision of Convention No. 73 (amongst others), it nevertheless considers that closer conformity with Article 5(1) is essential (as indicated in the 1990 General Survey, particularly paragraph 115). The Committee suggests that the Government might consider examining this question in a study of the kind referred to above. It hopes the next report will include information on any steps taken or proposed in this matter.

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In addition, requests regarding certain points are being addressed directly to the following States: Belgium, Costa Rica, Denmark, Egypt, Finland, Federal Republic of Germany, Greece, Iraq, Italy, Liberia, Morocco, Netherlands, Norway, Portugal, Spain.

#### **Convention No. 148: Working Environment (Air Pollution, Noise and Vibration), 1977**

Finland (ratification: 1979)

The Committee notes the information and copies of new legislation provided by the Government in its report as well as the statements made by the Finnish Employers' Confederation (STK), the Employers' Confederation of Service Industries (LTK), the Central Organisation of Finnish Trade Unions (SAK) and the Confederation of Salaried Employees (TVK), communicated with the Government's report.



In its previous comments, the Committee had noted the creation of the Council for the Assessment of Health Risks of Chemicals and the Labour Protection Committee on Chemistry charged with the task of proposing binding limit values for impurities in the air. At that time, the employers' organisations (STK and LTK) had stated that these committees had improved the administrative arrangements necessary for the application of Article 8 of the Convention, whereas the workers' organisations (SAK and TVK) considered the measures taken by the Government insufficient for meeting the requirements of this Article as the bulletin adopted by the National Board of Labour Protection only covers impurities in the air and is not legally binding on the employers.

In their latest observations, the employers' organisations (STK and LTK) state that the Chemical Labour Protection Advisory Council (the Committee understands this to be the Labour Protection Committee on Chemistry created by the Council of State Resolution No. 585 of 6 June 1985) plays a key role in the preparation of official regulations to give effect to the Convention. The workers' organisations (SAK and TVK), however, continue to note that there are not enough mandatory regulations on limit values which are binding on the employer.

The Committee notes with interest the information supplied in the Government's report concerning the legally binding limit values for asbestos, benzene and lead compounds established by the Council of State. It notes, however, that there are as yet no legally binding limit values concerning other air pollutants, noise or vibration. In its report, the Government states that, although the instructions given by labour inspectors are not legally binding, the labour protection district office can take legal action against the employer, including the imposition of fines or imprisonment. The Committee requests the Government to indicate any specific cases in which legal action has been taken against an employer for failure to implement instructions concerning limits of exposure to air pollution, noise and vibration. Furthermore, in its previous direct requests, the Committee has asked the Government to indicate the type of penalties imposed when an employer fails to implement a labour inspector's instructions, in accordance with Article 16 of the Convention. As the Government's report has not indicated the nature of the penalties imposed, the Committee once again expresses the hope that the Government will not fail to indicate in its next report the penalties provided in order to ensure the observance of the instructions given by the labour inspector concerning measures for the prevention of the risks of air pollution, noise and vibration.

#### Spain (ratification: 1980)

The Committee takes note of the information supplied in the Government's report and notes the comments made by the Trade Union Confederation of Workers' Commissions (CC.OO.), submitted in a communication dated 12 September 1989, as well as the Government's reply. The Committee requests the Government to provide further information on the following points:



Article 8, paragraph 1, of the Convention. The Committee notes the indication in the Government's report that regulations concerning the protection of workers against the hazards due to exposure to noise in the workplace have been drafted and are awaiting the opinion of the State Council. It notes with interest that these regulations have been drafted in consultation with the most representative employers' and workers' organisations concerned. The CC.OO., however, has indicated in its comments, that these regulations only protect workers from risks to their hearing and do not take into account other health hazards caused by exposure to noise. In this regard, the Committee would like to call attention to Appendix 2 of the ILO Code of Practice on Protection of Workers Against Noise and Vibration in the Working Environment. The first paragraph of Appendix 2 states: "The effects of noise may be physiological, mental and pathological; a distinction is made between the effects on hearing, the effects on other organs of perception and the general effects." The various health hazards due to noise are described in this appendix.

The CC.OO. has also indicated that the new regulations proposed by the Government raise the limit of exposure to noise from 80 dB, the limit set in present standards, to 85-90 dB. The Government indicates in its report that these new draft regulations on exposure to noise will bring national law into conformity with the EEC Directive No. 86/188 on the protection of workers from the risks related to exposure to noise at work. The Committee notes, however, that section 5 of EEC Directive No. 86/188 calls for noise levels at the workplace to be reduced to the lowest level reasonably practicable. Concerning potential health hazards due to noise levels of 85-90 dB, the Committee would again refer the Government to Appendix 2 of the ILO Code of Practice on Protection of Workers Against Noise and Vibration in the Working Environment.

The Committee requests the Government to indicate the criteria established for determining the hazards of exposure to noise and to indicate whether any exposure limits have been specified on the basis of these criteria.

Article 8, paragraph 3. The Committee notes the statement in the Government's report indicating that occupational hazards resulting from simultaneous exposure to several harmful factors at the workplace are taken into account when establishing and revising the criteria for determining the hazards and the exposure limits based on these criteria. The Government is requested to indicate the manner in which simultaneous exposure is taken into consideration in the process for establishing and revising criteria for determining hazards and exposure limits and to indicate whether such consideration has had any effect on exposure limits set.

Article 9. In its previous comments, the Committee had noted the comments made by the General Union of Workers (UGT) concerning the absence of any provisions for technical or supplementary organisational measures to eliminate hazards due to air pollution or noise. The Committee notes with interest the information provided in the Government's report concerning the creation, by Resolution of 11 February 1985, of a tripartite commission charged with supervising the application of the asbestos regulations. It also notes with interest the Order of 7 January 1987 which requires every undertaking with

activities or operations involving the use of asbestos to establish a workplan including organisational and technical measures taken to reduce the risks of exposure. The Committee requests the Government to supply further information on any other technical or organisational measures prescribed for work processes involving exposure to other air pollutants and exposure to noise.

Article 13. The Committee notes with interest the booklets elaborated by the Occupational Safety and Health Institute in co-operation with the most representative workers organisations containing information on various occupational hazards and the way of preventing risks due to these hazards. The Government is requested to indicate the manner in which workers are provided with or may obtain these booklets. Furthermore, the Committee notes the Government's indication that national legislation will be revised to include more detailed provisions concerning the provision of information to workers on the basis of the EEC Directive No. 89/391 on the introduction of measures to encourage improvements in the safety and health of workers at work. The Government is requested to indicate, in its next report, any progress made in this regard.

Article 14. The CC.00. has indicated in its comments that the budget for the Occupational Safety and Health Institute has been reduced by one-third and the number of personnel of the Institute has been reduced by one-quarter. As such a reduction might affect the effectiveness of the Institute, the Committee requests the Government to indicate whether any new measures have been taken to promote research in the field of prevention and control of hazards in the working environment due to air pollution and noise (such as the establishment of new institutes or the transfer of resources to other bodies for this purpose).

#### Zambia (ratification: 1980)

In earlier comments, the Committee noted that there was no legislation which applied the provisions of the Convention. In a report received in June 1988 the Government indicated that the National Council for Scientific Research in conjunction with the Ministry of Commerce and Industry was working on measures to satisfy the requirements of the Convention, including legislation to limit exposure to air pollution, noise and vibration. In 1989, the Committee had expressed the hope that the Government would take all necessary measures in the very near future to give full effect to the Convention and requested the Government to indicate any progress made in this regard.

The Committee notes that, in its latest report, the Government, having once again indicated that there is no legislation at the moment which applies the provisions of the Convention, states that active measures have been initiated to enact appropriate legislation to cover salient features of the Convention, and that it is anticipated that the next report will contain details of the new legislation. The Committee recalls that, in ratifying this Convention, the Government has undertaken to establish laws or regulations prescribing that measures be taken for the prevention and control of, and protection

against, occupational hazards in the working environment due to air pollution, noise and vibration, as required by Article 4 of the Convention and to ensure that measures are taken for the application of all Articles of the Convention. The Committee, therefore, looks forward to examining the legislation announced by the Government as well as information on further measures taken for the full application of the Convention. It hopes that the Government will soon indicate the concrete steps taken in this regard and supply copies of relevant legislative texts.

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In addition, requests regarding certain points are being addressed directly to the following States: Brazil, Costa Rica, Cuba, France, Guinea, Iraq, Italy, Norway, Portugal, Sweden, United Republic of Tanzania and Yugoslavia.

### Convention No. 149: Nursing Personnel, 1977

#### General observation

The Committee notes, from the draft statement concerning action to be taken after occupational exposure of health-care workers to the AIDS virus, which was prepared during a consultation held by the World Health Organisation in association with the International Labour Organisation, that as the number of people with HIV infection and disease increases, the risk of accidental exposure to the HIV (human immunodeficiency virus) among health-care workers also increases. It considers that nursing personnel, covered by the Convention, work in an environment where there is a high occupational risk of accidental HIV infection and that, accordingly, particular attention must be paid to working conditions and the protection of the health of such personnel.

The Committee recalls that under Title IX (Occupational Health Protection) of Recommendation (No. 157) concerning nursing personnel, 1977:

- studies should be undertaken to determine the special risks to which nursing personnel may be exposed in the exercise of their profession so that these risks may be prevented and, as appropriate, compensated;
- all possible steps should be taken to ensure that nursing personnel are not exposed to special risks and, where exposure to special risks is unavoidable, measures should be taken to minimise it (such as the provision and use of protective clothing, shorter hours, more frequent rest breaks, temporary removal from the risk, longer annual holidays, financial compensation, etc.);
- and that the collaboration of nursing personnel and of organisations representing them should be sought in ensuring the effective application of provisions concerning the protection of the health and safety of nursing personnel.

The Committee requests governments to indicate the measures taken or under consideration to adapt legislation on health and safety at work to the particular risk of accidental exposure to HIV among nursing personnel, in accordance with the provisions of Article 7 of the Convention. It also requests governments to indicate the manner in which consultation on such measures with nursing personnel is organised, in accordance with Article 5, paragraph 2, of the Convention.

The Committee requests governments to indicate the measures taken or contemplated, in consultation with the employers' and workers' organisations concerned, with regard to the continuation of the employment relationship of nursing personnel infected or considered to be infected with HIV (e.g. confidentiality of test results, recognition that the cause of infection was occupational, etc.).

#### Guyana (ratification: 1984)

The Committee takes note of the Government's report.

In its previous comments, the Committee requested the Government to provide a copy of the legislation governing the conditions of employment of nursing personnel and of the collective agreement between the Guyana Public Service Union, and the Public Service Ministry and the Ministry of Health and Public Welfare, and in particular, a copy of the texts referred to in its reports (Nurses' Code of Conduct, General Nursing Council Act, Private Hospital Act (Chap. 33.03) and the Private Hospital Regulations, the Public Service Rules of 1976 and the Public Service Rules of 1987).

The Committee notes the Government's statement that copies of these documents and legal texts are not yet available.

The Committee hopes that the Government will supply these texts, as without them, it is unable to ascertain that legislation and practice are consistent with the Convention. It also requests the Government to provide the information called for in the report form under Articles 5, 6 and 7 of the Convention in respect of nursing personnel employed in the private sector.

[The Government is asked to report in detail for the period ending 30 June 1990.]

#### Portugal (ratification: 1985)

In its direct request of 1989, the Committee had taken note of the allegations of the General Confederation of Workers of Portugal (CGTP/IN) and of the Union of Nursing Personnel of the southern district and of the autonomous region of the Azores concerning the non-application of certain provisions of the Convention, including those relating to training, employment conditions, hours of work, remuneration, career prospects and consultation with the nursing personnel on decisions concerning them (Articles 2, 3, 5, paragraph 1, 6(a) of the Convention). The Committee had therefore requested the Government to supply information in reply to these allegations, as well as detailed information on the application of certain other

provisions of the Convention and statistical data, especially on the number of persons employed in the nursing profession and the number of persons who have left it.

The Committee takes note of the detailed information and statistical data supplied by the Government in its report in reply to the above-mentioned comments, as well as the legal texts adopted during the period covered by the report and the documentation attached thereto.

The Committee also takes note of the comments formulated by the Portuguese Nursing Personnel Union (SEP) on the Government's reply to the above-mentioned allegations. These comments were transmitted by the General Confederation of Workers of Portugal with its communication of 23 January 1990, a copy of which was sent on 9 February 1990 to the Government for its observations.

The Committee has examined the Government's reply and the comments of the SEP in a new direct request to which it would ask the Government to refer.

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In addition, requests regarding certain points are being addressed directly to the following States: Bangladesh, Egypt, Finland, France, Ghana, Iraq, Italy, Jamaica, Malawi, Philippines, Poland, Portugal, United Republic of Tanzania, Uruguay, Venezuela, Zambia.

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

#### **Convention No. 150: Labour Administration, 1978**

Requests regarding certain points are being addressed directly to the following States: Australia, Congo, Costa Rica, Greece, Guyana, Italy.

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

#### **Convention No. 151: Labour Relations (Public Service), 1978**

Denmark (ratification: 1981)

With reference to its previous comments the Committee notes with interest that a new basic agreement for the public sector was concluded on 20 June 1988 between the Ministry of Finance and the Council of Employees in the State Sector (STK).

Finland (ratification: 1980)

The Committee takes note of the comments of the Central Organisation of Finnish Trade Unions (SAK) and the Confederation of Salaried Employees (TVK) concerning certain deficiencies in the system of collective agreements for public employees under the 1988 amendments to the Civil Service Collective Agreements Act, No. 664/70. These two organisations state that the system has a "limited nature of negotiating and strike rights" and that this Act and the Act on Local Authority Collective Agreements "differ in certain respects".

In the Committee's opinion, these general comments do not demonstrate any failure to apply Article 7 of the Convention. This Article permits a certain flexibility in the choice of methods to allow representatives of public employees to participate in the determination of their employment conditions, and the fact that two different pieces of legislation apply the basic choice of collective bargaining differently to two different categories of public servants is not a point for criticism. Furthermore, the organisations do not explain in what way the system in force for civil servants has limited negotiating rights, so the Committee is not in a position to examine this comment. Lastly, the Committee would recall, on the issue of limited "strike rights", that the understanding of the Conference when adopting this Convention was that it did not deal in one way or the other with the question of the right to strike. [Record of Proceedings, International Labour Conference, 64th Session, Geneva, 1978, p. 25/9.]

Portugal (ratification: 1981)

The Committee takes note of the Government's report and of the observations of the National Federation of Teachers (FNP). It also notes that the Ministry of Labour and Social Security has begun to gather the information needed to reply to the observations of the Federation and that it has undertaken to submit its comments on the matter.

The Committee will examine the observations of the FNP in the light of the Government's comments at its next session.

[The Government is asked to report in detail for the period ending 30 June 1990.]

Spain (ratification: 1984)

The Committee takes note of the information supplied by the Government and of the comments made by the Trade Union Confederation of Workers' Commissions (CC.OO.). According to the CC.OO. the civilian employees of the armed forces do not enjoy the basic collective rights, in particular freedom of association, the right to strike and the right to bargain collectively. The Government states that civilian employees of the armed forces, firemen and prison staff are covered by the application of Act No. 9/1987 of 12 June respecting representative bodies, the establishment of conditions of work and the

participation of public administration employees, and that its legislation on this point is in conformity with Articles 5 and 6 of the Convention. The Committee takes due note of the Government's statement in this respect and considers that this point, at the present stage of available information, does not call for further comment.

United Kingdom (ratification: 1980)

1. The Committee notes the Government's report. In particular it notes that the change in position relating to the application to House of Lords staff of the Trade Union and Labour Relations Act 1974 was the result of legal advice, and not of the High Court decision referred to in the Committee's 1988 observation.

2. At its last session the Committee examined, under Convention No. 98, certain matters relating to collective bargaining in the teaching sector in England and Wales. The Committee notes that in January 1990 the Trades Union Congress addressed certain comments to it in relation to this matter. These comments have been transmitted to the Government for its observations. The Committee will take account of the issues raised by the TUC, in the light of the Government's observations, when it examines the application of Convention No. 98 at its next session.

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

Information supplied by Finland, Italy and the United Kingdom in answer to a direct request has been noted by the Committee.

**Convention No. 152: Occupational Safety and Health (Dock Work), 1979**

Requests regarding certain points are being addressed directly to the following States: Congo, Cyprus, France, Guinea, Iraq and United Republic of Tanzania.

**Convention No. 153: Hours of Work and Rest Periods (Road Transport), 1979**

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



**Convention No. 154: Collective Bargaining, 1981**Spain (ratification: 1985)

The Committee notes that in a communication dated 12 September 1989 the Trade Union Confederation of Workers' Commissions (CC.OO.) made comments on the application of this Convention.

The Government sent detailed observations and comments replying to this communication in a letter which arrived at the ILO on 9 March 1990, during the current session of the Committee of Experts.

The Committee intends to examine the CC.OO.'s comments together with the Government's reply at its next session.

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

**Convention No. 155: Occupational Safety and Health, 1981**General Observation

The Committee recalls that this Convention lays down the basic principles for the development of a national policy to ensure a coherent and comprehensive occupational safety and health system, both at the national level and at the level of the undertaking. The purpose of this Convention is to form the basis for the preparation, later on, of other specific means of protection for the worker in the working environment.

The Committee has noted from its review of the Governments' reports that progress towards this broad approach to occupational safety and health is slow. A number of member States which have ratified the Convention have not yet put into place a coherent policy concerning occupational safety and health, although they have established a significant number of laws and decrees regulating specific areas of occupational safety and health. In ratifying this Convention, these countries have indicated their recognition of the importance of a coherent occupational safety and health policy, but vast administrative changes may be necessary to the formulation and implementation of this policy. A coherent national safety and health policy should be promoted in order to facilitate a timely and adequate response to all concerns raised by occupational hazards, in particular, as regards the impact that technical progress may have on the working environment.

Several countries are progressing towards a coherent national approach concerning occupational safety and health issues. These Governments may wish to have recourse to the advice and technical co-operation of the ILO in this regard, in particular, through the assistance of the International Programme for the Improvement of Working Conditions and Environment (PIACT) which aims at promoting, inter alia, the principles embodied in this Convention.



Finland (ratification: 1985)

Further to its previous comments, the Committee notes with satisfaction Act No. 287, issued on 31 March 1988 which establishes section 9(c), to be added to Act No. 299/58 on worker protection. Section 9(c) provides that a worker has a right to remove himself or herself from work which presents a serious danger to life or health and that this right continues until the employer has taken the measures necessary to make the situation safe, thus ensuring the application of Articles 13 and 19(f) of the Convention. The Committee is raising other points in a request addressed directly to the Government.

Spain (ratification: 1985)

The Committee has noted the comments made by the Occupational Union of Uniformed Police (SPPU), transmitted in a communication dated 13 January 1989, the comments made by the Trade Union Confederation of Workers' Commissions (CC.OO.) dated 12 September 1987 and the Government's reply to these observations.

1. The Committee has noted the information provided by the CC.OO. concerning the absence of a national policy on occupational safety and health required by Article 4 of the Convention. The Government had indicated, in its first report, that the Ministry of Labour was preparing a legal text on safety and health at work to deal with, in particular, the co-ordination between the various authorities and bodies having a responsibility in the field of safety and health, and the rights and responsibilities of employers and workers. In its latest report, the Government indicated that no text has yet been promulgated because the Government is waiting for the final approval of EEC Directive No. 391 of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work. The Committee would again recall that Article 4 of the Convention provides that a coherent national policy on occupational safety, occupational health and the working environment shall be formulated, implemented and reviewed in consultation with the most representative organisations of employers and workers.

The CC.OO. has also indicated that, in view of the lack of a coherent national policy concerning occupational safety and health, Article 15 which concerns the necessary co-ordination between various authorities and bodies called upon to give effect to this policy cannot be properly applied. The Committee would recall that the arrangements made to ensure this co-ordination shall be taken in consultation with the most representative organisations of employers and workers. The Government has indicated the co-ordination provided for in the organisational structure which already exists in the field of occupational safety and health. The Committee hopes that a coherent national policy on occupational safety, occupational health and the working environment will be formulated in the near future and that the organisational structure put into place by this policy will provide for the necessary co-ordination between the authorities and bodies concerned.

2. The SPPU in its comments refers to a number of safety and health problems in the Fuengirola and Marbella police stations and the absence of appropriate consultation and co-operation by the authorities with the representative organisations of the workers concerned. The Committee is dealing with these matters and a number of other points 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: Finland, Mexico, Norway, Portugal, Spain, Venezuela.

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

### **Convention No. 156: Workers with Family Responsibilities, 1981**

#### Finland (ratification: 1983)

Further to its previous direct requests, the Committee notes with satisfaction that since the spring 1988 collective bargaining, wage agreements in the private sector no longer restrict to the mother the right to be absent from work to take care of a suddenly ill child under 10 years and now grant an equal right to paid absence to both parents, thus ensuring equality of treatment between men and women workers with family responsibilities, in accordance with Articles 1 and 4 of the Convention.

Article 4 of the Convention. The Committee has also noted with interest that the Contracts of Employment Act, as amended as from 1 August 1988, provides for temporary care leave in case of sickness of a child under ten, and for partial care leave in the form of shorter working hours for parents of children under four. Under Act No. 4/89 amending the Act on Child Home-Care Subsidy, the parent or guardian of a child under three whose working week is not more than 30 hours because of caring for a child has the right to partial home-care subsidy.

Article 5. The Committee has noted with interest that the main goal of the present legislation is to substantially increase the support provided by society to parents of children under three and to give parents an option in arranging for the care of small children and that in 1990 parents or guardians of children under three will by law have the right to choose either home-care subsidy or a municipally provided day-care place for the child at the end of paid parental leave. In this regard, the Central Organisation of Finnish Trade Unions (SAK), the Confederation of Salaried Employees (TVK) and the Confederation of Unions for Academic Professions in Finland (AKAVA) have stated that despite the legislation, there are not enough municipal day-care places, which puts parents in a position of inequality, as providing private day care requires greater financial sacrifices and is a less reliable alternative. They also point out that parents working evening and night shifts almost always have to

arrange their child care themselves. The Committee hopes that the next report will indicate the developments in this regard.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Norway, Peru, Portugal, Spain, Venezuela.

### **Convention No. 157: Maintenance of Social Security Rights, 1982**

Requests regarding certain points are being addressed directly to the following States: Spain, Sweden.

### **Convention No. 158: Termination of Employment, 1982**

Spain (ratification: 1985)

1. The Committee takes note of the Government's report and of the further observations submitted by the Trade Union Confederation of Workers' Commissions (CC.OO.) in September 1989 and of the Government's reply to them. The Committee also notes the Government's replies to certain matters raised in a previous direct request. The Committee is addressing a further direct request to the Government concerning a number of outstanding issues.

2. Article 2, paragraphs 2 and 3, of the Convention. In its communication, the CC.OO. affirms that there are too many successive extensions of temporary contracts and that, furthermore, there are no legal safeguards against successive and unlimited renewals of fixed-term temporary contracts. The Committee requested information as to the extent of the recourse to fixed-term contracts, the situation of the workers concerned upon expiry of such contracts and the renewal of fixed-term contracts. The Government has provided statistical tables on the recourse to temporary contracts which show the high and growing number of short-term in-plant contracts and training contracts concluded since 1984. It affirms that more than one-third of short-term in-plant contracts and training contracts are converted into permanent contracts at the end of the initial period of validity, rather than being extended for the maximum period. It states that rules are to be adopted in the future which will help to stabilise the integration of young people into the labour market by means of a large subsidy for converting short-term in-plant contracts and training contracts, among other temporary contracts, into contracts of indefinite duration. The Government indicates that the initial period of validity plus the period of extension or of successive extensions of temporary contracts must not exceed three years. The Committee takes note of the foregoing and trusts that the Government will provide information on the measures envisaged, and on any new judicial decisions, to provide adequate safeguards against

recourse to contracts of employment for a specified period of time the aim of which is to avoid the protection resulting from the Convention. It would be grateful if the Government would state what happens to the workers concerned upon expiry of the successive extensions of their fixed-term contract. In this connection, the attention of the Government is invited to the comments of the Committee on the application of the Employment Policy Convention, 1964 (No. 122), and Paragraph 3 of the Termination of Employment Recommendation, 1982 (No. 166).

3. Article 7. In its previous comments, the Committee pointed out that the worker should have the chance to defend himself against the allegations made before his employment is considered to have been terminated (underlining added). In its communication of September 1989, the CC.OO. stressed that legislation and practice in Spain do not guarantee full compliance with Article 7 with regard to providing the worker with the opportunity to defend himself against the allegations made prior to the termination (CC.OO.'s underlining). The Government, for its part, suggests that employment is terminated only upon a decision of the competent judicial body. This does not appear to be borne out by sections 54 and 55 of the Workers' Charter.

The Committee refers to the preparatory work on the Convention, and particularly on Article 7, where the Office, solely with a view to providing greater flexibility, agreed to delete from this provision the words "before he is afforded a hearing by the employer". The word "hearing" in the English version was considered to imply a quasi-judicial procedure. The Office felt that this reference could well be deleted without affecting the substance of this provision, according to which a worker should not have his or her employment terminated for reasons of conduct or performance before being given an opportunity to defend himself or herself against the allegations made (see: International Labour Conference, Report V(2), Termination of employment at the initiative of the employer, 68th Session, 1982, page 27).

The Committee again refers to section 55 of the Workers' Charter which allows dismissal (for disciplinary reasons) if the alleged breach of discipline is stated in the employer's written notification. The worker is apparently, contrary to the requirement of Article 7, not afforded the opportunity to defend himself against the allegations made before receiving the written notification of dismissal. The Committee would therefore be grateful if the Government would state when the employment is considered to be terminated, in the national legislation and in practice, and to specify the procedure available to a worker to defend himself against the allegations prior to the termination, as required by this Article of the Convention. Please provide a copy of the texts which ensure that full effect is given to this important provision of the Convention.

[The Government is asked to report in detail for the period ending 30 June 1991.]

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Cyprus, Malawi, Niger, Spain, Sweden, Venezuela and Yugoslavia.

**Convention No. 159: Vocational Rehabilitation and Employment  
(Disabled Persons), 1983**

Requests regarding certain points are being addressed directly to the following States: Argentina, Denmark, Finland, Greece, Malawi, Peru, San Marino, Sweden.

**Convention No. 160: Labour Statistics, 1985**

Requests regarding certain points are being addressed directly to the following States: Austria, Norway, Sweden, Switzerland.

**Convention No. 161: Occupational Health Services, 1985**

Requests regarding certain points are being addressed directly to the following States: Mexico, Sweden.

**Appendix I. Receipt of Detailed Reports on Ratified Conventions  
as at 22 March 1990**

(Article 22 of the Constitution)

<i>State Member</i>	<i>Reports received</i>		<i>Reports not received</i>		<i>Grand total</i>
	<i>Total</i>	<i>Conventions Nos.</i>	<i>Total</i>	<i>Conventions Nos.</i>	
<b>GRAND TOTAL</b>	1256		463		1719
<b>AFGHANISTAN</b>	3	95 100 137	5	41 45 105 111 141	8
<b>ALGERIA</b>	14	6 13 17 29 42 62 81 88 89 100 105 127 138 142	0		14
<b>ANGOLA</b>	1	111	13	6 12 17 18 27 29 45 81 88 89 100 105 108	14
<b>ANTIGUA AND BARBUDA</b>	0		7	12 17 29 81 105 108 138	7
<b>ARGENTINA</b>	22	1 2 12 17 27 29 34 41 42 45 68 79 81 88 90 100 105 124 129 144 151 159	0		22
<b>AUSTRALIA</b>	11	12 27 29 42 81 88 100 105 142 150 160	0		11
<b>AUSTRIA</b>	16	6 12 17 27 29 42 45 81 88 89 100 102 105 135 141 160	0		16
<b>BAHAMAS</b>	9	12 17 29 42 45 81 88 105 144	0		9
<b>BAHRAIN</b>	0		3	29 81 89	3
<b>BANGLADESH</b>	11	18 27 29 45 81 87 89 90 105 107 149	0		11
<b>BARBADOS</b>	11	12 17 29 42 81 90 100 102 105 108 135	0		11
<b>BELGIUM</b>	12	6 12 27 29 45 81 88 89 100 105 121 147	0		12
<b>BELIZE</b>	8	12 29 42 81 88 89 105 108	0		8
<b>BENIN</b>	0		7	6 18 29 41 85 100 105	7

## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
BOLIVIA	9	5 45 81 88 89 90 100 120 129	2	121 128	11
BOTSWANA	2	14 19	0		2
BRAZIL	6	12 29 45 89 100 148	15	5 6 42 53 88 94 105 107 108 111 113 115 120 125 127	21
BULGARIA	12	6 12 17 27 29 42 45 79 81 100 108 127	0		12
BURKINA FASO	10	6 17 18 29 41 81 87 100 129 135	0		10
BURUNDI	9	12 17 27 29 42 81 89 90 105	0		9
BYELORUSSIAN SSR	7	27 29 45 79 90 100 149	0		7
CAMEROON	9	29 45 81 89 90 100 105 108 135	0		9
CANADA	5	27 88 100 105 108	0		5
CAPE VERDE	9	17 19 29 81 98 100 105 111 118	0		9
CENTRAL AFRICAN REPUBLIC	15	2 6 17 18 19 29 41 81 87 88 98 100 105 118 119	0		15
CHAD	6	6 29 41 81 100 105	0		6
CHILE	16	2 3 6 12 17 18 20 27 29 30 35 37 45 100 111 127	0		16
CHINA	2	27 45	0		2
COLOMBIA	17	2 3 4 6 9 12 17 18 22 29 81 87 88 98 100 105 129	0		17
COMOROS	0		9	6 12 17 29 42 81 89 100 105	9
CONGO	3	29 87 149	2	6 89	5
COSTA RICA	13	11 29 45 81 88 89 90 100 105 127 129 135 150	2	147 148	15
COTE D'IVOIRE	12	6 18 29 41 45 52 81 100 105 135 136 144	1	129	13

**REPORT OF THE COMMITTEE OF EXPERTS**

<i>State Member</i>	<i>Reports received</i>		<i>Reports not received</i>		<i>Grand total</i>
	<i>Total</i>	<i>Conventions Nos.</i>	<i>Total</i>	<i>Conventions Nos.</i>	
CUBA	19	12 17 27 29 42 45 79 81 88 89 90 100 105 108 135 141 148 151 155	0		19
CYPRUS	14	29 45 81 88 89 90 105 114 141 151 152 158 159 160	2	100 121	16
CZECHOSLOVAKIA	11	12 17 27 29 42 45 88 89 90 100 159	0		11
DEMOCRATIC YEMEN	1	105	2	29 94	3
DENMARK	15	6 12 27 29 42 81 100 105 122 129 135 141 147 149 151	4	88 102 108 142	19
DJIBOUTI	4	29 81 100 105	8	6 12 17 18 45 88 89 108	12
DOMINICA	12	12 22 29 81 87 94 97 98 100 105 108 111	1	138	13
DOMINICAN REPUBLIC	0		13	29 45 77 79 81 87 88 89 90 95 98 100 105	13
ECUADOR	11	29 45 81 87 88 100 105 127 141 148 149	1	121	12
EGYPT	16	2 17 18 29 45 69 73 81 88 89 100 105 134 135 147 149	0		16
EL SALVADOR	4	12 105 159 160	0		4
EQUATORIAL GUINEA	2	100 138	0		2
ETHIOPIA	2	2 88	0		2
FIJI	8	8 12 29 45 58 85 105 108	0		8
FINLAND	23	2 12 27 29 45 81 100 105 108 121 129 135 141 147 148 149 151 154 155 156 159 160 161	0		23
FRANCE	14	12 17 29 42 89 100 105 108 118 127 129 135 141 147	9	27 45 81 88 90 137 148 149 152	23



## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
GABON	10	6 12 29 41 45 81 98 100 105 135	1	87	11
GERMAN DEMOCRATIC REPUBLIC	7	27 45 100 108 111 127 135	0		7
GERMANY, FEDERAL REPUBLIC OF	14	12 29 45 81 88 100 105 111 121 128 129 135 141 147	0		14
GHANA	2	29 100	18	1 11 45 50 58 64 81 88 89 90 92 105 108 111 120 148 149 151	20
GREECE	14	17 27 29 42 45 81 88 89 90 100 105 108 147 150	6	62 87 122 144 149 159	20
GRENADA	0		16	5 8 10 11 12 16 19 26 29 58 81 97 98 99 105 108	16
GUATEMALA	15	1 10 11 14 45 79 81 88 89 90 98 100 105 108 127	0		15
GUINEA	17	29 45 81 89 90 100 105 118 121 134 135 139 143 148 149 151 152	0		17
GUINEA-BISSAU	13	6 12 17 18 27 29 45 81 88 89 100 105 108	0		13
GUYANA	8	42 81 100 129 135 142 149 151	11	2 7 11 12 29 45 97 98 105 108 141	19
HAITI	5	29 42 45 81 105	8	1 12 17 30 78 90 100 107	13
HONDURAS	0		10	27 29 42 45 81 100 105 108 111 138	10
HUNGARY	11	2 6 12 17 27 29 42 45 100 135 159	0		11
ICELAND	5	2 29 100 105 108	0		5
INDIA	9	27 29 42 45 81 89 90 100 141	1	88	10
INDONESIA	0		4	27 29 45 100	4

REPORT OF THE COMMITTEE OF EXPERTS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
IRAN, ISLAMIC REP. OF	5	29 100 105 108 111	1	19	6
IRAQ	16	17 27 29 42 88 89 95 100 108 119 120 135 138 147 148 149	2	81 105	18
IRELAND	1	100	17	6 11 12 27 29 53 81 87 88 98 105 108 121 124 142 144 159	18
ISRAEL	8	29 79 81 88 90 100 105 141	0		8
ITALY	27	12 27 29 42 45 68 79 81 87 89 90 92 97 98 102 105 108 118 120 127 129 134 135 141 148 149 151	4	94 100 139 147	31
JAMAICA	12	8 16 29 58 81 87 98 100 105 111 122 149	0		12
JAPAN	8	27 29 45 81 88 100 121 147	0		8
JORDAN	4	81 100 105 135	2	29 111	6
KAMPUCHEA, DEMOCRATIC	0		5	4 6 13 29 122	5
KENYA	13	2 12 17 27 29 45 81 88 89 105 129 138 141	1	135	14
KUWAIT	4	29 81 105 111	1	89	5
LAO PEOPLE'S DEM. REP.	4	4 6 13 29	0		4
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	26 29 45	0		3
LIBERIA	8	29 55 87 98 105 108 111 147	3	58 92 112	11
LIBYAN ARAB JAMAHIRIYA	0		8	29 81 88 89 100 105 121 130	8

## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
LUXEMBOURG	13	12 27 29 79 81 88 90 98 100 102 105 121 135	1	2	14
MADAGASCAR	9	11 12 26 29 41 81 100 111 127	4	6 120 122 129	13
MALAWI	2	149 159	7	12 45 81 89 100 129 158	9
MALAYSIA	10	7 11 12 17 29 45 81 88 97 105	0		10
MALAYSIA (PENINSULAR)	3	12 17 45	0		3
MALAYSIA (SARAWAK)	1	12	0		1
MALI	7	17 18 29 41 81 100 105	1	6	8
MALTA	13	1 2 12 13 14 21 29 42 81 88 89 105 108	0		13
MAURITANIA	0		31	3 5 11 13 14 17 18 19 22 23 26 29 33 52 58 62 81 84 87 89 90 91 94 96 101 102 111 112 114 118 122	31
MAURITIUS	8	2 12 17 29 42 81 105 108	4	26 94 98 99	12
MEXICO	15	12 17 27 29 34 42 45 90 100 105 108 135 141 155 161	0		15
MONGOLIA	1	100	0		1
MOROCCO	15	2 12 17 27 29 30 41 42 45 81 100 105 129 136 147	0		15
MOZAMBIQUE	6	17 18 81 88 100 105	0		6
MYANMAR	7	2 6 17 27 29 42 52	0		7
NEPAL	2	14 100	0		2
NETHERLANDS	13	12 17 29 81 88 90 96 100 105 129 135 141 147	1	45	14
NEW ZEALAND	9	12 17 29 42 81 88 100 105 144	0		9

**REPORT OF THE COMMITTEE OF EXPERTS**

<i>State Member</i>	<i>Reports received</i>		<i>Reports not received</i>		<i>Grand total</i>
	<i>Total</i>	<i>Conventions Nos.</i>	<i>Total</i>	<i>Conventions Nos.</i>	
NICARAGUA	6	1 18 98 119 127 141	19	3 4 6 9 11 12 17 27 29 30 45 87 88 100 105 111 131 135 137	25
NIGER	8	6 29 81 105 135 154 156 158	5	18 41 100 102 119	13
NIGERIA	6	8 19 58 81 88 134	4	29 45 100 105	10
NORWAY	22	12 27 29 42 81 88 90 100 105 108 111 129 135 141 147 148 151 154 155 156 159 160	0		22
PAKISTAN	10	18 27 29 45 81 87 89 90 96 105	0		10
PANAMA	13	12 17 29 32 42 45 87 89 100 105 108 125 127	3	64 81 88	16
PAPUA NEW GUINEA	10	2 12 26 27 29 42 45 85 98 105	3	10 99 122	13
PARAGUAY	4	29 79 81 122	4	89 90 100 105	8
PERU	14	12 41 45 56 68 69 71 81 87 88 90 100 105 159	4	29 79 151 156	18
PHILIPPINES	10	17 88 89 90 94 95 100 105 141 149	0		10
POLAND	17	2 12 17 27 29 42 45 79 87 90 98 100 105 127 135 149 151	0		17
PORTUGAL	28	6 8 12 17 18 19 27 29 45 63 74 81 88 89 96 100 105 108 124 127 129 135 147 148 149 151 155 156	0		28
QATAR	0		1	81	1
ROMANIA	12	6 27 29 81 88 89 100 108 111 127 129 135	0		12
RWANDA	9	12 17 42 81 89 100 105 111 123	0		9
SAINT LUCIA	10	12 17 29 50 64 65 100 105 108 111	0		10
SAN MARINO	2	143 144	4	88 100 142 159	6

## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
SAO TOME AND PRINCIPE	5	17 18 81 88 100	0		5
SAUDI ARABIA	7	29 45 81 89 90 100 105	0		7
SENEGAL	9	6 12 29 81 89 100 105 121 135	0		9
SEYCHELLES	12	2 5 10 11 16 26 29 58 87 99 105 108	0		12
SIERRA LEONE	0		21	16 17 19 26 29 45 58 59 81 87 88 95 98 99 100 105 111 119 125 126 144	21
SINGAPORE	5	12 29 45 81 88	0		5
SOLOMON ISLANDS	0		6	12 29 42 45 81 108	6
SOMALIA	5	17 29 45 85 105	0		5
SPAIN	26	12 17 27 29 42 45 79 81 88 89 90 100 105 108 127 129 135 141 147 148 151 154 155 156 157 158	0		26
SRI LANKA	8	18 29 45 81 90 115 131 135	0		8
SUDAN	4	2 29 81 100	1	105	5
SURINAME	10	17 27 29 41 42 81 88 105 135 151	0		10
SWAZILAND	0		9	12 29 45 81 89 90 100 105 111	9
SWEDEN	24	12 27 29 81 88 100 105 108 121 129 135 141 147 148 149 151 154 155 156 157 158 159 160 161	0		24
SWITZERLAND	16	2 6 18 27 29 45 81 88 89 100 105 141 151 154 159 160	0		16
SYRIAN ARAB REPUBLIC	6	2 17 18 45 89 135	7	29 81 88 96 100 105 129	13
TANZANIA (TANGANYIKA)	0		4	45 81 88 108	4

**REPORT OF THE COMMITTEE OF EXPERTS**

<i>State Member</i>	<i>Reports received</i>		<i>Reports not received</i>		<i>Grand total</i>
	<i>Total</i>	<i>Conventions Nos.</i>	<i>Total</i>	<i>Conventions Nos.</i>	
<b>TANZANIA (UNITED REPUBLIC OF)</b>	0		16	12 17 29 45 81 85 88 105 108 134 135 140 142 148 149 152	16
<b>TANZANIA (ZANZIBAR)</b>	0		1	85	1
<b>THAILAND</b>	3	88 122 127	2	29 105	5
<b>TOGO</b>	6	6 29 41 85 100 138	0		6
<b>TRINIDAD AND TOBAGO</b>	3	29 85 105	0		3
<b>TUNISIA</b>	16	12 17 18 29 45 55 73 81 88 89 90 100 105 108 113 127	0		16
<b>TURKEY</b>	9	42 45 81 88 99 100 105 111 127	0		9
<b>UGANDA</b>	0		7	12 17 29 45 81 105 124	7
<b>UKRAINIAN SSR</b>	8	27 29 45 79 90 100 108 149	0		8
<b>UNION OF SOVIET SOCIALIST REP.</b>	8	27 29 45 79 90 100 108 149	1	134	9
<b>UNITED ARAB EMIRATES</b>	1	81	2	29 89	3
<b>UNITED KINGDOM</b>	16	12 17 29 42 81 100 105 108 135 141 142 144 147 148 151 160	0		16
<b>UNITED STATES</b>	1	74	0		1
<b>URUGUAY</b>	13	27 79 81 90 105 108 118 121 129 131 136 144 149	0		13
<b>VENEZUELA</b>	13	6 29 41 45 81 87 88 98 100 105 118 127 141	11	117 121 128 138 139 142 149 153 155 156 158	24
<b>YEMEN</b>	0		4	29 81 100 135	4
<b>YUGOSLAVIA</b>	1	158	21	9 12 27 29 45 53 81 88 89 90 91 100 103 121 126 129 135 148 155 156 159	22
<b>ZAIRE</b>	11	12 27 29 81 88 89 100 102 121 150 158	0		11

OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
ZAMBIA	14	12 17 18 45 89 100 105 123 135 136 141 148 151 154	2	29 149	16
ZIMBABWE	2	19 45	0		2
OTHER STATES					
ALBANIA	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	4	2 42 45 89	0		4

**Appendix II. Statistical Table of Reports Received  
on Ratified Conventions as at 22 March 1990**

(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	1026	212	20.6	840	81.8	917	89.3
1953-1954	1175	268	22.8	1077	91.7	1119	95.2
1954-1955	1234	283	22.9	1063	86.1	1170	94.8
1955-1956	1333	332	24.9	1234	92.5	1283	96.2
1956-1957	1418	210	14.7	1295	91.3	1349	95.1
1957-1958	1558	340	21.8	1484	95.2	1509	96.8
1958-1959	995 <sup>2</sup>	200	20.4	864	86.8	902	90.6
1958-1960	1100	256	23.2	838	76.1	963	87.4
1959-1961	1362	243	18.1	1090	80.0	1142	83.8
1960-1962	1309	200	15.5	1059	80.9	1121	85.6
1961-1963	1624	280	17.2	1314	80.9	1430	88.0
1962-1964	1495	213	14.2	1268	84.8	1356	90.7
1963-1965	1700	282	16.6	1444	84.9	1527	89.8
1964-1966	1562	245	16.3	1330	85.1	1395	89.3
1965-1967	1883	323	17.4	1551	84.5	1643	89.6
1966-1968	1647	281	17.1	1409	85.5	1470	89.1
1967-1969	1821	249	13.4	1501	82.4	1601	87.9
1968-1970	1894	360	18.9	1463	77.0	1549	81.6
1969-1971	1992	237	11.8	1504	75.5	1707	85.6
1970-1972	2025	297	14.6	1572	77.6	1753	86.5
1971-1973	2048	300	14.6	1521	74.3	1691	82.5

<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.



## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

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
1972-1974	2189	370	16.5	1854	84.6	1958	89.4
1973-1975	2034	301	14.8	1663	81.7	1764	86.7
1974-1976	2200	292	13.2	1831	83.0	1914	87.0
1977	1529 <sup>3</sup>	215	14.0	1120	73.2	1328	87.0
1978	1701	251	14.7	1289	75.7	1391	81.7
1979	1593	234	14.7	1270	79.8	1376	86.4
1980	1581	168	10.6	1302	82.2	1437	90.8
1981	1543	127	8.1	1210	78.4	1340	86.7
1982	1695	332	19.4	1382	81.4	1493	88.0
1983	1737	236	13.5	1388	79.9	1558	89.6
1984	1669	189	11.3	1286	77.0	1412	84.6
1985	1666	189	11.3	1312	78.7	1471	88.2
1986	1752	207	11.8	1388	79.2	1529	87.3
1987	1793	171	9.5	1408	78.4	1542	86.0
1988	1636	149	9.0	1230	75.9	1383	84.4
1989	1719	196	11.4	1256	73.0	-	-

<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**

#### France

##### French Southern and Antarctic Territory

In the general observations that it has been making since 1987, the Committee has referred to the communications of the National Federation of Maritime Trade Unions (FNSM) concerning the application of Conventions Nos. 8, 9, 22, 53, 55, 58, 69, 71, 74, 87, 98, 108, 111, 145 and 146 in the French Southern and Antarctic Territories. The FNSM considers that the Order of 17 June 1986, which lays down that the proportion of crew members of French nationality on vessels registered in the Territories may not be less than 25 per cent of the seafarers included in the ship's articles, in fact permits 75 per cent of the crew members on vessels registered in the Territories to be made up of foreign seafarers engaged under discriminatory conditions, while French seafarers are left unemployed.

The Committee noted previously that the territory of French Southern and Antarctic Territories is a non-metropolitan territory, in the sense of article 35 of the Constitution of the ILO, in respect of which the Government had made no declaration of application of the international labour Conventions ratified by France to which the FNSM refers in its observations. The Committee suspended its comments on the FNSM's observations until the Government's communication, of the declarations referred to in article 35, which it hoped would be soon.

The Committee notes that the declarations of application without modification of Conventions Nos. 8, 9, 15, 16, 22, 53, 58, 68, 69, 73, 74, 87, 92, 98, 108, 111, 133, 134 and 146 to the French Southern and Antarctic Territories were, in accordance with article 35 of the Constitution, communicated to the Director-General of the International Labour Office on 13 March 1990. The Committee will examine the substance of the comments made by the National Federation of Maritime Trade Unions in due course in the context of the Conventions in question, as appropriate.

NetherlandsAruba

The Committee notes with regret that, for the second consecutive year, the reports due in respect of the application of Conventions in Aruba, including the first reports due since 1988 on Conventions Nos. 114, 121, 126, 129, 131, 135, 137, 140, 141, 142, 144, 145, 146 and 147, have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions.

New Zealand

The Committee notes with regret that the Government has not supplied for the ninth year in succession the reports due in respect of the application of Conventions in the Cook Islands, and that the reports due for the fifth year in succession in respect of 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.

## B. INDIVIDUAL OBSERVATIONS

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

A request regarding certain points is addressed directly to Denmark (Greenland).

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

A request regarding certain points is being addressed directly to Denmark (Faeroe Islands).

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

A request regarding certain points is being addressed directly to the Netherlands (Aruba).

**Convention No. 13: White Lead (Painting), 1921**FranceOverseas Territory (New Caledonia)

The Committee noted in its previous comments that the regulations which had previously given effect to the Convention were no longer in force. It, therefore, expressed the hope that draft regulations giving full effect to all the Articles of the Convention would be adopted in the near future.

The Committee takes note of Resolution No. 55/CP of 10 May 1989 concerning specific measures applicable to spray painting or varnish work which was annexed to the Government's report. The Committee notes, however, that this Resolution only prescribes safety measures to be taken for spray painting work in general and does not prohibit the use of white lead and sulphate of lead and of all products containing these pigments in the internal painting of buildings, in accordance with Article 1 of the Convention.

The Committee, therefore, requests the Government to indicate the measures taken or envisaged to ensure that effect is given to Article 1, Article 2 (regulations for the use of white lead in artistic painting or fine lining), Article 3 (prohibition of the employment of males under 18 years of age and all women from any painting work involving the use of white lead), Article 5 (regulations for the use of white lead in painting work which is not prohibited), Article 6 (steps for ensuring the observance of regulations concerning white lead in painting), Article 7 (compilation of statistics concerning the morbidity and mortality rate due to lead poisoning among working painters).

The Committee expresses the hope that the Government will adopt the necessary regulations and take the necessary measures to ensure the full application of all the Articles of the Convention in the near future and requests the Government to indicate the progress made in this regard.

**Convention No. 16: Medical Examination of Young Persons (Sea), 1921**DenmarkFaeroe Islands

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

Article 3 of the Convention. 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.

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

#### Netherlands

##### Netherlands Antilles

The Committee notes the statistical information supplied in the Government's report.

Article 7, of the Convention. The Committee notes that the report does not contain a reply to its previous comments. It therefore once again requests the Government to supply information on the progress achieved in adapting the national legislation to this provision of the Convention so as to ensure that additional compensation is provided to victims of accidents who need the constant help of another person.

#### United Kingdom

##### British Virgin Islands

The Committee notes from the Government's report that for reasons beyond the control of the Government there has been no progress in the adoption of the draft regulations which will give full effect to the Convention when adopted. The Committee can therefore only express again the hope that the regulations in question will soon be adopted so that the provisions of the Convention will be given full effect on the following points:

1. Article 2, paragraph 2(c), of the Convention. Under section 2, subsection 1(d), of the 1962 Ordinance, members of the employer's family dwelling in his house are excepted from its scope, whereas the Convention only allows this exception when the members of the family work exclusively on his behalf and live in his house.

2. Article 5. Under section 8, subsection 1(a), (b) and (c), of the 1962 Ordinance, compensation in cases of death or permanent incapacity is paid in the form of a lump sum corresponding to a certain number of months' wages, whereas the Convention, although it does not fix the rate of compensation, provides that it 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 the sum will be properly utilised.

3. Article 7. Section 9 of the Ordinance provides for the payment of additional compensation when the injured workman requires the constant assistance of another person only in cases of temporary incapacity, whereas the Convention makes no distinction in this respect between temporary and permanent incapacity.

4. Article 9. The new legislation should provide unequivocally for free medical, surgical and pharmaceutical aid for injured workmen, irrespective of the urgency of the case.

5. Article 10. Section 10 of the Ordinance provides for the supply of artificial limbs only when they may improve working capacity, whereas the Convention allows no such restriction. Furthermore, the Ordinance does not appear to contain - as the Convention does - provisions establishing the general principle of the free supply and renewal of artificial limbs and surgical appliances.

6. With regard to the application of Article 11 of the Convention, the Committee considers that the provisions of section 29 of the Ordinance could prove to be inadequate to ensure, in all circumstances, in accordance with this provision of the Convention, the payment of compensation to the beneficiaries in the event of the insolvency of the employer or insurer. It thus considers that the inclusion of the workmen's compensation scheme in the general social security scheme would be the best guarantee and would result in the full application of the Convention on this point.

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

[The Government is asked to report in detail for the period ending 30 June 1991.]

#### Hong Kong

The Committee takes note of the detailed information supplied by the Government in its reports. It notes in particular with interest that compensation levels were revised with effect from January 1988.

Articles 5 and 7 of the Convention. The Committee notes that the factors indicated in previous reports remain valid and the practice of lump-sum payments rather than payments in the form of a pension in cases of permanent incapacity or death should continue. It also notes that the Labour Department will keep under regular review the operation of the present practice of lump-sum payments and report to the Committee on the subject when appropriate.

The Committee once again expresses the hope that the Government will in the future establish the principle of the payment of this compensation in the form of periodic payments throughout the duration of the contingency and requests the Government to report any progress made in this connection.

#### Montserrat

With reference to its previous comments, the Committee notes with satisfaction the adoption of the 1989 Amendment Ordinance, which provides for the necessary medical, surgical and pharmaceutical aid and for the supply of surgical appliances, and thereby giving effect to Articles 9 and 10 of the Convention.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the United Kingdom (Bermuda, Falkland Islands (Malvinas), Isle of Man, St. Helena).

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

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

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

#### France

#### Overseas Territory (French Polynesia)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

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 noted the Government's statement in its report received in 1987 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.

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 France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion) and United Kingdom (Gibraltar).

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

A request regarding certain points is being addressed directly to the Netherlands (Netherlands Antilles).

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

France

Overseas Departments (Guadeloupe, French Guiana, Martinique, Réunion).

See Convention No. 42, France.

[The Government is asked to report in detail for the period ending 30 June 1991.]

\* \* \*

In addition, requests regarding certain points are being addressed directly to France (Overseas Department: Territorial Community of St. Pierre and Miquelon; Overseas Territories: French Polynesia, New Caledonia).

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

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:

The Committee notes from the Government's report that the bills to put the present legal position into conformity with the Convention are now at an advanced stage. The Committee hopes that the Government will be able to adopt in the near future provisions to stipulate a minimum age of at least 15 years for admission to employment at sea, and will communicate the text of this legislation.



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

The Committee notes with satisfaction the adoption of Amendment Ordinance No. 13 of 26 November 1987, which gives effect to the provisions of Article 2, paragraph 2, and Articles 4 and 5 of the Convention which were the subject of the Committee's previous comments.

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

A request regarding certain points is being addressed directly to the 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. 77: Medical Examination of Young Persons (Industry), 1946**

A request regarding certain points is being addressed directly to France (Overseas Department: Territorial Community of Saint Pierre and Miquelon).

**Convention No. 78: Medical Examination of Young Persons  
(Non-Industrial Occupations), 1946**

A request regarding certain points is being addressed directly to France (Overseas Department: Territorial Community of Saint Pierre and Miquelon).

**Convention No. 81: Labour Inspection, 1947**NetherlandsNetherlands Antilles

Articles 20 and 21 of the Convention. The Committee notes from the Government's reply to its previous comments that with the reorganisation of the Department of Labour and Social Affairs and the

automation of the files of the Factory Inspectorate it is to be hoped that the publication of annual Factory Inspectorate reports will soon be possible. It trusts that these reports, meeting the requirements laid down in Article 21, will be published and transmitted to the Office within the time-limits set forth in Article 20.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Netherlands (Aruba), United Kingdom (Gibraltar, Isle of Man).

Information supplied by France (Overseas Territory: French Polynesia) in answer to a direct request has been noted by the Committee.

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

#### United Kingdom

##### Hong Kong

The Committee notes the comments transmitted by the Federation of Civil Service Unions to the effect that the national legislation authorises the establishment of federations of trade unions only when all the members belong to the same trade, occupation or industry, contrary to Article 5 of the Convention.

The Committee notes in this connection that the Government of the United Kingdom, which ratified Convention No. 87 for the United Kingdom in 1949, at first reserved its decision concerning the declaration of the applicability of this Convention to Hong Kong in a communication dated 29 December 1958. The Government of the United Kingdom then withdrew this reservation and declared Convention No. 87 applicable to Hong Kong with modifications concerning Articles 3, 5 and 6 of the Convention in a communication dated 15 October 1963. It renewed its declaration of the applicability of Convention No. 87 with the same modifications in a communication dated 4 June 1979. The modifications provide, inter alia, that any federation may be established only by trade unions whose members belong to the same trade, occupation or industry.

The Committee notes that under the terms of article 35 of the Constitution of the ILO, each Member which ratifies a Convention shall as soon as possible after ratification communicate to the Director-General of the ILO a declaration stating, in respect of the non-metropolitan territories for which it is responsible for the international relations, the extent to which it undertakes that the provisions of the Convention shall be applied. Each Member which has communicated a declaration of this type may from time to time, in accordance with the terms of the Convention, communicate a further declaration modifying the terms of any former declaration.

The Committee notes that in this case the Government of the United Kingdom availed itself of the right conferred upon it by article 35 of the Constitution of the ILO by specifying in 1963 and in 1979 the modifications to the provisions of Convention No. 87 that it considered necessary to adapt the Convention to local conditions.

The Committee nevertheless requests the Government to examine the comments made by the Federation of Civil Service Unions and to communicate its observations and comments on this subject in view of the fact that the application of Articles 3, 5 and 6 of the Convention without modifications would permit workers' organisations to establish and join federations and confederations of their own choosing.

The Committee also recalls that it addressed a direct request to the Government in March 1989, concerning which it will continue its examination on the basis of the Government's report for the period ending 30 June 1990.

\* \* \*

In addition, a request regarding certain points is being addressed directly to the Netherlands (Aruba).

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

A request regarding certain points is addressed directly to France (Overseas Territory: New Caledonia).

#### **Convention No. 92: Accommodation of Crews (Revised), 1949**

Requests regarding certain points are being addressed directly to the following States: France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion), United Kingdom (Hong Kong, Isle of Man).

#### **Convention No. 94: Labour Clauses (Public Contracts), 1949**

A request regarding certain points is being addressed directly to the Netherlands (Aruba).

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

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

Information supplied by the United Kingdom (Falkland Islands (Malvinas)) to a direct request has been noted by the Committee.

**Convention No. 100: Equal Remuneration, 1951**FranceOverseas Territory (New Caledonia)

Following its previous comment, the Committee notes with satisfaction the adoption of Decision No. 283 of 24 February 1988 respecting equality of remuneration and occupation between men and women, sections 3 to 5 of which give statutory effect to the practical application of section 23 of Ordinance No. 85-1181 respecting the guiding principles of labour law. In particular, under section 5 of the Decision, any clauses of agreements, contracts or regulations resulting from a decision by an employer or group of employers, which provide for remuneration which is lower than that of workers of the other sex for the same work or work of equal value, are automatically annulled.

The Committee is also addressing a request concerning certain points directly to the Government.

United KingdomGibraltar

The Committee notes with satisfaction the adoption of the Employment (Amendment) Ordinance No. 23 of 10 August 1989. The Committee notes that the purpose of this amendment is to give effect at the legislative level to the European Community Council Directives on the principle of equal treatment (the Directive of 9 February 1976) and of equal pay for men and women (the Directive of 10 February 1975).

Other points are raised in a request that is being addressed directly to the Government.

\* \* \*

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 Territory: New Caledonia); New Zealand (Tokelau); United Kingdom (Gibraltar).

**Convention No. 105: Abolition of Forced Labour, 1957**DenmarkFaeroe Islands

Referring to its previous comments on sections 52 and 74 of the Faeroese Seamen's Act, No. 57 of 3 November 1967 (which provide for

the forcible return of seamen on board ship and for imprisonment, involving compulsory labour, as a punishment for various breaches of discipline), the Committee notes with satisfaction that Act No. 4 of 15 January 1988 on seafarers provides for the repeal of the 1967 Seamen's Act and limits the application of penalties of imprisonment to offences endangering human life or the safety of the ship.

#### United Kingdom

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 noted the Government's indication in its report for the period 1985-87 that draft Orders-in-Council were expected to 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 noted 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 expressed the hope that the Orders-in-Council referred to by the Government would soon be adopted and the repeal of sections 221 to 224 and 225(1)(b), (c) and (e) of the 1894 Act to be extended to all of the territories concerned. It requested 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).

The Committee notes that the Government's most recent report contains no information on the action taken concerning non-metropolitan territories. The Committee has, however, noted the reports supplied on behalf of various individual territories. It refers to its observations concerning action taken by the British Virgin Islands, the Falkland Islands (Malvinas) and Hong Kong under the Convention, and notes with interest the indication by the States of Jersey that Jersey is in the same position as the Isle of Man (referred to in the previous observation): the provisions in question of the 1894 Act applied to ships registered in Jersey but did not form part of Jersey law, and, therefore, on their repeal by the United Kingdom legislation they ceased to have any effect in relation to Jersey registered ships.

The Committee notes the statement made by the Government of Montserrat in its report for the period 1 July 1987 to 30 June 1989 that extension of the provisions of the 1970 Merchant Shipping Act by the United Kingdom to this territory was still pending. The Committee

has, however, taken note of the provisions of the Merchant Shipping Act, 1970 (Overseas Territories) Order, 1988, which was not mentioned in the various reports received. This Order, which came into force on 21 July 1988, applies, with the necessary modifications, the Merchant Shipping Act, 1970, to Anguilla, the British Virgin Islands, the Falkland Islands (Malvinas) and Montserrat. The Committee understands that this has the effect of repealing sections 221 to 225 of the United Kingdom Merchant Shipping Act, 1894 (c.60), as it applies there. The Committee hopes that the Government will be in a position to confirm this.

[The Government is asked to report in detail for the period ending 30 June 1990.]

#### British Virgin Islands

Further to its previous comments the Committee notes with satisfaction from the Government's report that section 2 of the Merchant Seamen's Discipline Act (which provided for the forcible return on board ship of seamen absent without leave and for the punishment of various offences with penalties involving compulsory labour) has been repealed by the Law Reform (Miscellaneous Provisions) Act, 1987.

#### Falkland Islands (Malvinas)

Further to its previous comments on the Convention, the Committee notes with satisfaction from the Government's latest report that as a matter of local law, the amendments and repeals effected by the United Kingdom Merchant Shipping Act, 1970, to the Merchant Shipping Act, 1894, apply in the Falkland Islands. The repeal is effected by virtue of the Interpretation and General Clauses Ordinance, which is a Falkland Islands Ordinance.

#### Guernsey

Referring to its observation on the United Kingdom non-metropolitan territories in general, the Committee requests the Government to indicate whether the repeal of sections 221 to 224 of the United Kingdom Merchant Shipping Act, 1894, in the United Kingdom applies to Guernsey, too, as it does to Jersey and the Isle of Man.

[The Government is asked to report in detail for the period ending 30 June 1990.]

#### Hong Kong

The Committee notes with interest the indication by the Government in its report that the proposed Hong Kong Merchant Shipping (Seafarers) Ordinance is in its final drafting stage, and that the proposed legislation contains no provisions similar to those in sections 221 to 225 of the United Kingdom Merchant Shipping Act, 1894, as applied to Hong Kong, and will in effect repeal those sections. It also notes that in practice, as far as the record can be ascertained, the provisions of sections 221 to 225 of the 1894 Act have never been

invoked. The Committee hopes that merchant shipping legislation will thus soon be brought into conformity with the Convention, and that the Government will indicate the measures taken.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: Denmark (Faeroe Islands), Netherlands (Aruba), New Zealand (Niue Island).

Information supplied by the United Kingdom (Anguilla) and the Netherlands (Netherlands Antilles) in answer to a direct request has been noted by the Committee.

#### **Convention No. 108: Seafarers' Identity Documents, 1958**

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

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

\* \* \*

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).

#### **Convention No. 115: Radiation Protection, 1960**

Requests regarding certain points are addressed directly to France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion, Territorial Community of St. Pierre and Miquelon).

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

France

Overseas Territory (French Polynesia)

In its previous observation, the Committee had noted that the regulations for the implementation of Act No. 86-845 of 17 July 1986 respecting the general principles of labour law applicable in French Polynesia had not yet been drafted. The Committee had expressed the

hope that the regulations would be adopted in the near future and requested the Government to provide a copy of these regulations.

The Committee notes with interest the text of the draft regulations to implement the provisions of Act No. 86-845 of 17 July 1986 provided by the Government. In particular, the Committee notes the provisions of these draft regulations which apply Article 9 of the Convention (sufficient and suitable lighting), Article 10 (comfortable and steady temperature), Article 11 (safe and healthy organisation of workstations), Article 13 (sufficient and suitable washing facilities and sanitary conveniences) and Article 15 (facilities for changing, cleaning and drying clothing). The Government has indicated that this text will be transmitted to the Economic and Social Committee and the Territorial Assembly for adoption, after consultation with the social partners.

The Committee expresses the hope that this text will be adopted in the very near future and that it will also contain provisions for the application of Article 16 (appropriate standards of hygiene for underground or windowless premises), Article 17 (protection against substances, processes and techniques which are obnoxious, unhealthy or toxic), Article 18 (reduction of vibrations), Article 19 (dispensaries, first-aid posts and first-aid cupboards for every establishment according to its size).

[The Government is requested to report in detail for the period ending 30 June 1991.]

#### **Convention No. 122: Employment Policy, 1964**

Requests regarding certain points are being addressed directly to the following States: Denmark (Greenland), France (Overseas Department: Territorial Community of Saint Pierre and Miquelon), Netherlands (Aruba, Netherlands Antilles), and United Kingdom (Isle of Man).

#### **Convention No. 124: Medical Examination of Young Persons (Underground Work) 1965**

A request regarding certain points is being addressed directly to France (Overseas Territory: New Caledonia).

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

Requests regarding certain points are being addressed directly to the following States: Denmark (Faeroe Islands, Greenland), France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion, Territorial Community of Saint Pierre and Miquelon).



**Convention No. 127: Maximum Weight, 1967**

Requests regarding certain points are being addressed directly to France (Overseas Territories: French Polynesia, New Caledonia).

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

Information supplied by France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion, Territorial Community of St. Pierre and Miquelon; Overseas Territory: French Polynesia) in answer to a direct request has been noted by the Committee.

**Convention No. 141: Rural Workers' Organisations, 1975**

A request regarding certain points is addressed directly to France (Overseas Territory: French Polynesia).

Information supplied by France (Overseas Territory: New Caledonia) in answer to a direct request has been noted by the Committee.

**Convention No. 142: Human Resources Development, 1975**

Requests regarding certain points are being addressed directly to the following States: France (Overseas Departments: Guadeloupe, French Guiana, Martinique, Réunion, Territorial Community of St. Pierre and Miquelon).

**Convention No. 144: Tripartite Consultation (International Labour Standards)  
1976**

A request regarding certain points is being addressed directly to France (Overseas Territory: New Caledonia).

**Convention No. 145: Continuity of Employment (Seafarers), 1976**

Requests regarding certain points are being addressed directly to France (Overseas Departments: Guadeloupe, French Guiana, Martinique, Réunion, Territorial Community of St. Pierre and Miquelon).

**Convention No. 146: Seafarers' Annual Leave with Pay, 1976**

Requests regarding certain points are being addressed directly to France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion, Territorial Community of Saint Pierre and Miquelon).

**Convention No. 147: Merchant Shipping (Minimum Standards), 1976**

Requests regarding certain points are being addressed directly to the following States: France (Overseas Departments: Guadeloupe, Guiana, Martinique, Réunion, Territorial Community of St. Pierre and Miquelon; Overseas Territory: New Caledonia) and United Kingdom (Bermuda, Hong Kong).

**Convention No. 148: Working Environment (Air Pollution, Noise and Vibration), 1977**

Requests regarding certain points are addressed directly to the United Kingdom (Anguilla and Hong Kong).

**Convention No. 149: Nursing Personnel, 1977**

Requests regarding certain points are addressed directly to France (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion, Territorial Community of St. Pierre and Miquelon; Overseas Territories: French Polynesia, New Caledonia).

**Convention No. 151: Labour Relations (Public Service), 1978**

United Kingdom

Hong Kong

The Committee notes that a communication, dated 1 May 1989, has been received from the Federation of Civil Service Unions concerning the application of Conventions Nos. 87, 98 and 151 (Article 7, in particular, of the latter).

Since the Government's comments on these observations have not yet been received, the Committee trusts that it will have a reply on these matters in time for its next session.

**Appendix. Receipt of Detailed Reports on Ratified Conventions  
(Non-Metropolitan Territories) as at 22 March 1990**

(Article 22 and 35 of the Constitution)

<i>Countries and Territories</i>	<i>Reports received</i>		<i>Reports not received</i>		<i>Grand total</i>
	<i>Total</i>	<i>Conventions Nos.</i>	<i>Total</i>	<i>Conventions Nos.</i>	
<b>GRAND TOTAL</b>	240		76		316
<b>AUSTRALIA</b>					
<b>NORFOLK ISLAND</b>	2	29 105	0		2
<b>TOTAL</b>	2		0		2
<b>DENMARK</b>					
<b>FAEROE ISLANDS</b>	10	6 7 9 11 12 18 29 53 98 105	5	16 27 87 92 126	15
<b>GREENLAND</b>	3	6 7 122	3	29 105 126	6
<b>TOTAL</b>	13		8		21
<b>FRANCE</b>					
<b>FRENCH GUIANA</b>	15	6 12 17 29 42 81 89 95 100 105 108 129 135 141 147	2	45 149	17
<b>FRENCH POLYNESIA</b>	15	6 12 42 45 81 88 89 100 105 108 127 129 141 147 149	2	17 29	17
<b>GUADELOUPE</b>	15	6 12 17 29 42 81 89 95 100 105 108 129 135 141 147	2	45 149	17
<b>MARTINIQUE</b>	15	6 12 17 29 42 81 89 95 100 105 108 129 135 141 147	2	45 149	17
<b>NEW CALEDONIA</b>	19	6 12 13 17 29 42 45 81 88 89 100 105 108 127 129 141 144 147 149	0		19
<b>REUNION</b>	15	6 12 17 29 42 81 89 95 100 105 108 129 135 141 147	2	45 149	17
<b>ST. PIERRE AND MIQUELON</b>	12	6 12 17 42 81 89 95 100 108 129 141 147	5	29 45 88 105 149	17
<b>TOTAL</b>	106		15		121

REPORT OF THE COMMITTEE OF EXPERTS

Countries and Territories	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
NETHERLANDS					
ARUBA	0		29	9 11 12 17 25 29 45 81 87 88 89 90 105 114 121 122 126 129 131 135 137 138 140 141 142 144 145 146 147	29
NETHERLANDS ANTILLES	16	9 11 12 17 29 33 42 45 58 81 87 88 89 90 105 122	0		16
TOTAL	16		29		45
NEW ZEALAND					
COOK ISLANDS	0		7	11 14 29 82 84 99 105	7
NIUE ISLANDS	0		7	11 14 29 82 84 99 105	7
TOKELAU ISLANDS	0		4	29 100 105 111	4
TOTAL	0		18		18
UNITED KINGDOM					
ANGUILLA	8	12 17 29 42 85 105 108 148	0		8
BERMUDA	8	12 17 29 42 105 108 135 147	0		8
BRITISH VIRGIN ISLANDS	6	12 17 29 85 105 108	0		6
FALKLAND ISLANDS (MALVINAS)	8	12 17 29 42 45 105 108 141	0		8
GIBRALTAR	13	2 12 17 23 29 42 45 81 100 105 108 135 151	0		13
GUERNSEY	12	12 17 29 42 45 81 105 108 135 141 148 151	0		12
HONG KONG	14	2 12 17 29 42 45 81 90 105 108 141 147 148 151	0		14
ISLE OF MAN	8	11 29 45 99 105 108 126 147	5	12 17 42 68 81	13
JERSEY	9	2 12 17 29 42 45 81 105 108	0		9
MONTSERRAT	8	12 17 29 42 59 85 105 108	0		8

NON-METROPOLITAN TERRITORIES

<i>Countries and Territories</i>	<i>Reports received</i>		<i>Reports not received</i>		<i>Grand total</i>
	<i>Total</i>	<i>Conventions Nos.</i>	<i>Total</i>	<i>Conventions Nos.</i>	
ST. HELENA	6	12 29 85 105 108 151	1	17	7
TOTAL	100		6		106
UNITED STATES					
GUAM	1	74	0		1
PUERTO RICO	1	74	0		1
UNITED STATES VIRGIN ISLANDS	1	74	0		1
TOTAL	3		0		3

### **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)**

#### Algeria

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 from the 65th to the 72nd Sessions of the Conference, which were transmitted to the General Secretariat of the Government, were then submitted to the People's National Assembly, as the authority vested with the power to issue general rules concerning labour law. The Committee also hopes that the Government will indicate whether the instruments adopted at the 74th Session have been submitted to the Assembly. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 75th Session of the Conference have been submitted.

#### Antigua and Barbuda

The Committee notes with regret that the Government has not replied to its previous observations. It recalls that the instruments adopted at the 68th Session of the Conference, which were submitted to the Cabinet, should also have been submitted, in accordance with article 19, 5(b) and 6(b) of the Constitution of the ILO, to the authorities that are empowered to legislate. It therefore trusts that the Government will also submit the above instruments, together with those adopted at the 69th, 70th, 71st, 72nd and 74th Sessions, to the legislative body. Furthermore, it would be grateful if the Government would indicate whether the instruments adopted at the 75th Session have been submitted.

#### Belize

In the absence of a reply to its previous direct requests, the Committee hopes that the instruments adopted from the 69th to the 74th Sessions of the Conference, which have already been submitted to the Cabinet, will soon be submitted to the National Assembly, which is empowered to legislate by virtue of sections 62 and 69 of the National Constitution, and that the Government will supply in this connection the information and documents requested in the Memorandum adopted by the Governing Body. Furthermore, the Committee would be grateful if

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the Government would indicate whether the instruments adopted at the 75th Session of the Conference have been submitted.

### Bolivia

With reference to its previous comments, the Committee notes with interest the information supplied by the Government to the effect that several instruments adopted at the 60th, 70th, 71st, 72nd, 74th and 75th Sessions of the Conference have been submitted to Congress. The Committee hopes that the Government will supply, both for the above instruments and for those adopted at the 63rd to 69th Sessions, which have also been submitted, the information and documents requested in the Memorandum adopted by the Government Body (points II(b) and (c) and III of the questionnaire).

### Brazil

The Committee notes the information supplied by the Government to the effect that Conventions Nos. 155 and 158, which were adopted at the 67th and 68th Sessions of the Conference, respectively, have been submitted to Congress. With reference to its previous comments, the Committee hopes that the Government will supply, both for these Conventions and for the various instruments which were submitted previously and which were adopted from the 46th to the 71st Sessions of the Conference (Conventions Nos. 141, 143, 144, 153 and 161 and Recommendations Nos. 117-119, 121-123, 127, 129, 130, 136-138, 140-143, 146, 147 and 171), the information and documents requested in the Memorandum adopted by the Governing Body (points II(b), (c) and III of the questionnaire for Conventions, and II and III for Recommendations). The Committee hopes that it will be possible to submit the remaining instruments in the near future.

### Cambodia

The Committee notes the absence of information concerning the submission to the competent authorities of the instruments adopted by the Conference.

### Central African Republic

With reference to its previous comments, the Committee notes, from the information supplied by the Government, that the instruments adopted at the 74th Session 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 75th Session have been submitted and it hopes that the Government will supply, for all the above instruments, and for those adopted at the 65th, 69th, 70th, 71st and 72nd Sessions, which have already been submitted, the

information and documents requested in the Memorandum adopted by the Governing Body (points I, II and III of the questionnaire).

#### Congo

The Committee notes with regret that the Government has not replied to its previous observations. It hopes that it will soon indicate that the instruments adopted at the 60th, 61st, 62nd, 68th, 69th, 70th, 71st, 72nd, 74th and 75th Sessions of the Conference and the remaining instruments adopted at the 54th, 55th, 58th, 63rd and 67th Sessions (Conventions Nos. 137, 148 and 156 and Recommendations Nos. 135-142, 145, 156, 163, 164 and 165) have been submitted to the People's National Assembly and that it will supply for all these instruments the information and documents requested in the Memorandum adopted by the Governing Body.

#### Costa Rica

The Committee notes the absence of a reply by the Government to its previous observation. It hopes that the Government will indicate in the near future that Recommendation No. 167, which was adopted at the 69th Session of the Conference, and the instruments adopted at the 71st, 72nd and 74th Sessions have been submitted to the competent authorities and that, in relation to the above instruments, it will supply the information and documents requested 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 75th Session have been submitted to the competent authorities.

#### Democratic Yemen

The Committee notes with regret that the Government has not replied to its previous observations. In these comments, it hoped that the Government would indicate whether the instruments adopted at the 72nd Session of the Conference had been submitted to the Supreme People's Council, as the authority empowered to legislate, and that it would soon provide information on the decisions taken as regards the instruments adopted from the 62nd to the 68th Sessions of the Conference and that it would indicate whether the instruments adopted at the 69th, 70th, 71st and 74th Sessions had been submitted to the competent authorities. The Committee trusts that the Government will soon supply this information. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 75th Session of the Conference have been submitted.



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### Djibouti

The Committee notes with regret that the Government has not replied to its previous observations. It hopes that it will soon indicate that the instruments adopted at the 66th, 68th, 69th, 70th and 74th Sessions of the Conference have been submitted to the competent authorities and that it will supply, both for these instruments and for those adopted at the 71st and 72nd Sessions, the information and documents requested 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 75th Session of the Conference have been submitted to the competent authority.

### Dominican Republic

Further to its previous observation, the Committee notes the information supplied by the Government to the effect that the latter has taken the necessary measures with a view to submit to the competent authorities the instruments adopted at the 63rd, 69th and 74th Sessions of the Conference. It trusts that the Government will indicate shortly that these instruments as well as those adopted at the 65th, 66th, 67th, 70th, 71st, 72nd and 75th Sessions of the Conference have been submitted to Congress and that, in relation to these instruments and those adopted at the 68th Session, which have already been submitted, it will supply the information and documents requested in the Memorandum adopted by the Governing Body.

### El Salvador

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 62nd, 65th, 66th, 67th, 68th, 70th, 72nd and 74th Sessions of the Conference, and the remaining instruments adopted at the 63rd, 64th, 69th and 71st Sessions (Conventions Nos. 148, 151, 161 and Recommendations Nos. 156, 157, 158, 159, 167 and 171), have been submitted to the competent authorities and that it will supply in this connection the information and documents requested in the Memorandum adopted by the Governing Body (points II(a), (b) and (c) and III of the questionnaire). Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 75th Session of the Conference have been submitted to the competent authorities.

### Fiji

With reference to its previous comments, the Committee notes the explanations provided by the Government concerning the difficulties which have delayed the submission procedure. It hopes that it will soon be able to indicate that the instruments adopted at the 71st,

72nd, 74th and 75th Sessions of the Conference have been submitted to the competent authorities.

#### Ghana

The Committee notes the information supplied by the Government concerning the submission to the competent authorities of the instruments adopted at the 75th Session of the Conference. With reference to its previous comments, it also notes that the instrument adopted at the 70th Session has also been submitted. It hopes that the Government will soon supply, both for these instruments and for those adopted from the 66th to the 69th and from the 71st to the 74th Sessions, which have already been submitted, the information requested under points II(b) and III of the questionnaire at the end of the Memorandum adopted by the Governing Body.

#### Grenada

Further to its previous observation, the Committee notes the explanations provided by a Government representative to the Conference Committee in 1989, which confirmed that Recommendation No. 162 (66th Session of the Conference) and the instruments adopted at the 67th, 68th, 69th, 70th, 71st and 72nd Sessions, which had been transmitted to the Cabinet, have not yet been submitted to Parliament. It also notes the ensuing discussion. In the absence of any new information, it hopes that the Government will soon indicate that these instruments have been submitted. Furthermore, it would be grateful if the Government would indicate whether the instruments adopted at the 75th Session have been submitted. The Committee hopes that the Government will also supply the information and documents requested in this connection in the Memorandum adopted by the Governing Body, particularly as regards the Government's proposals or comments on the action to be taken on the instruments in question (point II(b) of the questionnaire). It recalls that the obligation to submit does not imply that governments must propose the ratification or the application of the instrument under consideration.

#### Guinea

The Committee notes with regret that the Government has not replied to its previous observations. It hopes that it will soon indicate that the instruments adopted at the 68th, 69th, 70th, 71st, 72nd and 74th Sessions of the Conference have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 75th Session have been submitted.

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### Guinea-Bissau

The Committee notes that the Government has not replied to its previous observation. It hopes that it will soon indicate that the instruments adopted from the 63rd to the 70th Sessions of the Conference, which have already been submitted to the Council of State, have also been submitted to the National People's Assembly, which is another authority empowered to legislate, together with the instruments adopted at the 71st, 72nd and 74th Sessions. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 75th Session of the Conference have been submitted.

### Haiti

Further to its previous comments, the Committee notes the explanations provided by a Government representative to the Conference Committee in 1989 concerning the political and administrative difficulties which have prevented the submission of the instruments under consideration to the competent authorities within the specified time-limits. It also notes that an examination has commenced of these instruments with a view to their submission. The Committee therefore hopes that the Government will be able to indicate in the near future that the instruments adopted from the 67th to 75th Sessions of the Conference have been submitted to the competent authorities.

### India

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 71st, 72nd and 74th Sessions of the Conference have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 75th Session of the Conference have been submitted.

### Islamic Republic of Iran

Further to its previous observation, the Committee notes with interest the information supplied by the Government that all the instruments adopted from the 62nd to the 75th Sessions of the Conference have been submitted to the Council of Ministers and to the Islamic Consultative Assembly to which the Council of Ministers will put proposals on the action to be taken on these instruments. The Committee hopes that the Government will supply information on this subject in due time, that it will indicate in the near future the date on which the above instruments were submitted and that it will supply copies of the corresponding submission documents in accordance with the Memorandum adopted by the Governing Body (point II of the questionnaire at the end of the Memorandum).

Jamaica

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 70th, 71st, 72nd and 74th Sessions of the Conference have been submitted to Parliament. Furthermore, it would be grateful if the Government would indicate whether the instruments adopted at the 75th Session have been submitted.

In its previous comments, the Committee recalled the statement by a Government representative to the Conference Committee in 1984 that Convention No. 132, Recommendation No. 136 and the instruments adopted from the 61st to the 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), and that it would supply 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. The Committee once again hopes that the Government will soon supply the information and documents in question.

Lao People's Democratic Republic

Further to its previous 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 from the 66th to the 75th Sessions of the Conference. The Committee hopes that the Government will supply information in due time on the effect given to these instruments and hopes that it will be able to submit, in stages, if necessary, the remaining instruments (those adopted from the 48th to the 65th Sessions) in the near future.

Lebanon

The Committee hopes that the remaining instruments, adopted from the 31st to the 75th Sessions of the Conference, will be submitted to the competent authorities as soon as circumstances permit.

Lesotho

Further to its previous observations, the Committee notes with interest the information and documents supplied by the Government concerning the submission to the competent authorities of various instruments adopted at the 66th, 67th, 68th, 71st and 72nd Sessions of the Conference. It hopes that the Government will soon indicate that Convention No. 157 (68th Session), and the instruments adopted at the 69th, 70th and 74th Sessions have also been submitted. Furthermore,

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the Committee would be grateful if the Government would indicate whether the instruments adopted at the 75th Session of the Conference have been submitted.

### Madagascar

The Committee notes with regret that the Government has not replied to its previous observations. It trusts that it will soon supply indications with regard to the proposals it made when submitting the instruments adopted at the 69th Session of the Conference and that it will indicate that the instruments adopted at the 55th, 71st, 72nd and 74th 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 75th Session of the Conference have been submitted.

### Malawi

The Committee notes with interest the information supplied by the Government concerning the submission to the competent authorities of a number of instruments adopted at the 63rd, 64th, 65th, 67th and 68th Sessions of the Conference. It hopes that the Government will soon indicate that the remaining instruments (Conventions Nos. 133, 134, 137 to 142, 145 to 147, 152, 160 to 166; and Recommendations Nos. 137 to 142, 145 to 151, 153 to 156, 158 to 165, 167, 169 to 174) adopted at various Sessions from the 55th to the 74th Session have also been submitted. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 75th Session of the Conference have been submitted.

### Mauritania

The Committee regrets to note that, once again this year, the Government has not replied to its previous observation. It trusts that the Government will soon indicate that the instruments adopted at the 68th, 69th, 70th, 71st, 72nd and 74th Sessions of the Conference, as well as the instruments adopted at the 75th Session, have been submitted to the competent authorities and that it will supply, in this connection, the information and documents called for in the Memorandum adopted by the Governing Body.

### Mauritius

Further to its previous observation, the Committee notes the information and documents supplied by the Government to the effect that certain of the instruments adopted at the 60th, 65th and 69th Sessions of the Conference have been submitted to the competent authorities. It also notes the explanations provided by the Government to the Conference Committee in 1989 concerning the

circumstances which are delaying the submissions procedure and the measures that have been taken to overcome them. It also notes the subsequent discussion. It hopes that the Government will be able to indicate in the near future that the remaining instruments from the 59th Session (Convention No. 140 and Recommendation No. 148), the 60th Session (Conventions Nos. 141 and 142 and Recommendations Nos. 149 and 150), the 65th Session (Convention No. 152 and Recommendation No. 160) and the 69th Session (Recommendation No. 167), and the instruments adopted at the 63rd, 64th, 66th to 68th, 70th to 72nd, 74th and 75th Sessions of the Conference have been submitted to Parliament.

#### Nepal

Further to its previous observation, the Committee notes with interest the information supplied by the Government to the effect that Recommendation No. 172, adopted at the 72nd Session of the Conference, and all the instruments adopted at the 51st and 52nd Sessions, have been submitted to Parliament through the Development Committee.

The Committee hopes that the Government will soon be able to indicate that the remaining instruments from the 54th and 67th Sessions (Conventions Nos. 132 and 154 and Recommendations Nos. 135 and 136), and the instruments adopted at the 53rd and from the 55th to the 61st Sessions and those adopted at the 75th Session have also been submitted to Parliament and that, for all the above instruments, it will supply the information and documents called for in the Memorandum adopted by the Governing Body, particularly under point II(a) and (b) of the questionnaire.

#### Nigeria

Further to its previous observation, the Committee note the Government's statement that the instruments adopted from the 45th to the 59th Sessions and from the 65th to the 74th Sessions of the Conference are currently being re-examined by the National Labour Advisory Council with a view to their possible ratification. The Committee hopes that the Government will supply in the near future indications in regard to the proposals and decisions concerning these instruments. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 75th Session of the Conference have been submitted.

#### Pakistan

The Committee notes that the Government has not replied to its previous observation. It hopes that the Government will soon indicate that the instruments adopted from the 69th to the 74th Sessions of the Conference have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 75th Session of the Conference have been submitted.

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### Panama

The Committee regrets to note the absence of a reply by the Government to its previous observations. The Committee hopes that the Government will indicate in the near future that the instruments adopted at the 70th, 71st, 72nd and 74th Sessions of the Conference have been submitted to the competent authority. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 75th Session have been submitted.

### Papua New Guinea

Further to its previous observation, the Committee notes the statement by a Government representative to the Conference Committee in 1989 concerning the technical and administrative difficulties which have delayed the submission of the instruments adopted from the 66th to the 74th Sessions of the Conference, and the subsequent discussion. The Committee hopes that the Government will be able to resolve these difficulties and indicate in the near future that these instruments, and those adopted at the 75th Session, have been submitted to the competent authorities.

### Paraguay

In its previous comments, the Committee noted that the instruments adopted from the 68th to the 74th Sessions of the Conference had been forwarded to the Minister of Foreign Affairs for submission to Congress. It requested the Government to supply a copy of the letter or document whereby the Minister of Foreign Affairs submitted these instruments to Congress. In the absence of a reply to its observation, the Committee trusts that the Government will supply the above document and the corresponding documents for the instruments adopted from the 62nd to the 67th Sessions of the Conference, which were transmitted to the Minister of Foreign Affairs in October 1981. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 75th Session of the Conference have been submitted.

### Peru

The Committee notes that the Government has not replied to its previous observation. It hopes that the Government will supply in the near future, as on previous occasions, a copy of the document whereby the instruments adopted at the 71st Session of the Conference were submitted to Congress. The Committee also hopes that the Government will indicate in the near future that the remaining instruments adopted at the 65th (Convention No. 153 and Recommendation No. 161), 67th (Convention No. 155 and Recommendation No. 164), 68th (Convention No. 157), 69th (Recommendation No. 167), 70th, 72nd, 74th and 75th Sessions of the Conference have also been submitted.

Philippines

Further to its previous comments, the Committee notes with satisfaction, from the information supplied by the Government, that all the instruments adopted from the 67th to the 75th Sessions of the Conference have been submitted to Congress.

Saint Lucia

The Committee notes that the Government has not replied to its previous observation. The Government indicated in 1988 that it hoped that the submission procedure could be completed in the near future following the supplementary training received by the staff in the Labour Department during the regional seminar and the visit of the regional adviser on standards. The Committee therefore hopes that the Government will soon be able to indicate that the instruments adopted at the 66th, 67th, 68th, 69th, 70th, 71st, 72nd and 74th Sessions of the Conference have been submitted to the competent authorities. Furthermore, it would be grateful if it would indicate whether the instruments adopted at the 75th Session have been submitted. It points out in this connection that the authorities to which these instruments must be submitted are those empowered to legislate and that the obligation to submit the instruments to them does not imply that governments must propose the ratification or the application of the instruments. Finally, the Committee hopes that the Government will also supply the information and documents requested on this subject 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 action to be taken on the instruments in question (points I(a) and II(b) of the questionnaire).

Sao Tome and Principe

The Committee notes with regret that once again this year the Government has not replied to its previous observation. It trusts that it will soon indicate that the instruments adopted at the 68th, 69th, 70th, 71st and 74th Sessions of the Conference have been submitted to the competent authorities. It points out, in this connection, that, in accordance with article 19, paragraphs 5(b) and 6, of the Constitution of the ILO, the authorities to which these instruments must be submitted are those empowered to legislate, in this case the People's Assembly. It trusts that the Government will take the necessary measures in the near future and will supply, for the instruments referred to above, the information and documents requested in the Memorandum adopted by the Governing Body, particularly with regard to the Government's proposals or comments on the action to be taken on the instruments concerned (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 under consideration. Governments have complete freedom



## SUBMISSION TO COMPETENT AUTHORITIES

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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.

With regard to the instruments adopted at the 72nd Session of the Conference, the Committee previously noted the decisions taken with regard to them, which were communicated by the Government, and requested the Government to indicate whether these instruments were duly submitted to the competent authorities. It hopes that the Government will soon supply this information.

Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 75th Session of the Conference have been submitted.

### Seychelles

The Committee regrets to note that, once again this year, the Government has not replied to its previous observation. It trusts that the Government will shortly indicate that the instruments adopted at the 63rd, 64th, 65th, 66th, 67th, 68th, 69th, 70th, 71st, 72nd, 74th and 75th Sessions of the Conference have been submitted to the competent authorities, in accordance with article 19, paragraphs 5(b) and 6(b), of the Constitution of the ILO. It points out in this connection that the authorities to which these instruments must be submitted are those empowered to legislate, in this case the People's Assembly. The Committee hopes that the Government will also supply the information and documents requested in this connection in the Memorandum adopted by the Governing Body, particularly with regard to the Government's proposals and comments on the action to be taken on the instruments concerned (point II(b) of the questionnaire). It also points out that the obligation to submit does not imply that governments must propose the ratification of the Conventions or the application of the Recommendations 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.

### Sierra Leone

The Committee notes that the Government has not replied to its previous observation. It hopes that the Government will shortly indicate that Convention No. 146 and Recommendation No. 154, adopted at the 62nd Session of the Conference, and the instruments adopted at the 63rd, 64th, 65th, 66th, 67th, 68th, 69th, 70th, 71st, 72nd, 74th and 75th Sessions, have been submitted to Parliament.

Syrian Arab Republic

The Committee notes, from the information supplied by the Government, that the instruments adopted at the 74th Session of the Conference have been transmitted to the Council of Ministers for submission to the People's Assembly. As the latter is empowered to legislate, by virtue of section 71 of the Syrian Constitution, the Committee hopes that these instruments, in addition to Conventions Nos. 160 and 161 and Recommendations Nos. 160, 161, 162 and 167 to 171 (65th, 66th, 69th, 70th and 71st Sessions), which had previously been transmitted to the Council of Ministers for the same purpose, will soon be submitted to the above Assembly. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 75th Session of the Conference have been submitted.

United Republic of Tanzania

The Committee notes that the Government has not replied to its previous observation. It hopes that the Government will not fail to indicate in the near future the date on which the instruments adopted from the 66th to the 71st Sessions of the Conference were submitted to the National Assembly and that it will also supply this information as regards the instruments adopted from the 54th to 65th Sessions, which have already been submitted to the Cabinet, and for those adopted at the 72nd and 74th Sessions. The Committee also hopes that the Government will indicate whether the instruments adopted at the 72nd and 74th Sessions of the Conference have been submitted. Furthermore, the Committee would be grateful if the Government would indicate whether the submission of the instruments adopted at the 75th Session has been carried out.

Thailand

The Committee notes that the Government has not replied to its previous observation. It hopes that it will be able to indicate in the near future the decisions taken as regards the instruments adopted at the 67th and 68th Sessions of the Conference and whether the submission of the instruments adopted at the 72nd and 74th Sessions, which had been delayed by their translation, has now been carried out. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 75th Session of the Conference have been submitted.

Trinidad and Tobago

Further to its previous observation, the Committee notes with interest the information and documents supplied by the Government to the Conference Committee in 1989 concerning the submission to the competent authorities of the instruments adopted at the 65th, 66th and

## SUBMISSION TO COMPETENT AUTHORITIES

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67th Sessions of the Conference. It hopes that the Government will be able to indicate in the near future that the remaining instruments (71st to 75th Sessions) have been submitted to the competent authorities.

### Zimbabwe

Further to its previous comments, the Committee notes with satisfaction, from the information and documents supplied by the Government, that the instruments adopted at the 70th, 71st, 72nd, 74th and 75th Sessions of the Conference have been submitted to the competent authorities.

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In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Angola, Argentina, Austria, Bahamas, Bangladesh, Belgium, Benin, Botswana, Burkina Faso, Cameroon, Cape Verde, Chad, Chile, China, Colombia, Comoros, Côte d'Ivoire, Cyprus, Czechoslovakia, Dominica, Ecuador, Equatorial Guinea, Gabon, Federal Republic of Germany, Greece, Guatemala, Guyana, Honduras, Indonesia, Iraq, Ireland, Israel, Italy, Jordan, Kenya, Kuwait, Libyan Arab Jamahiriya, Luxembourg, Mali, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Netherlands, Nicaragua, Niger, Portugal, Qatar, Romania, San Marino, Solomon Islands, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Uganda, Uruguay, Venezuela, Yemen, Yugoslavia, Zaire, Zambia.

**Appendix I. Information Supplied by Governments with Regard to the  
Obligation to Submit Conventions and Recommendations  
to the Competent Authorities**

(31st to 75th Sessions of the International  
Labour Conference, 1948-88)<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 à 70	71, 72, 74 et 75
Algeria	47 à 72	74 et 75
Angola	61 à 72	74 et 75
Antigua and Barbuda	68	69, 70, 71, 72, 74 et 75
Argentina	31 à 74	75
Australia	31 à 75	-
Austria	31 à 72	74 et 75
Bahamas	61 à 75	-
Bahrain	63 à 75	-
Bangladesh	58 à 69	70, 71 72, 74 et 75
Barbados	51 à 75	-
Belgium	31 à 72	74 et 75
Belize	68	69, 70, 71, 72, 74 et 75
Benin	45 à 74	75
Bolivia	31 à 75	-
Botswana	64 à 72	74 et 75

<sup>1</sup> The Conference did not adopt any Conventions or Recommendations at its 57th Session (June 1972) and 73rd Session (June 1987).

# SUBMISSION TO COMPETENT AUTHORITIES

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Brazil	31 à 50, 51 (C 127; R 128, 129, 130, 131), 53 (R 133, 134), 54 à 58, 59 (C 140; R 147, 148), 60 à 62, 63 (C 148; R 156, 157), 64 (R 158, 159), 65, 66, 67 (C 154, 155; R 163, 164, 165) 68 (C 158; R 166), 69 à 72	51 (C 128), 53 (C 129, 130), 59 (C 139), 63 (C 149), 64 (C 150, 151), 67 (C 156), 68 (C 157), 74 et 75
Bulgaria	31 à 75	-
Burkina Faso	45 à 74	75
Burundi	47 à 75	-
Byelorussian SSR	37 à 75	-
Cameroon	44 à 68, 72 et 74	69, 70, 71 et 75
Canada	31 à 75	-
Cape Verde	65 à 74	75
Central African Republic	45 à 74	75
Chad	45 à 74	75
Chile	31 à 74	75
China	69 à 74	75
Colombia	31 à 70 et 71 (C 160)	71 (C 161; R 170, 171), 72, 74 et 75
Comoros	65 à 74	75
Congo	45 à 53, 54 (C 131, 132), 55 (C 133, 134), 56, 58 (C 138; R 146), 59, 63 (C 149; R 157), 64 à 66 et 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, 72, 74 et 75
Costa Rica	31 à 68, 69 (C 159; R 168) et 70	69 (R 167), 71, 72, 74 et 75
Côte d'Ivoire	45 à 72 et 75	74
Cuba	31 à 75	-

## REPORT OF THE COMMITTEE OF EXPERTS

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)
Cyprus	45 à 72	74 et 75
Czechoslovakia	31 à 72, 74 (C 163, 164; R 173) et 75 (C 167; R 175)	74 (C 165, 166; R 174) et 75 (C 168; R 176)
Democratic Yemen	53 à 68	69, 70, 71, 72, 74 et 75
Denmark	31 à 75	-
Djibouti	64, 65, 67, 71 et 72	66, 68, 69, 70, 74 et 75
Dominica	74 et 75	68, 69, 70 et 72
Dominican Republic	31 à 62, 64 et 68	63, 65, 66, 67, 69, 70, 71, 72, 74 et 75
Ecuador	31 à 72	74 et 75
Egypt	31 à 75	-
El Salvador	31 à 61, 63 (C 149), 64 (C 150), 69 (C 159; R 168), et 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 et 71 (C 161; R 171), 72, 74 et 75
Equatorial Guinea	67 à 72 et 75	74
Ethiopia	31 à 75	-
Fiji	59 à 70	71, 72, 74 et 75
Finland	31 à 75	-
France	31 à 75	-
Gabon	45 à 71	72, 74 et 75
German Democratic Republic	59 à 75	-
Germany, Federal Republic of	34 à 64, 65 (C 152, 153; R 160), 66 à 70 et 71 (C 160; R 170)	65 (R 161), 71 (C 161; R 171), 72, 74 et 75
Ghana	40 à 75	-
Greece	31 à 74	75
Grenada	-	66, 67, 68, 69, 70, 71, 72, 74 et 75

# SUBMISSION TO COMPETENT AUTHORITIES

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Guatemala	31 à 70, 71 (C 160, 161; R 171) et 72	71 (R 170), 74 et 75
Guinea	43 à 67	68, 69, 70, 71, 72, 74 et 75
Guinea-Bissau	63 à 70	71, 72, 74 et 75
Guyana	50 à 70	71, 72, 74 et 75
Haiti	31 à 66	67, 68, 69, 70, 71, 72, 74 et 75
Honduras	39 à 66, 68, 69, 71 et 72	67, 70, 74 et 75
Hungary	31 à 75	-
Iceland	31 à 75	-
India	31 à 70	71, 72, 74 et 75
Indonesia	33 à 72	74 et 75
Iran, Islamic Republic of	31 à 75	-
Iraq	31 à 74	75
Ireland	31 à 71	72, 74 et 75
Israel	32 à 75	-
Italy	31 à 75	-
Jamaica	47 à 69	70, 71, 72, 74 et 75
Japan	35 à 75	-
Jordan	39 à 71 et 74	72 et 75
Democratic Kampuchea	53, 54 et 56	55, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74 et 75
Kenya	48 à 68	69, 70, 71, 72, 74 et 75
Kuwait	45 à 72, 74 et 75 (C 167; R 175)	75 (C 168; R 176)
Lao People's Democratic Republic	66 à 75	48, 49, 50, 51, 52, 53, 54, 55, 56, 58, 59, 60, 61, 62, 63, 64 et 65

# REPORT OF THE COMMITTEE OF EXPERTS

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Lebanon	31 (C 88, 89, 90; R 83), 32 (C 95, 98; R 85), 34 (C 100; R 90), 35 (C 102, 103), 40 (C 105, 106; R 103), 42 (C 111; R 111), 44 (C 115), 45 (C 116), 46 (C 117, 118), 47 (C 119), 48 (C 120, 121, 122; R 120, 122), 49 (C 123, 124), 50 (C 125, 126) et 51 à 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, 72, 74 et 75
Lesotho	66, 67, 68 (C 158; R 166), 71 et 72	68 (C 157), 69, 70, 74 et 75
Liberia	31 à 75	-
Libyan Arab Jamahiriya	35 à 72	74 et 75
Luxembourg	31 à 75	-
Madagascar	45 à 54, 56 à 70	55, 71, 72, 74 et 75
Malawi	49 à 54, 56, 61, 63 (C 148, 149; R 157), 64 (C 150, 151), 65 (C 153), 67 (C 154, 155, 156), 68 et 69 (C 159; R 168)	55, 58, 59, 60, 62, 63 (R 156), 64 (R 158, 159), 65 (C 152; R 160, 161), 66, 67 (R 163, 164, 165), 69 (R 167), 70, 71, 72, 74 et 75
Malaysia	41 à 75	-
Mali	44 à 72	74 et 75
Malta	49 à 75	-
Mauritania	45 à 67	68, 69, 70, 71, 72, 74 et 75
Mauritius	53 à 58, 59 (C 139; R 147), 60 (C 143; R 151), 61, 62, 65 (C 153; R 161) et 69 (C 159; R 168)	59 (C 140; R 148), 60 (C 141, 142; R 149, 150), 63, 64, 65 (C 152; R 160), 66, 67, 68, 69 (R 167), 70, 71, 72, 74 et 75
Mexico	31 à 74	75
Mongolia	53 à 74	75
Morocco	39 à 72	74 et 75



# SUBMISSION TO COMPETENT AUTHORITIES

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Mozambique	61 à 75	-
Myanmar	31 à 72 et 75	74
Nepal	51, 52, 54 (C 131), 62 à 65, 67 (C 155, 156; R 163, 164, 165), 68 à 74	53, 54 (C 132; R 135, 136), 55, 56, 58, 59, 60, 61, 66, 67 (C 154) et 75
Netherlands	31 à 66, 67 (C 154, 156; R 163, 165), 68 et 69 (C 159; R 168) et 74	67 (C 155; R 164), 69 (R 167), 70, 71, 72 et 75
New Zealand	31 à 75	-
Nicaragua	40 à 72	74 et 75
Niger	45 à 74	75
Nigeria	45 à 74	75
Norway	31 à 75	-
Pakistan	31 à 68	69, 70, 71, 72, 74 et 75
Panama	31 à 69	70, 71, 72, 74 et 75
Papua New Guinea	61 à 65	66, 67, 68, 69, 70, 71, 72, 74 et 75
Paraguay	40 à 67	68, 69, 70, 71, 72, 74 et 75
Peru	31 à 64, 65 (C 152; R 160), 66, 67 (C 154, 156; R 163, 165), 68 (C 158, R 166), 69 (C 159; R 168) et 71	65 (C 153; R 161), 67 (C 155; R 164), 68 (C 157), 69 (R 167), 70, 72, 74 et 75
Philippines	31 à 75	-
Poland	31 à 75	-
Portugal	31 à 74	75
Qatar	58 à 72 et 75	74
Romania	39 à 75	-
Rwanda	47 à 75	-
Saint Lucia	-	66, 67, 68, 69, 70, 71, 72, 74 et 75

# REPORT OF THE COMMITTEE OF EXPERTS

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)
San Marino	69 (C 159; R 168) et 70	68, 69 (R 167), 71, 72, 74 et 75
Sao Tome and Principe	-	68, 69, 70, 71, 72, 74 et 75
Saudi Arabia	61 à 75	-
Senegal	44 à 75	-
Seychelles	-	63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74 et 75
Sierra Leone	45 à 62 (C 145, 147; R 153, 155)	62 (C 146; R 154), 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74 et 75
Singapore	50 à 75	-
Solomon Islands	74	70, 71, 72 et 75
Somalia	45 à 75	-
Spain	39 à 62, 63 (C 148; R 156, 157), 64 à 68, 69 (R 167), 71 (C 160; R 170) et 74 (C 163, 164; R 173)	63 (C 149), 69 (C 159; R 168), 70, 71 (C 161; R 171), 72, 74 (C 165, 166; R 174) et 75
Sri Lanka	31 à 72	74 et 75
Sudan	39 à 72	74 et 75
Suriname	61 à 64	65, 66, 67, 68, 69, 70, 71, 72, 74 et 75
Swaziland	60 à 69, 71 et 72	70, 74 et 75
Sweden	31 à 74	75
Switzerland	31 à 75	-
Syrian Arab Republic	31 à 74	75
Tanzania, United Republic of	46 à 65, 69 à 71	66, 67, 68, 72, 74 et 75
Thailand	31 à 71	72, 74 et 75
Togo	44 à 75	-

# SUBMISSION TO COMPETENT AUTHORITIES

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Trinidad and Tobago	47 à 70	71, 72, 74 et 75
Tunisia	39 à 75	-
Turkey	31 à 75	-
Uganda	47 à 72	74 et 75
Ukrainian SSR	37 à 75	-
USSR	37 à 75	-
United Arab Emirates	58 à 75	-
United Kingdom	31 à 75	-
United States	31 à 75	-
Uruguay	31 à 71 et 72 (C 162)	72 (R 172), 74 et 75
Venezuela	31 à 70, 71 (C 160; R 170) et 72	71 (C 161; R 171), 74 et 75
Yemen	49 à 72	74 et 75
Yugoslavia	31 à 74	75
Zaire	45 à 69	70, 71, 72, 74 et 75
Zambia	49 à 72	74 et 75
Zimbabwe	66 à 75	-

# Appendix II

Over-all position of member States at 22 March 1990

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)	101	1	-	102
47 (June 1963)	107	1	-	108
48 (June/July 1964)	108	1	1	110
49 (June 1965)	112	1	1	114
50 (June 1966)	111	3	1	115
51 (June 1967)	117	-	-	117
52 (June 1968)	115	- <sup>1</sup>	3	118
53 (June 1969)	118	1	2	121
54 (June 1970)	116	3	2	121
55 (October 1970)	115	2	4	121
56 (June 1971)	119	-	2	121
58 (June 1973)	117	2	4	123
59 (June 1974)	119	2	4	125
60 (June 1975)	120	1	5	126
61 (June 1976)	122	-	9	131
62 (October 1976)	123	-	9	132
63 (June 1977)	111	4	20	135
64 (June 1978)	125	4	7	136
65 (June 1979)	122	4	13	139
66 (June 1980)	118	- <sup>1</sup>	26	144
67 (June 1981)	120	7	18	145
68 (June 1982)	118	5	27	150
69 (June 1983)	114	7	29	150
70 (June 1984)	108	- <sup>1</sup>	42	150
71 (June 1985)	61	5	84	150
72 (June 1986)	100	1	49	150
74 (Sept.-Oct. 1987)	76	-	74	150
75 (June 1988)	51	2	97	150

<sup>1</sup> At this session the Conference adopted one Recommendation only.







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